

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2041-SB-2004

Decided on: 14.12.2018

Rishi Pal

.... Appellant

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Digvijay Dalal, Advocate for
Mr. H.S. Hooda, Sr. Advocate
for the appellant.

Mr. Ayuwan Singh, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The instant criminal appeal has been filed by the accused-appellant against the judgment dated 11.09.2004 and order of sentence dated 14.09.2004 passed by the learned Sessions Judge, Sonipat for an offence under Section 307 of Indian Penal Code (in short 'IPC') in case FIR No.119 dated 15.10.2001, registered as Police Station Sadar Gohana vide which the accused-appellant was convicted and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs. 3,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.

2. The prosecution case as set up during the trial is that on 15.10.2001, a ruqa alongwith medico legal report was received from CHC Gohaha qua the admission of PW-8 Karambir, PW-7 Deva Nand and PW-3 Sunil as well as PW-1 Satbir and PW-2 Rambir, who had been admitted with burn injuries in the hospital. PW-1 Satbir and PW-2 Rambir were referred to PGIMS, Rohtak for further treatment. On reaching the hospital, PW-11 ASI Ram Parkash proceeded to record the statement of PW-8 Karambir. As per PW-8 Karambir, on the Chhamahi Ceremony (Death Ceremony) of his mother, he wanted to spend some

amount of money on the related rituals/ceremonies. As his brother i.e. the accused-appellant Rishi Pal was not agreeing, it led to some dispute between the two brothers i.e. PW-8 Karambir and the accused-appellant. On account of the aforementioned ceremony, services of Halwai had been requisitioned who were preparing sweets and food alongwith their helpers. At about 11.00 p.m., on 14.01.2001 the accused-appellant came to the spot, threw petrol on the people gathered there before setting them on fire. The accused-appellant absconded soon thereafter. On this statement case was registered on 15.10.2001 at Police Station Sadar Gohana under Section 307 IPC.

3. On completion of investigation, challan was put up and charge framed under Section 307 IPC to which the accused-appellant pleaded not guilty and claimed trial.

4. The prosecution in order to prove its case, examined as many as 11 witnesses including the stamped witnesses. On closure of the prosecution evidence, all the incriminating circumstances appearing against the accused-appellant in the prosecution evidence was put to him, wherein he denied the prosecution allegations and pleaded false implication in this case. He pleaded that it was a case of accidental fire and since the hands and clothes of the injured were smeared with ghee, it facilitated the catching of fire.

5. In defence, the accused-appellant produced two defence witnesses and thereafter closed his defence.

6. Learned counsel for the appellant while impugning the judgment of the learned trial Court vehemently argued that the medical evidence qua the injuries suffered by the prosecution witnesses could not be set to be dangerous to life and hence did not fall within the ambit of Section 307 IPC. He further urged that the intention of the appellant to kill the injured prosecution witnesses was

clearly missing in the case in hand as there were contradictions appearing in the testimonies of the prosecution witnesses in as much as one of the injured witnesses stated that the appellant had only sprinkled petrol on them and they caught fire as they were working near the fire place, whereas another witness PW-1 Satbir deposed that the accused-appellant had thrown a lighted match stick after sprinkling petrol on them. Learned counsel for the appellant also drew my attention to the fact that the complainant PW-8 Karambir with whom he was alleged to have had a dispute had not supported the case of the prosecution.

7. Learned State counsel on the other hand, has vehemently argued that even though the complainant PW-8 Karambir did not support the case of the prosecution, the fact remains that the other prosecution witnesses who suffered burn injuries in the occurrence supported the case of the prosecution in its entirety. Further, the State counsel urged that these prosecution witnesses were all independent witnesses and there was no reason for them to falsely implicate the appellant.

8. I have given my anxious consideration to the facts of the case and perused the evidence on record.

9. It is the admitted case of both the prosecution as well as the defence that the occurrence in hand took place on the intervening night of 14th and 15th October of 2001 when PW-7 Dev Anand, PW-2 Ranbir and PW-3 Sunil injured were preparing food items on the occasion of the chhamahi ceremony of the mother of the complainant. The question which thus would arise is whether the occurrence has taken place as set up by the prosecution during trial or as being pleaded by the defence.

10. No doubt, the complainant PW-8 Karambir did not support the case of the prosecution and was declared hostile at the request of the learned Public

Prosecutor for the State. One fact which cannot be ignored and loss sight of is that the complainant PW-8 Karambir who turned hostile is the real brother of the accused-appellant and hence for reasons, but obvious he chose not to support the prosecution case. But the fact remains that besides him 4 others including PW-1 Satbir and PW-2 Ranbir had received burn injuries in the said occurrence and were immediately removed to the hospital, where they were medico legally examined by the attending doctor PW-9 Dr. P.D. Garg, who found the following injuries on them:-

PW-1 Satbir

“Superficial to deep burns on chest, lower abdomen, back, bilateral lower limbs and bilateral arms. Burns were about 40%.”

PW-2 Ranbir

“Superficial to deep burns on whole of the body except scalp, thighs and back. Burns were about 60%.”

11. A perusal of the deposition of all the injured witnesses clinchingly establishes that the appellant on the fateful intervening night of 14th and 15th October, 2001 came to the spot and after climbing on a buggi which was parked in the street, armed with bottle of petrol, sprinkled the same on the persons gathered there and thereafter threw a lighted match stick resulting in the prosecution witnesses being set ablaze. The suggestion given by the defence in the cross-examination to the witnesses is that it was in fact a case of accidental fire as the clothes of the Halwai and helpers were smeared with ghee and ghee was also boiling in vessel nearby, which led to the witnesses catching fire.

12. I am unable to agree with this argument of the learned counsel for the appellant because it has categorically been deposed by the injured witnesses in one voice that appellant had come to the spot with petrol and without any

provocation whatsoever, had sprinkled petrol on them and thereafter thrown a lighted match stick at them. The fact that the food was being prepared nearby on stove would have been one of the felicitating circumstances for them to have caught fire but could not have been the only reason for receiving burns.

13. The submissions of the learned counsel for the appellant that intention was clearly amiss in the instant case qua the appellant to kill the injured persons deserves to be rejected outrightly. The intention of the appellant is to be gathered from the weapon or material used in the occurrence. The very fact that he came equipped with inflammable material like petrol goes a long way in establishing that the intention was very much there and he would have positively known about the repercussions which would follow.

14. The contradictions and discrepancies pointed out by learned counsel for the appellant are too minor in nature to be taken note of in the face of the consistent testimonies of all the prosecution witnesses who are not only stamped witnesses but also independent witnesses qua whom no animosity much less enmity has been alleged.

15. In the circumstances as discussed above, I do not find any infirmity in the approach of the learned trial Court in recording a finding of conviction.

16. Accordingly, the present appeal is dismissed and the impugned judgment and order of sentence passed by the trial Court is maintained.

(MANJARI NEHRU KAUL)
JUDGE

14.12.2018
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No