

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

**Criminal Revision 274 of 2008
Date of Decision: July 11, 2016**

Yakub and another		Petitioners
	Versus	
State of Haryana		 Respondent

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

Present : Mr. Lakshay Bajaj, Advocate for
Mr. Harkesh Manuja, Advocate
for the petitioners.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

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

The petitioners, namely, Yaqub and Kallu, alongwith Sharafat, Jahja, Jamil and Mubarik were tried for committing offence under Section 4-A of the Cow Slaughter Act (here-in-after referred as '**the Act**') punishable under Section 8 of the Act. Vide judgment and order dated 24.7.2007, learned Additional Chief Judicial Magistrate, Panipat, acquitted the co-accused of the petitioners. However, the petitioners were held guilty under Section 4-A read with Section 8 of the Act and sentenced to undergo rigorous imprisonment for a period of one year and to

pay a fine of Rs.2,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period three months.

Aggrieved of their conviction and sentence, the petitioners preferred an appeal but remained unsuccessful as the same came to be dismissed by learned Additional Sessions Judge, Panipat, vide judgment dated 19.1.2008. Still not satisfied, the petitioners preferred the present revision, in which, they are currently on bail pursuant to the order dated 7.4.2008.

The case of the prosecution has been reproduced by the lower appellate Court in para 2 of its judgment, which read as under:-

“That on the intervening night of 7/8.9.1999 at about 3.00 a.m. complainant Harkesh, one Rajroop and Krishan were present in their fields situated within the revenue estate of village Dhansoli, when seven persons came from the side of village Nawada carrying 10 adult cows and five heifers. When they were stopped by the complainant and the persons accompanying him namely Rajroop and Krishan, one of them fired a shot at them and another made an attempt to give them a lathi blow. The complainant and the persons accompanying him also gave lathi blows to them in the exercise of their right of private defence. In the melee, five out of those seven persons managed to flee under the cover of darkness, whereas remaining two persons were apprehended and were identified as Yakub and Kallu. Out of five

persons who managed to flee, four were identified as Sharaft son of Shokha resident of village Malikpur, Jahja son of Mansab, Jamil son of Jodha and Mubarik son of Maksood, residents of village Khurgan, P.S. Kairana and identity of the fifth accused could not be ascertained. They were carrying the cattle to Uttar Pradesh for slaughtering. The complainant reported the matter to the police by presenting an application Ex.PW1/A. On the basis of that, FIR Ex.PW1/B was drawn. Both the accused who were apprehended at the spot were taken to Civil Hospital, Panipat where they were examined medico-legally. Remaining four accused whose identification had been established were also arrested. The cattle they were carrying were taken into possession vide memo Ex.PW3/A. On completion of investigation, charge sheet was filed against the accused to stand trial for the offence under Section 4-A read with Section 8 of the Cow Slaughter Act, Section 25 of the Arms Act and under Section 285 of the Indian Penal Code.”

After hearing learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that the prosecution has led cogent and convincing evidence to sustain the conviction of the petitioners for the offence under Section 4-A of the Act. In this regard, it would be appropriate to refer to the testimonies of PW2 Harkesh and PW3 Rajroop, who testified that the petitioners were seen taking cows from Haryana to Uttar Pradesh on the night intervening

7/8.9.1999 at 3 a.m. for the purpose of slaughtering them. Ten cows and five heifers were got released from the accused and information was given to the police immediately. PW4 Dr. Anil Kumar has proved on record his report Ex.PW4/A regarding physical examination of the fifteen animals. Further, PW5 Hari Om Tayal deposed that on 8.9.1999 ten cows and five heifers were brought by ASI Ram Kishan in the Gaushala of which he was the Manager. Thus, no case is made out for any interference in the conviction of the petitioners.

Coming to the question of sentence, it may be noticed that the petitioners are facing the agony of criminal prosecution for the last about seventeen years. None of them is shown to be a previous offender. They had claimed before the trial court that they were poor persons and having large families to feed. As per the custody certificates produced by the learned State counsel, each of the petitioners has already undergone a total period of three months and twelve days out of the sentences of one year imposed upon them.

Taking into consideration the totality of the circumstances, this Court is of the view that the petitioners who are out on bail for the last more than eight years, need not be sent behind the bars, once again, for undergoing their remaining sentence of imprisonment. Ends of justice will be best met, if their

substantive sentences of imprisonment are reduced to the one already undergone by them.

Resultantly, the conviction of the petitioners under Section 4-A of the Cow Slaughter Act is upheld. Their substantive sentences of imprisonment imposed under Section 8 of the Act are reduced to the one already undergone by them. The fine of Rs.2,000/- imposed upon each of the petitioners is, however, enhanced to Rs.5,000/-. The amount of fine be deposited by the petitioners with the trial Court within three months from today, failing which, they shall be required to undergo simple imprisonment for four months.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

July 11, 2016
amit rana

(T.P.S. MANN)
JUDGE