

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

Criminal Appeal S-1765-SB of 2004

Date of Decision : September 19, 2016

Pupinder Singh	Versus	Appellant
State of Punjab		 Respondent

Criminal Appeal S-2183-SB of 2004

Chamkaur Singh and others	Versus	Appellants
State of Punjab		 Respondent

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

Present : Mr. H.S.Dhaliwal, Advocate with
Mr. Karambir Singh Dhaliwal, Advocate
for the appellants.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

T.P.S.MANN, J. (Oral)

Pupinder Singh, Chamkaur Singh, Pawan Kumar and Karamjit Singh besides Resham Singh were tried for committing offences punishable under Sections 399/402/411 IPC. Vide judgment and order dated 20.8.2004, learned Additional Sessions Judge, Fast Track Court, Ferozepur acquitted Resham Singh of the charges against him whereas Pupinder Singh, Chamkaur Singh, Pawan Kumar and Karamjit Singh were held guilty and,

accordingly, convicted under Section 399 IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.2,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for one month.

Aggrieved of their conviction and sentences, Pupinder Singh preferred Criminal Appeal S-1765-SB of 2004 whereas Chamkaur Singh, Pawan Kumar and Karamjit Singh filed Criminal Appeal S-2183-SB of 2004. As both the appeals arise out of the one and the same judgment of conviction and sentence passed by the trial Court, they are being disposed of by a common judgment.

The case of the prosecution, in nutshell, is that on 7.1.2004 at about 4.00 p.m., SI Tarlok Singh along with fellow police officials was present near Government School, Kamal Wala where he received a secret information that the four appellants and their co-accused Resham Singh while armed with pistols and rods were present behind the memorial of a Peer on the roads leading from village Kamal Wala to village Mammokhera and Katehra to Kandwala. He was also apprised about the accused planning to commit dacoity at some petrol pump or bank. They were having a Maruti car with No. DL-2C-4339 written on the front number plate and No. DL-4C-3552 scribed on the rear number plate. The information so received was found to be reliable. Accordingly, SI Tarlok Singh constituted three different police parties. The one headed by him included Head

Constable Sahib Singh and Constable Baldev Singh, second headed by Assistant Sub-Inspector Ranjit Singh included Head Constable Teja Singh and PHG Tej Partap and third headed by Head Constable Bhola Singh included Constable Harminder Singh and PHG Kuldip Singh. Ruqa Ex.P1 was also sent to the Police Station, on the basis of which, FIR No.1 dated 7.1.2004 (Ex.P1) under Sections 399/402/420 IPC was registered at Police Station Sadar Fazilka. It is also the case of the prosecution that after sending the ruqa to the police, the aforementioned police parties jointly raided the designated places from different sides. All the accused were found present there and on seeing the police party, they tried to run away in different directions. The police party headed by Sub-Inspector Tarlok Singh arrested Chamkaur Singh and Pupinder Singh. From the personal search of Chamkaur Singh, a .12 bore country made pistol with one live cartridge and two more live cartridges were recovered whereas an iron rod was recovered from the possession of Pupinder Singh. Separate FIR under Section 25 of the Arms Act was registered against Chamkaur Singh. The car bearing the aforementioned different registration numbers on the front and rear number plates was also recovered from the spot. The dicky of the car when searched was found to contain two original number plates of registration No. DL-3C-1366 along with Rs.40,000/- cash and having stamps of Cooperative Bank, Dabwala Kalan. The police party headed by Head Constable Bhola Singh apprehended Pawan Kumar accused and his

personal search led to recovery of .315 bore pistol along with two live cartridges. Thereafter, a case under Section 25 of the Arms Act was also registered against him. The police party headed by Sub-Inspector Ranjit Singh apprehended Karamjit Singh accused from whose possession a country made pistol of .12 bore along with two live cartridges were recovered. Then, a case under Section 25 of the Arms Act was also registered against him. Resham Singh, accused had, however, managed to escape from the spot. He was later on arrested on 11.1.2004 and his personal search led to recovery of .12 bore country made pistol along with five live cartridges. Separate case under Section 25 of the Arms Act was also registered against him.

Upon completion of the investigation and presentation of challan followed by commitment of the case, all the five accused were charged for the aforementioned offences under Sections 399/402/411 IPC, to which, they pleaded not guilty and claimed trial.

At the trial of the case, the prosecution examined Sub Inspector Tarlok Singh as PW1, Head Constable Bhola Singh as PW2 and Sub-Inspector Ranjit Singh as PW3.

When examined under Section 313 Cr.P.C., all the accused denied the entire incriminating circumstances appearing against them and alleged their false implication. According to them, nothing was recovered from their possession.

In their defence, the appellants examined Dr. Prithvi Raj, SMO, Civil Hospital Fazilka as DW1, Vinod Kumar Mehta, Press Reporter as DW2, Rajinder Pal, Meter Reader as DW3, Ganpat Ram, Junior Engineer Sub-Division Arniwala as DW4 and Vinod Kumar Mehta, Photographer as DW5.

The trial Court after hearing learned counsel for the parties and on going through the evidence on the record convicted and sentenced the appellants, as mentioned above. At the same time, Resham Singh, accused who was not apprehended at the spot and arrested later was given the benefit of doubt and acquitted of the charges against him.

This court has heard learned counsel for the parties and perused the evidence with their able assistance.

From the testimonies of PW1 Sub-Inspector Tarlok Singh, PW2 Head Constable Bhola Singh and PW3 Sub-Inspector Ranjit Singh, it stands established on the record that the appellants were found sitting behind the memorial of Peer and planning to commit dacoity at some petrol pump or at a bank. They were also found in possession of a car, which bore fake registration number plates. Apart from the appellants, their co-accused Resham Singh was also found present at the spot but he had managed to escape from police dragnet and, therefore, could not be apprehended at the spot. Subsequently, he was arrested and recovery of a country made firearm was made

from his possession. Similarly, at the time of their arrest, when the police party had cornered the appellants, they were found in possession of firearms and iron rod. The testimonies of the aforementioned witnesses point to the one and the only conclusion that the appellants were planning to commit dacoity and, thus, they have been rightly convicted by the trial Court for committing offences under Section 399 IPC.

Coming to the question of sentence, it may be noted that the appellants are facing the agony of criminal prosecution for the last more than twelve years. When the appellants were heard by the learned trial Court on the quantum of sentence, they had stated that they were first offenders. As per the custody certificates dated 20.8.2016, already brought on record by the learned State counsel, the appellants have undergone the sentences as follows:-

Name	Actual Sentence			Earned Remission			Total Sentence		
	Year	Month	Day	Year	Month	Day	Year	Month	Day
Pupinder Singh	1	6	6	2	2	11	3	8	17
Chamkaur Singh	1	7	20	2	2	11	3	10	1
Pawan Kumar	1	9	2	2	2	11	3	11	13
Karamjit Singh	1	9	29	2	2	11	4	0	10

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellants behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice shall be suitably met, if their substantive sentences of imprisonment are

reduced to the one already undergone by them. At the same time, the fine of Rs.2,000/- imposed upon each of the appellants can be enhanced to Rs.5,000/-.

Resultantly, the conviction of the appellants under Section 399 IPC is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. The fine of Rs.2,000/- imposed by the trial Court on each one of them is, however, enhanced to Rs.5,000/-. The entire amount of fine be deposited by the appellants with the trial Court within three months from today, failing which, they shall be required to undergo rigorous imprisonment for six months.

Criminal Appeal S-1765-SB of 2004 filed by Pupinder Singh and Criminal Appeal S-2183-SB of 2004 filed by Chamkaur Singh, Pawan Kumar and Karamjit Singh are, accordingly, disposed of.

September 19, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No