

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) CRA-S-1810-SB-2004
Decided on : 30.09.2019

Darshan Singh
... Appellant(s)
Versus
State of Punjab
... Respondent(s)

2) CRA-S-1947-SB-2004

Gurtej Singh
... Petitioner(s)
Versus
State of Punjab
... Respondent(s)

3) CRA-S-2345-SB-2004

Jinder Singh @ Bittu
... Petitioner(s)
Versus
State of Punjab
... Respondent(s)

4) CRA-S-1513-SB-2010

Kuldeep Singh @ Krishan Kumar
... Petitioner(s)
Versus
State of Punjab
... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. Amit Sharma, Advocate as *Amicus Curiae*
for the appellant(s).

Ms. Jaspreet Kaur, AAG, Punjab.

MANJARI NEHRU KAUL, J.

This order will dispose of four cases i.e. CRA-S-1810-SB-2004, CRA-S-1947-SB-2004, CRA-S-2345-SB-2004 & CRA-S-1513-SB-2010, as all the appeals have arisen out of the same judgment. For the sake of convenience, the facts are being extracted from CRA-S-1810-SB-2004.

1. The above mentioned appeal has been preferred against the impugned judgment and order of conviction, passed by Addl. Sessions Judge, Bathinda, vide which the accused-appellant(s) were convicted and sentenced as under : -

<i>Name of Convict(s)</i>	<i>Offence(s)</i>	<i>Period of sentence(s)</i>	<i>Fine(s) imposed</i>	<i>Period of sentence(s) in default of payment of fine(s)</i>
1. Darshan Singh, 2. Gurtej Singh, 3. Jinder Singh @ Bittu, 4. Kuldeep Singh @ Krishan Kumar	399 IPC	Rigorous imprisonment (RI) for 04 years each	₹ 200/- each	Imprisonment for 02 months
	402 IPC	Rigorous imprisonment (RI) for 03 years each	₹ 200/- each	Imprisonment for 02 months
	412 IPC	Rigorous imprisonment (RI) for 03 years each	₹ 200/- each	Imprisonment for 02 months
1. Jinder Singh @ Bittu 2. Darshan Singh, 3. Gurtej Singh	411 IPC	Rigorous imprisonment (RI) for 01 year each	--	--
Jinder Singh @ Bittu	25 Arms Act	Rigorous imprisonment (RI) for 01 year	₹ 200/-	Imprisonment for 02 months

All the sentences were ordered to run concurrently.

2. On 31st October, 2002, when the police party headed by Inspector Gurdarshan Singh (PW-3) along with Rajinder Singh and Satpal Kaur children of Gurnek Singh, residents of Village Bangi Nihal Singh Wala, was on a patrol, a QST was received by him that a grey colored Maruti car bearing registration No. PB-26-A-612 with three occupants was moving around in suspicious circumstances apparently to commit dacoity. On receipt of the message the police officials moved towards Ramsra and Raman Mandi. Soon thereafter, another message was received by the police party that there were five occupants in the said car. At the turn of Raman Mandi, the said car was seen coming at a fast speed followed by the Gypsy of SHO Police Station Raman. The car was intercepted and made to stop. The driver of the car, Jinder Singh @ Bittu along with Gurtej Singh, who was sitting on the front seat of the car and Darshan Singh who was sitting on the rear seat were apprehended by the police party, while the other two occupants Kuldeep Singh @ Krishan Kumar and Raj Kumar @ Raju managed to run away, but were identified by Head Constable Tarjinder Singh. From the search of the appellant – Jinder Singh @ Bittu, a .315 bore loaded pistol was recovered. On unloading the same, live cartridge of .315 bore was recovered and two more live cartridges of .315 bore were recovered from the pocket of the trousers of the appellant - Jinder Singh @ Bittu. Besides the aforementioned recoveries from appellant-Jinder Singh @ Bittu, a gold chain, bangle, gold necklace, 3 mohars, 3 gents rings, one ladies ring and a pair of tops were also recovered. Satpal Kaur, who was accompanying the police party identified the pair of tops and the rings, as belonging to her. Not only this, she also identified the appellant - Jinder

Singh @ Bittu as the person who had abducted her on 14th October, 2002 along with her brother Rajinder Singh and committed rape upon her. On further search of the car, some number plates of vehicles were recovered, regarding which an FIR No. 69, dated 25.10.2002 under Section 392 IPC and 25 of Arms Act already stood registered. All the recovered articles were taken into police possession vide recovery memo Ex.PA. Ruqa Ex.PE was sent by the Investigating Officer for registration of formal FIR Ex.PE/1 against the accused-appellants. The charges were framed under Sections 399, 402 and 412 IPC, against accused-appellants. Accused-appellants Jinder Singh @ Bittu, Darshan Singh and Gurtej Singh were also charged under Section 411 IPC and 25 of the Arms Act. All the accused pleaded not guilty and claimed trial.

3. The prosecution examined as many as 09 witnesses including PW-1 Jagdish Chand, PW-2 Satpal Kaur and PW-7 Veena Goyal, who had been targeted by the accused-appellants earlier in time. In the statement recorded under Section 313 Cr.P.C., the accused-appellant Jinder Singh pleaded that a false case had been registered against him by the police and nothing had been recovered from him. Accused-appellants Darshan Singh and Gurtej Sijngh stated that the police party had falsely implicated them in the instant case by picking them up from the tubewell of Kuldeep Singh, Sarpanch. Accused-appellants Kuldeep Singh @ Krishan Kumar and Raj Kumar @ Raju denied the factum of recoveries effected from them and stated that it was all a fabrication.

4. Ld. Trial Court convicted the accused-appellants by holding that the case against them stood proved and sentenced them as already detailed hereinabove.

5. I have heard learned counsel for the parties besides going through the evidence and other material available on record.

6. The impugned judgment has primarily been challenged by the appellants on the ground that even though it was a case of secret information, yet the secret information was not reduced into writing, which the Investigating Agency was mandatorily required to do. It was very apparent that the secret information allegedly received by the police had deliberately not been reduced into writing, because initially the case of the prosecution was that secret information had been received qua three persons and subsequently, the police had added another two persons to bring the offence within the ambit of dacoity. The recoveries allegedly effected from the accused were planted upon them and the trial Court thus erred in ignoring the fact that the witnesses were interested witnesses. Further, learned counsel for appellants-Darshan Singh and Gurtej Singh submitted that there was not even an iota of evidence to link them with the alleged offence and the only attribution *qua* them was that they were sitting along with the appellant-Jinder Singh @ Bittu in the car. It was also contended that no incriminating articles were recovered from them.

7. Learned State counsel on the other hand prayed for dismissal of the instant appeal by vehemently arguing that the accused-appellants had criminal antecedents and were involved in a number of criminal cases of dacoity and robbery. They were all part of a gang of dacoits. Therefore, when the information was received by the police *qua* movement of a car under suspicious circumstances, without wasting any time they tried to intercept the vehicle in which all the accused-appellants were present. Thereafter, when the car was intercepted, all the accused-appellants were

apprehended and were duly identified by PW-2 Satpal Kaur, as just a few days prior to the occurrence, she had been targeted and raped by the appellant-Jinder Singh @ Bittu, who had snatched her gold tops and rings. Learned State counsel further urged that the recovered articles were duly identified by the victims PW-1/Jagdish Chand, PW-2/Satpal Kaur as well as PW-7/Veena Goyal. No enmity had been alleged qua these three witnesses to falsely implicate the appellants in the instant case.

8. Coming to the first challenge *qua* not reducing the secret information into writing, it need not be overemphasized when in pursuance to a secret information, there is reasonable apprehension that there is a likelihood of a crime being committed, the police force without wasting much time always rushes to apprehend the accused persons so as to thwart any untoward incident from taking place. The instant case is no different. As soon as the QST was received by the police party they immediately and rightly proceeded in the direction of the car. Soon thereafter, the car was intercepted and the accused apprehended. Had the police party waited to reduce the secret information into writing and for the completion of all other formalities, it could have been late. There was every likelihood of the accused party giving the police a slip and also probably carrying out the dacoity which they had apparently planned. The police party, thus, did well to take prompt action by following the leads given in the secret information and foil the dacoity. Moreover, in the facts and circumstances of the case, no prejudice can be said to have been caused to the accused-appellants by not reducing the secret information into writing.

9. The recovery of a loaded firearm along with live cartridges etc. as also other stolen articles effected from the accused-appellant/Jinder Singh

@ Bittu, who was driving the car and which were duly identified by PW-2/Satpal Kaur, it leaves no manner of doubt that not only he but also the other occupants of the car had got together and made preparation to commit dacoity. The very fact that all the accused were found together, moving around in suspicious circumstances coupled with the fact that one of them was armed with loaded firearm, goes a long-way to establish that they had assembled for the purpose of committing dacoity. Further, two of the accused-appellants namely Raj Kumar @ Raju and Kuldeep Singh @ Krishan Kumar on being intercepted ran away, goes to clinchingly prove that they were conscious of the reason for which they were made to stop by the police party. Otherwise, there was no occasion for the two of them to flee in case they were innocent as claimed by them. No doubt, it is not easy to prove any agreement or intention to commit dacoity by direct evidence, but the assembly of all the accused-appellants in the car coupled with the conduct of two of them i.e. Raj Kumar @ Raju and Kuldeep Singh @ Krishan Kumar, soon after their interception by the police leads to no other inference but one that an intention and agreement surely existed between all of them to commit dacoity. Had the police not taken timely action, the accused-appellants would have surely succeeded in their evil design. The contentions of accused-appellants Darshan Singh and Gurtej Singh that no recovery was effected from them would not help their cause. From the evidence on record, it stands established that all the five accused-appellants had got together and made preparation to commit dacoity for which, I have no hesitation in holding them to be accomplices and conspirators of the crime in question.

10. Moreover, there was no reason for the three witnesses i.e. PW-

1/Jagdish Chand, PW-2/Satpal Kaur and PW-7/Veena Goyal to falsely depose and identify the accused-appellants in the absence of any previous history of enmity having been alleged *qua* them. These three witnesses not only identified their gold articles, which had been previously robbed from them by the accused-appellants, but PW-2/Satpal Kaur and PW-7/Veena Goyal also identified accused-appellant/Jinder Singh @ Bittu as being the assailant. Another factor which cannot be ignored is that the identification by these three witnesses of their gold articles was not after a lapse of time, but within a short duration of the earlier occurrence. Even, the identification of the accused-appellant/Jinder Singh @ Bittu by the victims PW-2/Satpal Kaur and PW-7/Veena Goyal, could not have been a case of mistaken identity, as it too was soon after the earlier occurrence.

11. As a sequel to the above discussion, no interference is warranted in the impugned judgment of the Ld. Trial Court, which deserves to be upheld, as the same is a well reasoned one. Consequently, the instant appeal stands dismissed. The accused-appellants are on bail. Their bail bonds/surety bonds stand cancelled. Necessary steps be taken to secure their custody.

(MANJARI NEHRU KAUL)
JUDGE

September 30, 2019

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No