

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl.A.No. 99-DB of 2003 (O&M)

Date of decision : 20.1.2017

...

Jatinder Singh

.....Appellant

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice T.P.S. Mann

Hon'ble Mr. Justice Harminder Singh Madaan

Present: Mr. Arshdeep Singh Cheema, Advocate
for the appellant

Mr. Praveen Bhadu, Assistant Advocate General,
Haryana

...

Harminder Singh Madaan, J.

This appeal has been filed against judgment of conviction dated 20.12.2002 and order of sentence dated 21.12.2002 passed by the Court of Additional Sessions Judge, Ad-hoc, Karnal, vide which he had convicted accused Jatinder Singh for offences under Sections 302, 393 of the Indian Penal Code (for short 'IPC'), as well as Section 25 of the Arms Act, sentencing him as follows:-

<i>Offence U/s</i>	<i>Sentence</i>
302 IPC	Rigorous imprisonment for life and to pay a fine of Rs.1,000/- and in the event of default in payment of fine to undergo further rigorous imprisonment for 4 months.
393 IPC	Rigorous imprisonment for 5 years and to pay a fine of Rs.500/- and in default of payment of fine to undergo further rigorous imprisonment for 3 months.
25 of Arms Act	Rigorous imprisonment for 3 years and to pay a fine of Rs.500/- and in default of payment of fine, to undergo further rigorous imprisonment for 3 months.

All the substantive sentences to run concurrently.

Briefly stated facts of the case as per prosecution story, as it unfolded during the trial are that complainant Pardeep Singh, son of Prem Singh, aged about 31 years, r/o Salwan, P.S.Asandh, had been working as a Clerk in the Government Girls School, Moonak. As a matter of fact, there are two schools in village Moonak, one for boys and the other for girls. The two schools had one Principal, who would withdraw salary of employees of both the schools from State Bank of Patiala, Gharaunda, under her signatures and, thereafter, salaries used to be disbursed to the employees of the schools by complainant Pardeep Singh as well as Raghbir Singh Mann son of Ram Diya of Jat community r/o Ballah, posted as S.S.Master in Government boys school.

01.09.1999 happened to be pay day, as such, Mrs. Santosh Deshwal, Principal of the schools, had withdrawn the salary amount to the tune of Rs. 1,91,391/- from Gharaunda Bank and handed over the said amount to complainant Pardeep Singh and Raghbir Singh.

The amount was in two bags. Both of them proceeded towards the

school premises on Hero Honda Motorcycle No. HR-40-4909. That motorcycle was being driven by Raghbir Singh on which complainant Pardeep Singh was a pillion rider holding two bags containing currency notes. At about 12:00-12:15 noon when they had reached near 'Bara Basti' of village Raipur Jattan, then two young men wearing *kurta-pajama*, with their faces covered, were found to be standing on both sides of the road. One of them, who was later on identified as Jatinder Singh accused-appellant, was holding a pistol in his hand, whereas, the other one, who was later on identified to be one Sanjay son of Kamla, r/o Kohand gave a signal to the riders of the motorcycle to stop. However, Raghbir Singh, who was driving the motorcycle, did not comply, as such, Jatinder Singh having pistol fired at Raghbir Singh 2-3 times and Raghbir Singh was struck on the chest and on other parts of body. However, the motorcycle kept running for 2 -1/2 killas. Thereafter, it alongwith riders fell into paddy fields on the right hand side. Due to the injuries suffered, Raghbir Singh, died at the spot, whereas the complainant had also sustained injuries as a result of falling from motorcycle. The two assailants had also fled from the place of incident. The complainant ran towards village Raipur Jattan with bags containing cash. He kept those bags at a safe place at village Raipur Jattan and thereafter accompanied by some villagers came to the spot. There the complainant observed a Government Jeep No. HR 05 E 1891 having police personnel including SI/SHO Bharat Singh. Complainant signaled that vehicle to stop and thereafter he got his statement recorded with SI/SHO. That statement Exhibit PF was signed by

Pardeep Kumar and his signatures were attested by SI/SHO Bharat Singh (hereinafter referred to as 'Investigating Officer/I.O.'). The Investigating Officer appended his endorsement Exhibit PF/1 and sent ruqqa to police station through Constable Ram Singh, on the basis of which formal FIR Exhibit PF/2 was recorded at Police Station Gharaunda under signatures of Sajjan Kumar ASI. The Investigation Officer carried out spot inspection where he found dead body of Raghbir Singh. He carried out inquest proceedings in that regard, preparing a report in that respect. He prepared rough site plan of the place of incident vide Exhibit PJ/1. He lifted blood stained earth from the spot, prepared a sealed parcel thereon and sealing it with his seal having impression BS. He seized lead part of the bullet converting it into a sealed parcel and sealed with his seal having impression 'BS'. Motorcycle of the deceased, which was lying at the spot alongwith parcels of blood stained earth and bullet was also taken into police possession vide recovery memo Exhibit P-K/1. The Investigating Officer recorded statements of witnesses at the spot. He prepared an application Exhibit PL for getting post-mortem examination conducted on dead body of Raghbir Singh and got the needful done.

On 15.9.1999 accused- Jatinder Singh alongwith one Ompal and Sanjay was arrested in a case vide FIR No. 332 for offences under Sections 399 and 402 IPC as well as Section 25 of the Arms Act, registered with that very Police Station. During investigation of the said case, accused Sanjay and Jatinder Singh had made disclosure statements Mark A and Mark B, respectively, as regards their

involvement in the present case. On 16.9.1999, Inspector Prem Singh arrested both those accused in this case. They were produced before the Magistrate. They refused to participate in the identification parade, as such were remanded to judicial custody.

On 24.9.1999, both the accused were again joined in the investigation, during the course of which, accused Jatinder Singh made a disclosure statement Exhibit PG to the effect that he had concealed empty shell of the cartridge in the Hali Park, Panipat. Then in pursuance of the said statement, Jatinder Singh led the police party to the disclosed place and got a shell of cartridge recovered from his possession, which was seized vide recovery memo Exhibit PG/2. The Investigating Officer prepared rough site plan of place of recovery as Exhibit PH.

On 15.9.1999, in case FIR No. 332 dated 15.9.1999, for offences under Sections 399, 409 IPC and Section 25 of the Arms Act, Police Station Gharaunda, one country made pistol .315 bore alongwith one live cartridge of the same bore was recovered from the possession of accused Jatinder Singh. Then Investigating Officer prepared rough sketch of the recovered pistol Exhibit PO/1. Then the pistol and cartridge were seized vide memo Exhibit PO. After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Illaqa Magistrate under signatures of SI Bharat Singh.

On presentation of challan in the Court of Illaqa Magistrate, Karnal, copies of the documents relied upon therein were supplied to

the accused free of cost as provided under Section 207 Cr.P.C. Then finding that offences under Sections 393, 302 IPC are exclusively triable by Court of Sessions, the Illaqa Magistrate vide his detailed commitment order committed the case to the Court of learned Sessions Judge. On receipt of challan in the Court of Sessions, it was entrusted to the Court of Additional Sessions Judge (Adhoc), Karnal. After hearing arguments, charge for offences under Sections 393, 302 read with Section 34 IPC, as well as Section 25 of the Arms Act, was framed against the accused, to which they pleaded not guilty and claimed trial.

During the course of prosecution evidence, the prosecution examined as many as 18 PWs, as per details below.

PW-1 HC Dilbag Singh, happened to be a formal witness, who tendered in evidence his affidavit Exhibit PA.

PW-2 Constable Balbir Singh also a formal witness, presented his affidavit Exhibit PB.

PW-3 Dr. H.O. Bhatia on 1.9.1999 on police application Exhibit PC medico legally examined Pardeep Singh s/o Prem Singh and found the following injury on his person:-

“1. An abrasion 2.5 cm X 1.5 cm with red base and area was tender to touch obliquely placed on the back of left forearm in its upper 1/3rd area. Injury was referred for X-ray.”

PW-4 HC Ranbir Singh another witness of formal nature submitted his affidavit Exhibit PE.

PW-5 Pardeep Singh – injured complainant provided the ocular version of the incident deposing in consonance with the prosecution story.

PW-6 Om Parkash, Sarpanch of village Ballah, deposed regarding accused Jatinder Singh having been interrogated and suffering disclosure statement Exhibit PG, before HC Barjinder Singh in his presence on 24.9.1999, which was signed by the accused and attested by this witness and thereafter accused while in police custody took them to the disclosed place for getting the recovery effected and he got recovered the empty cartridge (Exhibit PG/1), which after being converted into a sealed parcel was taken into possession vide recovery memo Exhibit PG/2.

PW-7 Smt. Santosh Deshwal, Principal, Government Senior Secondary School, Taraori, stated that in the year 1999, she was posted as Head Mistress in Government Girls High School, Munak and she was DDO (Drawing and Disbursing Officer) of the said school as well as another school, namely, Government High School, Munak; that Raghbir Singh (since deceased) was incharge of Government High School for boys; that she used to draw the pay of both the schools for all the teachers and other staff. This witness further stated that on 1.9.1999, she had gone to Branch of State Bank of Patiala at Gharaunda for withdrawal of the pay for both the schools by bus and Pardeep Singh and Raghbir Singh had also come to the Bank for collection of the amount; that she had withdrawn total amount of Rs.1,92,120/- and handed over the same to Pardeep Singh

and Raghbir Singh and later on she came to know in the afternoon that Raghbir Singh had been shot dead.

PW-8 Radhey Sham Patwari, Halqa village Bastara stated that in the year 1999 while he was posted as Halqa Patwari of village Staundi having additional charge of village Raipur Jattan, he on 9.10.1999 had gone to the spot and prepared the scaled site plan Exhibit PH with correct marginal notes on the demarcation of Pardeep Singh PW, at police request using scale one inch equal to 40 karams. He proved the said site plan as Exhibit PH.

PW-9 Roshan stated that on 1.9.1999, he had gone to Gharaunda from his village Ballah by tractor for getting it repaired; that Nafe Singh of his village was accompanying him at that time; that after getting the tractor repaired, he alongwith Nafe Singh proceeded towards their village; that he was driving the tractor. The witness stated that before proceeding to the village, Nafe Singh had purchased fertilizers and thereafter they had started for their village; that they had hardly covered about 4-5 kms from Gharaunda towards Raipur Jattan, then Raghbir Singh (since deceased), overtook their tractor on his motorcycle; that there was a pillion rider on the motorcycle, which was going towards village Raipur Jattan. The witness further stated that when they had covered about 1 killa ahead of them, then two young men were seen standing there, who fired upon Raghbir Singh with some fire arm and after receiving fire arm injury, Raghbir Singh continued to drive the motorcycle upto the distance of 1-½ killa, while the other person who was pillion rider

escaped from there alongwith bag; that however, Raghbir Singh alongwith the motorcycle fell down; that out of two young boys, one was having one country made pistol; that the person who had fired shot was wearing red shirt having age of 21-22 years and was having dark complexion, whereas the other assailant was found standing on the other side of the road and he was wearing white shirt having age of 19-20 years and was having white complexion. Going further, the witness stated that accused Jatinder Singh present in the Court, had fired a shot with his country made pistol, whereas the other accused, namely, Sanjay had tried to stop the motorcycle of Raghbir Singh (deceased). He stated that after the occurrence, both the accused present in the Court ran away towards Gharaunda on the motorcycle having No. HR-06-3548, make Yamaha red in colour and that on reaching near the place of occurrence, they found that Raghbir Singh was dead. Then they went to their village and informed villagers about the incident.

PW-10 Nafe Singh deposed almost on the same lines as those of PW-9 Roshan.

PW-11 Rakesh Kumar, Photographer, stated that on 1.9.1999, he had gone to the spot at the asking of the police and clicked photographs Exhibits P-2 to P-5 correctly, which he got developed from the negatives Exhibits P-6 to P-9.

PW-12 Dr. L.S. Yadav, Senior Scientific Officer, FSL, Madhuban, stated that he is a Ballistic expert. He stated that he had examined the exhibits i.e. one piece of .315 inch bullet, clothes of the

deceased, one lead core of piece of bullet, one country made pistol (chambered for .315 inch cartridges), one .315" fired cartridge case and after examination, he prepared report Exhibit PJ. In the said report he had observed as follows :-

1. The country made pistol marked W/1 (chambered for .315" cartridges) is a fire arm as defined in Arms Act 54 of 1959. Its firing mechanism was found in working order.
2. .315" fired cartridge case marked C/1 had been fired from country made pistol W/1 and not from any other fire arm even of the same make and bore/calibre, because every fire arm has got its own individual characteristic marks.
3. Piece of .315" fired bullet marked BC/1 had been fired from country made pistol W/1 and not from any other fire arm even of the same make and bore/calibre, because every fire arm has got its own individual characteristic marks.
4. No opinion could be formed regarding linkage of lead piece marked BC/2 in respect of country made pistol W/1 due to lack of sufficient comparable individual characteristic marks. BC/2 could be piece of core of .315" bullet.
5. Holes in the shirt and banian contained in

parcel No. III have been caused by bullet projectile.

6. Report in original from Serology Division was submitted.

In the concluding lines of his examination-in-chief, he stated that if a .315" calibre bullet hits some hard surface like bone or metal it can be fragmented into two or more than two pieces.

PW-13 Vinod Jain, Ahlmad to District Magistrate, Karnal, proved sanction order Exhibit PK, signed by Sh. Devinder Singh, District Magistrate, Karnal.

PW-14 Sh. Arun Kumar Singal, JMIC, Rewari, deposed that on 16.9.1999, while he was posted as Judicial Magistrate Ist Class, Karnal, on that day police had moved an application Exhibit PL for passing necessary order for holding the test identification parade of accused Sanjay and Jatinder Singh; that he had first recorded their statements on the overleaf of application Exhibit PL/1; that the accused were produced with muffled faces. The witness stated that on this application, he had passed order Exhibit PL/2, vide which the accused were remanded to judicial custody and were ordered to be produced on 23.9.1999 before him; that he had also passed detailed order for arranging test identification parade of the accused vide order Exhibit PL/3; that the police had also moved an application for the judicial remand Exhibit PL/4. The witness added that on 21.9.1999, he went to District Jail, Karnal, for holding test identification parade but both the accused refused to participate

therein; that he had recorded their joint statement Exhibit PL/5. He further stated that before visiting District Jail, Karnal, he had passed order on 16.9.1999 directing the SDM Karnal for holding test identification parade by visiting District Jail, Karnal on 21.9.1999 at 2.00 P.M. but the SDM made reference vide his letter Exhibit PL/6 stating that he was not competent to hold test identification parade, only a Judicial Magistrate Ist Class could do so and thereafter on 17.9.1999 after receiving the letter of the SDM, he passed order Exhibit PL/7 for holding test identification parade on 21.9.1999 at 2.00 P.M. and that then he had passed order Exhibit PL/8.

PW-15 HC Mohinder Singh a formal witness, stated that on 24.9.1999 he was posted as constable at Police Station Gharaunda. He tendered his affidavit as Exhibit PM.

PW-16 DSP Prem Singh, Head Quarter Jhajjar, stated that on 16.9.1999, he was posted as District Inspector, Karnal and on that day he had taken over the investigation of this case from SI Bharat Singh as per orders of S.P. Karnal; that both the accused had been arrested in a case under Section 399/402 IPC, Police Station Gharaunda, where they were interrogated by SI Bharat Singh. The witness stated that he had arrested both the accused in the present case and had interrogated them and on the next day file was sent to SHO Police Station Gharaunda after the accused were produced in the court in muffled faces and sent to judicial custody. He stated that he had moved application Exhibit PL before the Judicial Magistrate seeking judicial remand of the accused and for their identification in this case

on which order was passed by the Magistrate.

PW-17 Bharat Singh SHO, who had carried out investigation in this case, deposing in that regard and proved various documents.

With that the prosecution evidence got concluded.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating evidence appearing against the accused was put to them, but they denied the allegations contending that they are innocent and have been falsely involved in this case; that the witnesses are close relations of deceased and the Sub Inspector wanted to show his efficiency in solving a blind murder case, therefore, he involved them in this case, as well as case under Section 399, 402 IPC, falsely.

The accused did not lead any evidence in defence despite availing of opportunities.

After hearing arguments the trial Court convicted the accused Jatinder Singh for offences under Section 393, 302 IPC and Section 25 of the Arms Act, sentencing him as detailed Supra, whereas, accused Sanjay was acquitted of the charge framed against him.

Feeling aggrieved by the said judgment of conviction and sentence, accused Jatinder Singh has filed the present appeal.

We have heard Mr. Arshdeep Singh Cheema, learned counsel for the appellant and Mr. Parveen Bhadu, Assistant Advocate General, Haryana for the State, besides going through the record and we find that there is no merit in the appeal.

The first and foremost argument advanced by learned counsel for the appellant was that identity of the accused-appellant could not be established; therefore his participation in crime is highly doubtful. However, we do not find any force in the contention. Although as per prosecution story itself, the two assailants who had waylaid Rajbir Singh and Pardeep Singh going on the motorcycle having cash amount with them, were having muffled faces, but then it has to be taken into view that soon after firing incident, they had been seen by PW-9 Roshan and PW-10 Nafe Singh. Both of them categorically stated that they had seen the assailants going away from the spot on a motorcycle. They had identified both of them in the Court, although they claimed to have seen the incident itself but keeping in view the fact that in their original statements recorded during the investigation of the case under Section 161 Cr.P.C., they had not made any such mention and they were duly confronted with such statements; their having seen the incident does not come out to be convincing. But as far as their having seen the two accused leaving the spot soon after the shoot out and identifying them, their stand is consistent and that forms part of *res gestae* i.e. part of the same transaction, which is admissible in terms of Section 6 of the Evidence Act. Merely because in the Court these witnesses claimed to have seen the incident does not mean that their total depositions are to be discarded outrightly since the maxim : ***Falsus in uno, falsus in omnibus*** i.e. false in part, false in whole is not made applicable by the Courts in India. Rather the Courts are required to separate

chaff from the grain i.e. truth from the falsehood. While doing so, evidence which is favourable to the prosecution can certainly be taken into consideration. Therefore, identity of the accused stands duly proved on record.

One more circumstance, which goes to prove the identity of the accused is that the identification parade was arranged so as to get the culprit identified from the eye witnesses. But accused refused to participate in the same, which gives rise to adverse inference that if the accused, to be more specific and relevant, accused Jatinder Singh had participated in the identification parade, he would have been identified by the eye witness (s) to have taken part in the occurrence.

One more corroborative fact is that though complainant Pardeep Singh stated that at the time of incident both the assailants were having their faces covered, however, during the course of his cross-examination, which was recorded on 13.12.2000, he stated that he had identified the assailants at the spot, at the time of firing since the cloth with which the faces were muffled got removed.

A very strong piece of evidence to prove participation of the appellant-convict in the crime is recovery got effected by accused Jatinder Singh. As deposed by PW-6 Om Parkash, Sarpanch and PW-17 SI Bharat Singh, disclosure statement Exhibit PM was made by Jatinder Singh accused while in police custody on 24.9.1999 and in pursuance there of he had got recovered one empty shell which had been taken into possession. That empty shell had been sent to Forensic Science Laboratory, Punjab and as per report received from

there, the said shell had been fired from country made pistol, which had been recovered from possession of accused Jatinder Singh. Similarly, as per that report, piece of .315 bore bullet had been fired from that very pistol and not from any other fire arm, though no opinion could be formed regarding linkage of lead piece which had been taken out from dead body of Raghbir Singh due to lack of sufficient comparable individual characteristic marks. But then it was pointed out that it could be piece of core of .315" bullet. All these things go to prove the participation of accused Jatinder Singh in the incident.

Going further, learned counsel for the appellant advanced an argument that evidence adduced by the prosecution regarding the incident is not convincing and there are contradictions between the ocular and medical evidence, in as much as according to prosecution story only one shot had been fired, whereas in the post mortem report, the number of injuries suggest that more than one shot had been fired and in as much as PW-12 Dr. L.S. Yadav, Ballistic expert in his cross examination stated that injury No. 1 can be caused to Raghbir Singh from front and not from 90 degree angle but from an angle i.e. due to angular firing and that injury No. 2 of the post mortem report is an entry wound while injury No.3 is an exit wound of the same and that injury No.2 has been caused from the left front side of the injured. Similarly injury No. 4 is the entry wound and injury No. 5 is the exit wound of the same, that injury No. 4 has been caused from the left front of the injured though it depends upon the position of the hand at

the time of receipt of the injury. He has further stated that injuries No. 1, 2 and 4 could be caused by three independent shots. Thus according to learned counsel for the appellant, Pardeep Singh, who had just deposed regarding firing of one shot, cannot be relied upon whereas PWs Roshan and Nafe Singh are not the eyewitnesses since their statements with respect to having seen the incident have been disbelieved by the trial Court even. According to learned counsel for the appellant, due to this reason, the prosecution story becomes doubtful and benefit of doubt should be given to the accused-appellant, which was wrongly denied to him by the trial Court.

However, we on our part do not find ourselves in agreement with learned counsel for the appellant. The presence at the spot of Pardeep Singh is natural and probable. It was he who had set the machinery of law in motion by reporting the matter to the police within less than three hours of the incident, in as much as, the incident is said to have taken place at about 12.00 – 12.15 afternoon, whereas statement of Pardeep Singh was recorded by the police, thereafter the Investigating Officer vide his endorsement sent ruqqa to police station at 3.00 P.M. i.e. within about three hours of the incident. As per prosecution version, after the shoot out in which Raghbir Singh had been hit, he lost control over the motorcycle, though it had travelled to some distance before the riders alongwith the motorcycle fell down. In the process Pardeep Singh had also suffered an injury, though not very serious in nature. In that way Pardeep Singh came out to be a stamped witness, whose presence at

the spot cannot be doubted. Further more as the prosecution story goes, after shoot out both the riders had fallen down in the fields alongwith motorcycle, Pardeep Singh had ran away from the spot alongwith bags of money and after keeping the cash at a safe place at village Raipur Jattan, he alongwith other villagers had returned to the spot, where he had come across police party. In his statement to the police, he had given crucial details of the incident, though not naming the assailants or claiming to identify them. If Pardeep Singh was not present at the spot, he could not possibly had been brought there and cited as a witness within such a short time. Incidentally he had no motive to come forward and to involve the accused in this case falsely. Further more in the FIR, he has not named any person as culprit. As regards his having stated in the FIR that only one shot had been fired, it has to be kept in mind that FIR is not a substantive piece of evidence and its only purpose is to set the criminal machinery in motion. FIR is often lodged in haste and may not contain the minute details of the incident. If we see the totality of the circumstances, Raghbir Singh, who was driving the motorcycle having been hit with a bullet in his chest, losing control over the motorcycle, which travelled to some distance and then fell into fields, Raghbir Singh and Pardeep Singh also fell down. Raghbir Singh succumbed to the injuries. Pardeep Singh might have become panicky as a result thereof and in a state of going away from the spot having bag of cash and due to such state of affairs, might not have given attention to the other shots having been fired at Raghbir Singh. It has to be taken note

of that when statement of Pardeep Singh was recorded in the Court in his examination-in-chief, itself he stated that 2-3 shots had been fired at Raghbir Singh. He had identified both the accused present in the Court to be the persons, who were involved in the incident.

Now, the question arises whether Pardeep Singh can be disbelieved solely for the reason that in his statement to the police, he had mentioned about only one shot having been fired at Raghbir Singh, whereas in the statement in the Court he had stated that 2-3 shots had been fired. The answer has to be in negative. Though Pardeep Singh has made improvement in that regard, but those are not of such type showing that he is an introduced witness and should not be relied upon. While saying so, we find support of various judgments of the Hon'ble Apex Court in that regard i.e. **Meharban and others vs. State of M.P. AIR 1997 SC 1528**, wherein it was observed that merely because of some exaggerations, improvements and discrepancies in the statements of witnesses, the prosecution case will not be damaged. In the case of **Maqsoodan and others vs. State of U.P. AIR 1983 SC 126**, it was observed that while appreciating evidence of the witnesses, some improvements made by them and variations in their earlier and later statements, cannot lead to the conclusion that their depositions are infirm. Further in the case of **State of U.P. vs. Naresh and others 2011 (2) RCR (Criminal) 364**, the Apex Court, while dealing with the issue of discrepancies in statements of witnesses has observed that :-

“(i) In all criminal cases, normal discrepancies are

bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. The omissions which amount to contradictions in material particulars i.e. go to the root of the case/materially affect the trial or core of the prosecution's case, render the testimony of the witness liable to be discredited.

(ii) Minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case, should not be made a ground on which the evidence can be rejected in its entirety.

(iii) Exaggerations per se do not render the evidence brittle. But it can be one of the factors to test credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility. 2010 (5) RCR (Crl.) 513, relied."

It needs to be mentioned here that from statement of PW-7 Mrs. Santosh Deshwal, Principal of the two schools, who on the fateful day had withdrawn the cash amount from the State Bank of Patiala, Gharaunda, for disbursal of the salaries to the staff of two schools and handed over the same to Pardeep Singh and Raghbir

Singh, it also comes out that they after collecting the cash had left towards the school and on the way had been waylaid by the accused, the purpose of the same being robbery. Though the accused could not succeed in that attempt of robbery, but murder of Raghbir Singh was committed in the process. Therefore, we find presence at the spot of Pardeep Singh to be natural, probable and account given by him to be worthy of reliance, since no motive is shown prompted by which he might have come forward to involve the accused in this case falsely. His testimony is sufficient to prove charge against the accused-appellant. It may be mentioned here that the first shot fired by Jatinder Singh had hit Raghbir Singh in chest and it proved to be fatal. Therefore, offence of murder was complete, when first shot was fired. As regards firing of subsequent shots at Raghbir Singh, even if those are not taken into consideration, that does not upset the prosecution version.

Regarding the argument advanced by learned counsel for the appellant with respect to the inconsistencies between ocular version and opinion given by the Ballistic expert, in view of the detailed discussion above, we find that firstly the inconsistencies pointed out stand duly explained and even if not taken to be so, are not fatal to the prosecution story.

In this case, the prosecution has successfully proved its charge for offences under Section 393, 302 and Section 25 of the Arms Act, against Jatinder Singh accused by establishing that on 1.9.1999 in the area of Raipur Jattan, Police Station Gharaunda, he

alongwith an accomplice attempted to commit robbery by intercepting motorcycle being driven by Raghbir Singh with Pardeep Singh as pillion rider, in order to snatch bags containing salary of teachers and staff members of Government Girls School, Munak and its sister concern and that he committed murder of Raghbir Singh by firing shots at him, with intention of killing him, resulting in his death. Similarly, prosecution has been successful in proving that he was in possession of country made pistol of .315 bore without any licence, which comes within mischief of Section 25 of the Arms Act.

The judgment passed by the trial Court is well reasoned one, based on proper appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein, as regards, the conviction part and sentence part also. We do not see any reason to interfere with said judgment on any of such account. The judgment of the trial Court is upheld and appeal being found to be without merit, stands dismissed.

(T.P.S. Mann)
Judge

(Harminder Singh Madaan)
Judge

20.01.2017
chugh

Whether speaking / reasoned

Yes/ No

Whether reportable

Yes/ No