

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) **Crl. Appeal No.D-317-DB of 2013 (O&M)**

Manoj		...Appellant
	VERSUS	
State of Haryana		...Respondent

(ii) **Crl. Appeal No.D-353-DB of 2013 (O&M)**

Pappu @ Blaster		...Appellant
	VERSUS	
State of Haryana		...Respondent

(iii) **Crl. Appeal No.D-354-DB of 2013 (O&M)**

Mohd. Aaftab		...Appellant
	VERSUS	
State of Haryana		...Respondent

(iv) **Crl. Appeal No.D-358-DB of 2013 (O&M)**

Prem		...Appellant
	VERSUS	
State of Haryana		...Respondent

(v) **Crl. Appeal No.D-436-DB of 2013 (O&M)**

Ravi @ Goldi		...Appellant
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VERSUS

State of Haryana

...Respondent

(vi) Crl. Appeal No.D-585-DB of 2013 (O&M)

Mohd. Akhtar

...Appellant

VERSUS

State of Haryana and others

...Respondents

(vii) Crl. Appeal No.D-167-DB of 2014 (O&M)

State of Haryana

...Appellant

VERSUS

Mohd. Aaftab and others

...Respondents

Date of Decision: May 02, 2018

**CORAM: HON'BLE MR. JUSTICE A.B.CHAUDHARI
HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Sarfraj Hussain, Advocate
for the appellant (in CRA No.D-317-DB of 2013).

Mr.Saurabh Bajaj, Advocate
for the appellant (in CRA No.D-353-DB of 2013).

Mr.Rajiv Kumar Trikha, Advocate
for the appellant (in CRA No.D-354-DB of 2013).

None for the appellant (in CRA No.D-358-DB of 2013).

Mr.Amandeep Rana, Advocate
for the appellant (in CRA No.D-436-DB of 2013).

Mr.Rajesh Bhardwaj, Advocate
for the appellant-complainant (in CRA No.D-585-DB of 2013).

Mr.Siddarth Sanwalia, Deputy Advocate General, Haryana

for the appellant-State (in CRA No.D-167-DB of 2013) and
for the respondent-State (in all other cases).

INDERJIT SINGH, J.

This judgment shall dispose of all the above mentioned
connected criminal appeals arising out of the same judgment.

Appellants Manoj, Pappu @ Blaster, Mohd. Aaftab, Prem and
Ravi @ Goli have filed appeals i.e. CRA No.D-317-DB of 2013, CRA
No.D-353-DB of 2013, CRA No.D-354-DB of 2013, CRA No.D-358-DB
of 2013 and CRA No.D-436-DB of 2013 respectively, challenging the
judgment of conviction dated 26.03.2013 and order of sentence dated
30.03.2013 passed by learned Addl. Sessions Judge, Gurgaon, whereby they
were convicted and sentenced to undergo imprisonment for life and to pay
fine of ₹2000/- and in default of payment of fine, to undergo imprisonment
for a period of two months each under Section 364-A IPC and further to
undergo imprisonment for life and to pay fine of ₹5000/- and in default of
payment of fine, to undergo imprisonment for a period of five months each
under Section 302 IPC and also to undergo rigorous imprisonment for a
period of three years and to pay fine of ₹3000/- and in default of payment of
fine, to undergo imprisonment for a period of three months each under
Section 201 IPC. However, co-accused Mohd. Anish and Anilesh were
convicted and sentenced under Section 387 IPC and sentenced to undergo
rigorous imprisonment for a period of three years and to pay fine of ₹2000/-
each.

Appellant-complainant Mohd. Akhtar and appellant-State of
Haryana have filed appeals i.e. CRA No.D-585-DB of 2013 and CRA

No.D-167-DB of 2014 respectively, challenging the above-said judgment of acquittal of accused Mohd. Anish and Anilesh Thomas of the charges framed under Sections 364-A, 302, 201 and 120-B IPC and only convicted under Section 387 IPC.

From the record, we find that challan was presented against accused Mohd. Aaftab, Anilesh Thomas, Manoj, Mohd. Anish, Prem, Pappu @ Blaster and Ravi @ Goldi in case FIR No.143 dated 17.12.2009 under Sections 364-A, 302, 201 and 120-B IPC by the police of Police Station Bondshi, Gurgaon.

The brief facts of the prosecution case as noted down by learned Addl. Sessions Judge, Gurgaon, in the impugned judgment are as under:-

“2. It is the case of the prosecution that informant Mohd. Akhtar lodged a missing report to SHO Police Station Bhondsi Gurgaon on 22.11.2009 inter alia detailing that his son Mohd. Ajharuddin, 17 years of age who is five feet tall and is wearing a blue coloured jacket and blue coloured jeans with white shoes was sent by him to meet Bank Manager at Palwal on 21.11.2009 along with his salary slip. But he had not reached there. In the evening at about 4:00 P.M., he gave a telephonic call to his cousin Jaicum, to pick him from Sohna but since then no information has been received. His mobile phone number 9813883395 was switched off. Another number was given as 9602400220. On this report, a Daily Diary was entered at number 10 dated 22.11.2009.

On 17.12.2009, Mohd Akhtar again lodged a complaint to the police of Police Station Bhondsi Gurgaon detailing that he is working in Maruti company. He is resident of House No.1290, Maruti Kunj Bhondsi Gurgaon. His 17 years old son Mohd. Ajharuddin, a student of 11 class in Delhi Public School, Maruti Kunj, has left house at 7:00 A.M. on 21.11.2009 to see Dinesh Chauhan, Bank Manager in Palwal in connection with education lone. He further informed that his son was carrying a mobile number 9813883395 but has failed to return back home. He made inquiries from Bank Manager Palwal who informed that he had not met to him. He made further search of his son but to no avail and a missing report in this regard was also made by him in Police Station Bhondsi on 22.11.2009. Complainant further informed that since then he

had been receiving calls on his mobile number 9911597128 from the mobile phone of his son and the caller is demanding ransom. He suspected that some unknown person had kidnapped his son for ransom who had been threatening to kill his son in case he would not handover money to them or would inform the police.

3. A case for commission of offence punishable under Section 364-A of the Indian Penal Code in Police Station Bhondsi was lodged. The matter was investigated. During the course of investigation on the basis of call details coming from the mobile phone of kidnapped boy Mohd. Ajharuddin, Naresh Kumar Inspector CIA Staff arrested accused Manoj son of Anokhe Lal, Aaftab son of Mehtab Ali, Ravi @ Goldi son of Sri Ram, Anilesh Thomas son of M.T. Thomas, Mohd Anish son of Mohd. Salim on 29.12.2009 and offence under section 120-B of Indian Penal Code was added. Accused were interrogated. On the basis of disclosure statement made by accused Ravi @ Goldi, Aaftab and Manoj, it transpired that accused Aaftab, Manoj and Ravi @ Goldi have made a conspiracy to kidnap son of Mohd. Akhtar. Thereafter all the three kidnapped Mohd. Ajharuddin on 21.11.2009 who was made to sit in a Alto Car from Maruti Gate. Goldi was left at Bhondsi Bus Stand and Aaftab and Manoj took Mohd. Ajharuddin in a Alto car for demanding ransom to village Kesarpur, Police Station Jaithra, District Etah, UP. He was taken to Pappu @ Blaster maternal uncle (Mama) of Manoj with whom Manoj had earlier talked. Pappu @ Blaster and Prem Singh son of Nawab Singh joined them in the car. Kidnapped boy was taken to forest of village Harsinghpur. There Mohd. Ajharuddin was strangulated to death by Aaftab, Manoj, Pappu @ Blaster and Prem. Offence under Section 302 read with section 34 of Indian Penal Code was therefore, added.

4. During further investigation, accused Pappu @ Blaster son of Mool Chand and Prem son of Nawab Singh were arrested on 31.12.2009 who also disclosed to the police about commission of crime. In pursuance of disclosure statement of accused Aaftab, Manoj Pappu @ Blaster and Prem Singh, skeleton of Mohd Ajharuddin was recovered from forest of village Harsinghpur, P.S. Jaithra District Etah, UP. Offence under Section 201 of IPC was then added. Inquest proceedings were conducted by Ved Parkash Giri, P.S. Jaithra and the dead body was taken to medical officer, Etah for post mortem examination.

5. During course of further investigation, in pursuance of disclosure statements made by the accused SIM number 9813883395 belonging to deceased was recovered from house of accused Aaftab. Salary slip belonging to father of deceased was got recovered from the house of accused Ravi. Railway

tickets dated 23.12.2009 from Hajrat Nizamuddin railway station, Delhi to Jhansi was recovered from the house of Ravi in pursuance of disclosure statement of accused Mohd. Anish. One identity card of DPS School belonging to deceased was recovered from the house of accused Manoj. One railway ticket from Jhansi to Hajrat Nizamuddin railway station, Delhi was recovered from the house of accused Manoj in pursuance of disclosure statement made by Anilesh Thomas. All the recoveries were seized by the police in accordance with rules.

6. During further investigation, site plan was prepared and skeleton pertaining Mohd. Ajharuddin and samples of blood taken from his mother Fayman Begum and his father Mohd. Akhtar were sent to FSL Madhuban for analysis. The Alto car No.HR-26Y-4260 used in commission of crime was taken into police possession. Computer details from toll plaza qua movement of this car were obtained. On completion of investigation all the seven accused were challaned and produced before the court to face trial for the commission of alleged crime.”

On presentation of challan, copies of challan and other documents were supplied to the accused-appellants under Section 207 Cr.P.C. Finding prima facie case, the appellants were charge-sheeted under Sections 364-A, 302, 201 and 120-B IPC, to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined PW-1 Mohd. Akhtar, complainant, who mainly deposed the same facts as mentioned while giving brief facts of the case. He also deposed that his son was having Nokia Mobile Model 6300 with IMEI No.356832028191890 and he had two SIM cards No.9813883395 and 9602400220. He also deposed regarding lodging of missing report of his son Mohd. Ajharuddin vide DDR No.10 dated 22.11.2009. This witness further deposed that he started receiving telephonic calls demanding ransom money from mobile of his son bearing No.9813883395 on his mobile no.9911597128. The person, who used to call, told him that in case he will inform the police, then his son

Ajharuddin shall be put to death. For some day, he did not disclose above facts to anyone due to fear. On 17.12.2009, he went to police station Bhondsi and informed the police through application Ex.PB. The complainant further deposed that on 27.11.2009 at about 11.52 a.m., he received telephonic call on his mobile number from mobile number of his son demanding ransom of ₹50 lakhs within a week. They told that his son Ajharuddin is in their custody. On 05.12.2009, at about 10.05 a.m., he received telephonic call on his mobile from the mobile of his son with different voice. That person asked him as to whether he arranged ransom amount of ₹50 lakhs nor not. He replied that firstly telephonic conversation be got made with his son and the amount be reduced, so that he can arrange the same. This witness also deposed that the person from other side stated that at the moment his son was unconscious, so conversation was not possible and disconnected the call. On 07.12.2009 at about 8.53 p.m., the complainant received call on his mobile from the mobile of his son and the person told him that he along with ₹50 lakhs should reach towards Faridabad via Subhash Chowk, Sector-46, 47 along with Tigra village. He told that person that he was unable to arrange the amount and he should be allowed to have telephonic conversation with his son, only then, he will be able to arrange some amount. On 07.12.2009 at about 9.05 p.m., again he received telephonic call and the person told him that he knows everything about him and he also knew that he (complainant) has sufficient amount to pay the ransom. On the same day at about 9.10 p.m., he again received telephonic call on his mobile from same number and the person told that in case he could not arrange the amount, then he should forget his son Azu.

The complainant further deposed that on 17.12.2009 at about 2.55 p.m., he

received the call on his mobile from same mobile number and the person told him that they do not have time to spare. He again pleaded that he will give them amount but he be allowed to have telephonic conversation with his son. On the same day, at about 2.58 p.m., he received telephonic call on his mobile number from same mobile number from another person, who angrily told that he have to pay ransom of ₹50 lakhs, otherwise, they will finish his son and will not give more time. PW-1 Mohd. Akhtar deposed that he got afraid and submitted an application Ex.PB to the police. On 18.12.2009, at about 7.01 p.m., he received telephonic call on his mobile from same mobile number and the person told him that he had gone to police yesterday and they are aware of his activities. The complainant further stated that on 22.12.2009 at about 11.10 p.m., he received a call on his mobile number from mobile No.9602400220 and the person told him that he along with ₹50 lakhs should reach Nizammudin Railway Station at 6.00 a.m. He told the person that he should be allowed to have telephonic conversation with his son but the person angrily told him that he should not delay the matter. On 23.12.2009 at about 6.00 a.m., he reached Nizammudin Railway Station with some money. There, at about 6.30 a.m., he received telephonic call on his mobile from mobile No.9602400220 and the person asked him as to whether he has reached Nizammudin Railway Station with money. He told that person that his son be allowed to have conversation with him but the person replied that he can have conversation with his son only on reaching Railway Station Jhansi. It is further deposed by PW-1 Mohd. Akhtar, then he reached Jhansi as per instructions of the caller. He insisted for conversation with his son or handing over his son but

they insisted for the money. The complainant further deposed regarding

arrest of the accused, their interrogation and recoveries.

PW-2 Constable Satyanarain deposed regarding delivering of special reports to Illaqa Magistrate. PW-3 Constable Vicky Kumar proved photographs Ex.P1 to Ex.P8. PW-4 Head Constable Madan Singh deposed regarding handing over of sealed parcels and also deposed regarding disclosure statements suffered by accused. PW-5 Dr.Saeed Mohd. deposed that he opened parcel and on opening parcel, 10 pieces of human bones were taken out. All the bones were of human. He further deposed that age, sex, cause of death and time since death could not be ascertained, hence, all the bones were sealed and handed over to accompanying constable for expert opinion and examination. PW-6 Constable Anil Kumar deposed that he downloaded the call detail of mobile number 9650850724 from 01.12.2009 to 23.12.2009. He further deposed that on examining the call details, he found that the mobile number had been used with the help of three different mobile phones having different IMEI numbers. He also proved the call details. PW-7 Constable Tejpal mainly brought the roznamcha of DDR No.10 dated 22.11.2009. PW-8 Surender Kumar, Nodal Officer, Idea Celluar mainly brought the summoned record of mobile number issued in the name of Mohd. Akhtar. PW-9 Ms.Rachna Pandit, Principal, DPS, deposed that deceased Mohd. Ajharuddin was student of 10+1 in the year 2009-2010 and his date of birth, as per record, was 26.05.1993. PW-10 Dr.Pandu Guguloth proved the DNA report Ex.PS. He deposed that Y-STR analysis conclusively proves that source of item No.1A (skull) is biologically related to DNA profile of Mohammad Akhtar. PW-11 Mujaffar Ahmad deposed that on 21.11.2009 he had gone to Upkar Nursing home, Palwal, where his sister Sabina works as Pharmacist. Then, he had

gone to Mangla Petrol Pump, Palwal, where he met Ajharuddin, Aaftab and another boy, who was driving Alto Car No.HR-26-Y-4260. They were also purchasing petrol. He exchange pleasantries with Ajharuddin and Aaftab. He further deposed that Aaftab accused in present in the Court and he identifies another boy, who was driving Alto Car. On asking, the person identified, told his name as Manoj. PW-12 Mohd. Safi, Manager Technical, National Highway Authority of India, deposed that vehicle No.HR-26-4260 had passed through Siri Nagar Toll Plaza from Delhi to Agra on 21.11.2009 and a sum of ₹50/- was paid as toll fee. The server report regarding relevant record is Ex.PT. He further deposed that on 22.11.2009, the same vehicle passed through Mahuvan Toll Plaza for travelling from Delhi to Agra and a sum of ₹50/- was paid as toll fee. He proved the server report regarding relevant record as Ex.PT/1. PW-13 Harun deposed that he has given his mobile SIM to Mohd. Ajharuddin, which was purchased by him three years back. PW-14 Deepak, Nodal Officer, Vodafone, mainly brought the summoned record of mobile numbers in the name of Harun, Rati Ram, Manoj Yadav, Saiyad Aaftab and Mohd. Salim. PW-15 Parmeeta Bana deposed that Manoj was living in their neighbourhood previously. Her husband purchased one Alto car bearing No.HR-26Y-4260. On 21.11.2009, at about 6.00 a.m., Manoj took their car bearing No.HR-26Y-4260 for going to Delhi but he did not come back. On the next day i.e. on 22.11.2009 in the morning, Manoj returned their car. PW-16 SI Rampal, mainly deposed regarding recording of FIR Ex.PB/1. PW-17 R.K.Singh, Nodal Officer, Bharti Airtel brought the summoned record of mobile numbers in the name of Sabir Khan and Mohd. Chand. PW-18 Man Singh deposed that he told

his mobile having SIM to Jaicum, who handed over the same to his cousin

Mohd. Ajharuddin. PW-19 Head Constable Rambir Singh deposed regarding handing over of parcels to HC Madan Singh. PW-20 Head Constable Bahi Ram deposed that Alto car bearing registration No.HR-26Y-4260 was taken into police possession vide recovery memo Ex.PY. PW-21 SI/SHO Ved Parkash Giri deposed regarding recovery of Skeleton and clothes and taking of same into police possession. He also deposed that he conducted inquest proceedings. PW-22 Inspector Naresh Kumar deposed regarding partial investigation conducted by him. PW-23 Sh.Rajeev Sharda, Alternative Nodal Officer, Reliance Communication mainly brought the record of mobile number issued in the name of Shri Ram. PW-24 ASI Samsuddin deposed regarding partial investigation conducted by him in the present case. PW-25 Bhure Singh @ Satinder deposed that Anilesh Thomas gave him a Nokia phone 6300 for repair but he did not come back, so he sold the same to one Hemraj. He also proved that recovered phone nokia 6300 is the same, which was given by Anilesh Thomas. PW-26 Hemraj deposed that he purchased second hand mobile make Nokia 6300 from Bhure Singh for a sum of ₹2300/- and the same was handed by him to one Madhu Asthi. PW-27 Madhu Asthi deposed that she and her husband used mobile phone of Hemraj for some time. PW-28 SI Sube Singh, Investigating Officer, deposed regarding investigation conducted by him in the present case. He also deposed that on 21.12.2009, he along with other police officials, complainant and accused Aaftab, Manoj wen to Jehtra, U.T. and on identification, arrested Pappu @ Blaster and Prem. They led the police party to jungle of Harisinghpur and on their demarcation, the skeleton and other articles were recovered. PW-29 ASI Veer Dutt deposed that he

suffered by them.

At the close of prosecution evidence, the accused-appellants were examined under Section 313 Cr.P.C. They were confronted with the evidence of the prosecution and they denied the correctness of the evidence and pleaded themselves as innocent.

No witness was examined in defence.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellants as stated above.

Aggrieved from the above-said judgment of conviction and order of sentence, present appeals have been filed.

At the time of arguments, learned counsel for the convicts-appellants argued that prosecution has failed to prove the guilt of the accused beyond doubt. A reasonable doubt exists in the prosecution version. They further argued that recoveries have been falsely planted upon the accused. There is no explanation as to why the accused would keep salary slip etc. with them. It is also argued that as per prosecution version, accused Ravi was left on the way and he neither got recovered dead body/skeleton as per disclosure statement nor he took any part in the commission of murder or asking for ransom. Learned counsel for the convicts-appellants next contended that a false version has been concocted by the prosecution to falsely implicate these accused and they have been wrongly convicted and sentenced by learned trial Court. Learned counsel for the convicts-appellants, therefore, argued that there being merit in the appeals filed by accused, the same should be allowed and accused-appellants should be acquitted.

On the other hand, learned State counsel as well as learned

counsel for the complainant argued that case of the prosecution is duly proved beyond doubt. All the accused conspired and kidnapped Mohd. Ajharuddin aged about 17 years, who was son of the complainant Mohd. Akhtar. The complainant has deposed against all the accused minutely and his statement is supported by call details as well as other evidence. It is further argued that if these accused are not connected with the crime, then how they were knowing about the dead body/skeleton, which as per DNA report, was of Mohd. Ajharuddin. They next argued that PW-15 Parmeeta Bana has proved that car bearing registration No.HR-26Y-4260 was taken by Manoj on 21.11.2009 and it was returned by him on the next day. Further, PW-11 Mujaffar Ahmad has supported and corroborated the prosecution version by deposing that he had seen deceased Mohd. Ajharuddin with Mohd. Aaftab and Manoj. It is also contended that PW-12 has duly proved that the vehicle in question had gone from Delhi to Agra on 21.11.2009 and returned from Agra to Delhi and paid toll fee of ₹50/- each and report of server has been proved by this witness. They also contended that case of the prosecution has been duly proved beyond doubt and there is nothing in the evidence, which may create any reasonable doubt in the prosecution version. Learned State counsel as well as learned counsel for the complainant, therefore, argued that there being no merit in the appeals filed by accused, the same should be dismissed.

We have heard learned counsel for the parties as well as learned State counsel and have gone through record minutely and carefully. Though, no one has appeared on behalf of appellant Prem in CRA No.D-358-DB of 2013, however, in his appeal, being a connected a matter,

behalf of other appellants.

We find that as per evidence on record, accused Mohd. Aaftab and Manoj took Mohd. Ajharuddin in the car towards Agra side. These two persons were seen last time along with the deceased at petrol pump as deposed by PW-11 Mujaffar Ahmad. The car, in which these accused along with victim Mohd. Ajharuddin were seen at the petrol pump, was owned by PW-15 Parmeeta Bana, who deposed that this vehicle was taken by Manoj on 21.11.2009 from them and he returned the same on 22.11.2009. This fact of last seen along with statement of PW-15 as well as the call details asking for ransom from the complainant Mohd. Akhtar, who was father of the victim, duly connect Manoj and Mohd. Aaftab with the crime.

We further find that, as per prosecution version and as per statement of PW-29 ASI Veer Dutt accused Manoj, Pappu, Mohd. Aaftab and Prem, as per their disclosure statements, got recovered skeleton from the forest in Uttar Pradesh. If these four accused are not connected with the crime, then how they came to know that the skeleton was of Mohd. Ajharuddin. The DNA of the bones of skeleton was conducted and the DNA of the bones matched with DNA of complainant and DNA reports show that it was son of Mohd. Akhtar. This recovery of skeleton of Mohd. Ajharuddin connects these accused with the crime beyond any doubt. Though it is a case of circumstantial evidence but the chain of circumstances is so complete that it points towards the guilt of accused-appellants Manoj, Pappu @ Blaster, Mohd. Aaftab and Prem and they have been correctly convicted and sentenced by learned trial Court.

From the perusal of the record, we find that PWs have consistently deposed regarding prosecution version. The statement of the

complainant is duly supported by DNA report and statements of other witnesses. No material discrepancies or contradictions have been pointed out in the statements of the PWs. There is nothing in the cross-examinations of the PWs to disbelieve their statements.

As regarding appellant Ravi @ Goldi, we find that even as per prosecution version, Ravi @ Goldi, is stated to have conspired with other accused at the initial stage. There is no material attribution to appellant Ravi @ Goldi at the time of murder or calling for ransom. As per prosecution version, during course of investigation, salary slip belonging to father of deceased was recovered from the house of accused Ravi @ Goldi. Only this circumstance is insufficient to connect accused Ravi @ Goldi with the crime beyond doubt. It also looks unnatural that one would keep salary slip of father of victim intact in his house after the murder of Mohd. Ajharuddin. There is no other cogent circumstance to connect accused Ravi @ Goldi. There is no circumstance on the record from where it can be inferred that Ravi @ Goldi has also taken part in the commission of present offence. Therefore, a reasonable doubt exists regarding involvement of appellant Ravi @ Goldi and by giving benefit of doubt, we hold appellant Ravi @ Goldi not guilty and he is acquitted of the charges framed against him.

In view of the above discussion, the judgment of conviction dated 26.03.2013 and order of sentence dated 30.03.2013 passed by learned Addl. Sessions Judge, Gurgaon, is correct, as per law and evidence and the same are upheld qua appellants Mohd. Aaftab, Manoj, Pappu @ Blaster and Prem, whereas qua appellant Ravi @ Goldi, the same are set aside.

As regarding CRA No.D-585-DB of 2013 and CRA No.D-17-

DB of 2014 filed by complainant Mohd. Akhtar and State of Haryana respectively, learned State counsel as well as learned counsel for appellant Mohd. Akhtar argued that there is sufficient evidence on record against Mohd. Anish and Anilesh Thomas, who have been wrongly acquitted in the main offences of kidnapping, ransom and murder.

We have gone through the evidence on record minutely and carefully. Qua accused Mohd. Anish and Anilesh Thomas, firstly nothing has been pointed out as to which material evidence has not been considered and which material evidence has been misread qua both these accused by learned trial Court. It is a case of circumstantial evidence and in the case of circumstantial evidence, the chain of circumstances should be complete that it points towards the guilt of the accused (Mohd. Anish and Anilesh Thomas). The perusal of the evidence on record shows that there is no cogent evidence on record against these accused to connect them for the offences under which they have been acquitted. As per the case of the prosecution, railway tickets dated 23.12.2009 from Hazrat Nizammudin to Jhansi was recovered from the house of Ravi @ Goldi in pursuance of disclosure statement suffered by Mohd. Anish. The tickets were lying in the house of Ravi @ Goldi, then how it was in the exclusive knowledge of Mohd. Anish that tickets were lying in the house of Ravi @ Goldi. There is no such connecting evidence. Similarly, one railway ticket from Jhansi to Hazrat Nizammudin was recovered from the house of Manoj in pursuance of disclosure statement suffered by Anilesh Thomas.

From the perusal of the reasonings given by learned trial Court, we find that in no way, the findings can be held as perverse or against the evidence and law nor the disclosure statements suffered by accused Mohd.

Anish and Anilesh Thomas are sufficient to connect them with the crime. In the absence of any cogent evidence produced by the prosecution against them, we cannot say that chain of circumstances is complete qua Mohd. Anish and Anilesh Thomas to convict them under Sections 364-A, 302, 201 IPC etc.

In view of the above discussion, we find that findings given by learned trial Court qua Mohd. Anish and Anilesh Thomas, are correct, as per evidence and law and do not require any interference from this Court. Therefore, we do not find any merit in the appeals filed by the State of Haryana as well as complainant.

Resultantly, CRA No.D-317-DB of 2013 filed by Manoj, CRA No.D-353-DB of 2013 filed by Pappu @ Blaster, CRA No.D-354-DB of 2013 filed by Mohd. Aaftab, CRA No.D-358-DB of 2013 filed by Prem, CRA No.D-585-DB of 2013 filed by Mohd. Akhtar and CRA No.D-167-DB of 2017 filed by State of Haryana stand dismissed whereas CRA No.D-458-DB of 2013 filed by Ravi @ Goldi stands allowed.

Appellant Ravi @ Goldi, who is stated to be in custody, be set at liberty forthwith, if his custody is not required in connection with any other case. Fine, if any paid, be refunded to him.

(A.B.CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

May 02, 2018
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
No