

**342 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR No. 1338 of 2006**

Decided on: 04.12.2015

Udey Singh and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Ms. Aditi Girdhar, Advocate and
Mr. Rahul Rathore, Advocate,
for the petitioners.

Ms. Neelam Kashyap, DAG Haryana.

JITENDRA CHAUHAN.J.

This revision is directed against the judgment dated 14.06.2006, passed by the Additional Sessions Judge, Panipat whereby the appeal filed by the accused was dismissed and the judgment of conviction dated 11.02.2006 and the order of sentence dated 14.02.2006 passed by the Judicial Magistrate First Class, Panipat were upheld. The accused were convicted and sentenced as under:-

Udey Singh

Offence	Sentence	Fine	In default
387 IPC	R.I for 3 years	1,000/-	R.I for 1 month

Hira Mal

Offence	Sentence	Fine	In default
120-B IPC	R.I for 3 years	1,000/-	R.I for 1 month

The brief facts of the case as noticed in the judgment

passed by the Additional Sessions Judge are as under:-

“As per case of the prosecution, on 10.08.2005, complainant Krishan Chand presented an application Ex. PW-1/A before Sh. Kamaldeep, DSP who was officiating as SHO police station, Matlaudha, submitting therein that he was running a factory at Matlaudha under the name and style of M/S Shakti Wooltex. On 02.08.2005, he, his brother Jagdish Chander and nephew Pankaj were present in the office of their factory premises, when at about 11:00 a.m., Udey Singh accused came there and handed over to them a letter Ex. PW-1/B saying that said letter had been sent by his brother, Hira Mal accused from Jail and asked them to read the same and further told them to make arrangement of Rs. 2 Lac saying that he would arrive on 10.08.2005 at 8:00 p.m. to collect the amount. He whipped out a country made pistol from the dub of his pants and threatened that if they did not pay the money, he would kill them like Pawan Garg. After saying so he left the place. In the letter, a demand of ransom of Rs. 2 Lac was made by Hira Mal and it was threatened that if his demand was not met with, he would kill them like Pawan Garg as it was part of his business. The complainant further

submitted in the application that they were in a fix whether to report the matter to the police or not but on that day they decided to report the matter to the police.

On said application, a case under Sections 387, 506 and 120-B IPC and Under Section 25 of the Indian Arms Act was registered. DSP accompanied by the complainant, ASI Ranjit Singh and other police officials reached in the factory of the complainant and carried out spot inspection. After spot inspection, he prepared rough site plan, Ex. PW-3/C of the office of the factory premises and recorded the statements of the witnesses. DSP and the police officials accompanying him then went in search of Uday Singh accused leaving the complainant in his office. The police party was present at bus stand, Matlaudha in search of Uday Singh when Uday Singh arrived in the office of the complainant to collect the money. DSP was informed, who with police party, arrived there and nabbed him. He was taken to Bohli police post where he was interrogated. On interrogation, he made a disclosure statement, Ex PW- 3/E stating that the country made pistol which was shown by him to the complainant to extort money was kept concealed

by him in his residential house and offered to get it recovered from there. In pursuance of his disclosure statement, he got recovered a country made pistol which was taken into possession vide memo Ex. PW-3/G after preparing its sketch Ex. PW-3/H.

Hira Mal accused was brought from District Jail, Karnal, where he was lodged in other cases of murder and extortion. He was interrogated. On interrogation, he made a disclosure statement Ex. PW-3/I whereby he offered to get identified the business establishments in Matlaudha and Assandh from whom he had demanded ransom. An application was presented before the Ld. Magistrate to obtain his specimen handwriting for comparison with writing on the letter Ex. PW-1/B, but he refused to give his specimen writing. On completion of investigation, charge-sheet was filed against both the accused for the offence punishable under Sections 387/506/120-B IPC and under Section 25 of the Indian Arms Act against Uday Singh accused.”

Charges under Sections 387, 506 and 120-B IPC and Section 25 of Arms Act were framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined

PW-1 Kishan Chand, complainant, PW-2 Jagdish, PW-3 DSP Kamal Deep, PW-4 Madan Lal Sethi, Supdt. D.C. Office, Panipat and closed the evidence.

The statements of accused under Section 313 Cr.PC were recorded and all the incriminating circumstances appearing in the prosecution evidence were put to the accused. The accused denied the same and pleaded false implication.

No evidence in defence was led.

After appraisal of the evidence, the learned trial Magistrate convicted and sentenced the accused as narrated above.

Feeling dissatisfied with the judgment and order passed by the trial Magistrate, the accused preferred an appeal before the Additional Sessions Judge, Panipat. The appeal was dismissed vide judgment dated 14.06.2006. Both the judgments and order have been assailed in the present revision petition. The appeal was admitted on 07.07.2006.

Learned counsel for the petitioners contends that the witnesses examined by the prosecution are interested witnesses. It is further contended that since the accused has been acquitted under Section 25 of Arms Act and under Section 506 IPC, a dent stands created in the case of the prosecution. The story propounded by the prosecution cannot be believed in its entirety. It is further contended

that there is nothing in the statement of PW-3, Kamal Deep Singh,

DSP, I.O to show that he had tried to take the specimen signatures of accused Hira Mal. The recovery of revolver, as projected by the prosecution, has not been effected from the accused, therefore, the case of the prosecution must fall to ground in respect of other allegations as well.

On the other hand, the learned State counsel submits that the prosecution has successfully proved its case against both the accused. The trial Court has already taken a lenient view while awarding sentence as the minimum sentence has been awarded to both the accused. She supports the judgment and the order passed by the Courts below.

I have heard learned counsels for the parties and carefully perused the record.

In this case, the accused have been indicted for the commission of offence of extortion. In order to prove its case, the prosecution examined PW-1, complainant Krishan Chand. The complainant, while appearing in the witness box, has deposed that on 02.08.2005 the accused Uday Singh came to his factory and handed over letter Ex. PW-1/B in which a threat was given to the complainant to hand over an amount of Rs. 2 lacs. The statement of PW-1 stands corroborated with the testimony of PW-2, Jagdish Singh. The letter sent by the accused Hira Mal has been proved as Ex. PW-1/B. The

contention of learned counsel for the petitioners that the specimen

signatures of Uday Singh were not taken, is of no consequence because it is not the case of the prosecution that the letter Ex. PW-1/B was written by Uday Singh. In fact, the case of the prosecution is that the letter was written by Hira Mal, while he was in custody and the same was handed over by his brother Uday Singh to the complainant. An offer was made to accused Hira Mal to give his specimen signatures but he refused to give the specimen signatures as has been reflected in the order dated 20.08.2005 passed by Judicial Magistrate First Class, Panipat. An adverse inference has rightly been made by the learned trial Magistrate in this regard. The principle of *falsus in uno falsus in omnibus* is not applicable in our criminal jurisprudence. The statement of a witness can be relied upon by the Court if it supports a fact. In the present case, since the statement of a witness is found to be false in respect of a particular fact, the rest of the statement cannot be brushed aside solemnly on the ground that the offence under Section 25 of Arms Act or under Section 506 IPC was not proved. Otherwise, also the learned trial Magistrate has acquitted the accused under Section 25 of Arms Act on the ground that there was non-compliance to the provisions of Section 100 Cr.P.C and that the recovered pistol was not produced in the Court. So no benefit can be taken from the acquittal of accused under Section 25 of Arms Act. The sentence awarded is proportionate to the gravity of the offence.

No other point has been urged before this Court.

In view of the observations made above, the present revision petition is devoid of merit. The same is dismissed. The judgments of conviction and the order of sentence passed by the Courts below are upheld. The accused be taken into custody to serve the remaining part of the sentence.

04.12.2015.
SN

(JITENDRA CHAUHAN)
JUDGE