

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

CRA-D-1181-DB-2013 (O&M)

Reserved on : May 29, 2019

Date of Decision: July 03, 2019

Bhupinder Singh

...Appellant

Versus

State of Haryana

...Respondent

2.

CRA-D-329-DB-2014 (O&M)

Rajiv Kumar

...Appellant

Versus

State of Haryana

...Respondent

AND

3.

CRA-D-108-DB-2015 (O&M)

Ramandeep Singh

...Appellant

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.B.S.Sewak, Advocate and
Mr.Ripudaman Singh Sidhu, Advocate for the
appellant in CRA-D-1181-DB-2013.

Mr.Vikram Satpal Anand, Advocate for the
appellants in CRA-D-329-DB-2014 and CRA-D-108-DB-2015.

Mr.Vishal Garg, Additional Advocate General, Haryana.

HARINDER SINGH SIDHU, J.

aforesaid appeals these are taken up together and disposed of by a common judgment.

2. These three appeals have been filed by the appellants against their conviction and sentence vide judgment and order dated 05/08.08.2013 of the learned Additional Sessions Judge, Kurukshetra in Sessions case No.188 of 2012 whereby they along with Sunil Kumar @ Raja, Naveen Kumar @ Monu, Jai Pal alias Manjit Singh and Chandan @ Chandu were charged with and tried for offences punishable under Sections 307, 398, 401, 420, 467, 468, 471, 411 of the Indian Penal Code (in short 'IPC') and Section 25 of the Arms Act. All the three appellants (Rajiv Kumar, Ramandeep Singh and Bhupender Singh) were convicted and sentenced as under:-

Offence u/s	Sentence
307 read with Section 34 IPC	To undergo rigorous imprisonment for a period of seven years and pay fine of Rs.5000/-, each. In default of payment of fine, to undergo further simple imprisonment for six months.
398 IPC	To undergo rigorous imprisonment for a period of seven years and pay fine of Rs.5000/-, each. In default of payment of fine, to undergo further simple imprisonment for six months.
401 IPC	To undergo rigorous imprisonment for a period of five years and pay fine of Rs.3000/-, each. In default of payment of fine, to undergo further simple imprisonment for three months.
411 IPC	To undergo rigorous imprisonment for a period of three years and pay fine of Rs.3000/-, each. In default of payment of fine, to undergo further simple imprisonment for three months.
420 IPC	To undergo rigorous imprisonment for a period of three years and pay fine of Rs.3000/-, each. In default of payment of fine, to undergo further simple imprisonment for three months.
467 IPC	To undergo rigorous imprisonment for life and pay fine of Rs.10,000/-, each. In default of payment of fine, to undergo further simple imprisonment for one year.

468 IPC	To undergo rigorous imprisonment for a period of three years and pay fine of Rs.3000/-, each. In default of payment of fine, to undergo further simple imprisonment for three months.
471 IPC	To undergo rigorous imprisonment for life and pay fine of Rs.10,000/-, each. In default of payment of fine, to undergo further simple imprisonment for one year.
25 of the Arms Act	To undergo rigorous imprisonment for a period of seven years and pay fine of Rs.5000/-, each. In default of payment of fine, to undergo further simple imprisonment for six months.

The sentences were ordered to run concurrently. Naveen Kumar was convicted under Section 25 of the Arms Act read with Section 120-B IPC and sentenced to undergo rigorous imprisonment for a period of three years and pay fine of Rs.3000/- and in default of payment of fine, to undergo further simple imprisonment for three months. Accused Sunil Kumar alias Raja confessed his crime and was sentenced on 14.12.2011 to undergo imprisonment for the period already undergone by him. Accused Chandan alias Chandu and Jai Pal alias Manjit Singh absconded during trial. Chandan was declared proclaimed offender on 27.4.2013 and Jai Pal alias Manjit Singh on 7.7.2013.

3. Criminal Appeal No.CRA-D-1181-DB of 2013 has been filed by Bhupinder Singh, CRA-D-329-DB of 2014 by Rajiv Kumar and CRA-D-108-DB of 2015 by Ramandeep Singh.

4. The case of the prosecution in a nutshell is that on the night intervening 5/6.6.2009 at around 11.30 PM Inspector Rajesh Kumar along with ASI Rajbir Singh and other police personnel was present near Partap Garh turning on GT Road in a Govt. vehicle No.HR-01M-8376 for patrolling. Secret information was received to the effect that Rajiv resident

of Ludhiana, his female accomplice Rekha resident of Ferozepur, Bhupinder resident of Delhi and their companions indulge in kidnapping and looting persons travelling on the GT Road by using fire arms. They have snatched a number of vehicles on the GT Road. They possess arms and ammunition in huge quantity. As per the information they had planned to rob persons having expensive vehicles on GT Road between Pipli and Shahbad during the night. They are travelling in Honda Accord of white colour and Honda Civic of brown colour which bear fake numbers PB-05F-7474 and PB-05F-7373. They use their female accomplice Rekha to stop the vehicles. If a naka is arranged on Babain-Ishargarh Road near the GT Road a major incident can be averted and the stolen vehicles and huge quantity of arms and ammunition can be recovered. Finding the information reliable SI Rajesh Kumar called the police from CIA Kurukshetra and SIT Ambala to reach with vehicles, arms and ammunition and necessary security appliances.

5. From amongst the police personnel who arrived he constituted three teams. One party headed by Inpsector Kulbhushan and ASI Dayal Chand ASI in vehicle No.HR-07-M-6756 was to park their vehicle near Radha Swami Satsang Bhawan situated at Babain Road. They were asked to give signal when the vehicles of accused cross from there and to chase the vehicles if they tried to turn back. SI Sita Ram constituted the second party in vehicle No.HR-09-G-0022. SI Rajesh Kumar in a vehicle along with his team constituted the third party. After about 10-15 minutes lights of two vehicles coming from Babain were seen. Their path was blocked. The accused persons tried to turn back their vehicles. Inspector Kulbhushan stopped them by blocking their way from behind.

6. Finding themselves cornered the occupants of the vehicles started firing on the police. Two shots hit the bullet proof jacket of Inspector Rajesh Kumar. One bullet hit the jacket of ASI Ranbir Singh. The police party also fired in the air. Meanwhile, three persons got down from the car and tried to run away without success. Inspector Rajesh Kumar apprehended the driver of vehicle No.PB-05-F-7474 Rajiv alias Raja alias Lucky alias Gagra alias Ankur Jain son of Ram Kumar. ASI Ranbir apprehended Ramandeep alias Romi who was sitting alongside Rajiv. ASI Dharambir and HC Subhash Chand apprehended Bhupinder Singh the driver of the vehicle bearing No.PB-05-F-7373. Rekha who was sitting in the back seat of the vehicle bearing No.PB-05-F-7474 was also apprehended by the team. Two Pistols one of .32 bore and another of 7.65 mm were recovered from the person of accused Rajiv. Two revolvers SAF of .32 bore were recovered from the person of accused Ramandeep alias Romi. Two revolvers of .32 bore were recovered from the person of accused Bhupinder alias Bhupi. All these weapons were unloaded and taken into possession. The search of the vehicles yielded a huge cache of arms and ammunition, two drill machines, 10 drill bits, one blade, one laptop make Toshiba with its charger, 2 iron rods, number of cheque books, two Registration Certificates one of which was in the name of accused Rajiv and the other in the name of accused Bhupinder, cash of ₹ 1.5 lacs etc. These were all sealed and taken into possession vide recovery memos. The bullet proof jacket worn by Inspector Rajesh Kumar bearing two shots fired by the accused and jacket worn by ASI Ranbir Singh bearing one shot fired by the accused were converted into separate parcels with the seal of 'RK' and recovered vide

recovery memo Ex.P25. On checking of Govt. Vehicle bearing No.HR01M-8376 it was found that one shot fired by the accused had hit it on the bonnet and one on the front side window. Ruqa Ex.P130 was sent to police station Sadar Thanesar through C. Ram Parshad whereupon formal FIR Ex.P3 under Sections 307, 398, 401, 420, 467, 468, 471 IPC and Section 25 of the Arms Act was registered. Investigation was conducted.

7. Accused suffered separate disclosure statements about their involvement in various incidents of looting, snatching of vehicles and arms and ammuntion, preparation of false identity cards, registration certificates etc.

8. The prosecution examined number of witnesses in its support. The statement of the accused under Section 313 Cr.P.C. was recorded in which they stated that a false case had been registered against them. Accused Rajiv, Bhupinder and Ramandeep stated that on 9/10.4.2009 they had committed theft in Ajit Gun House, Hoshiarpur. They had reached Kurukshetra along with the stolen weapons and taken House No. 880, Sector 5, Urban Estate Kurukshetra on rent. On 29.5.2009 the police of CIA Kurukshetra raided that house and arrested them and Rekha. All the weapons were also taken in possession by them. Thereafter the police planted this false case upon them and produced them on 6.6.2009. They stated they were innocent. However, they did not lead any evidence in defence.

9. The appellants were convicted and sentenced as referred to above. Hence, this appeal.

10. We have heard learned counsel for the parties and have gone through the judgment and record.

11. PW1 Bhagwan Dass Patwari stated that on 17.08.2009 he was posted as Patwari, Circle Ishargarh, Tehsil Thanesar, District Kurukshetra. On that day on the demarcation by Sub-Inspector Sita Ram of CIA Kurukshetra, he prepared scaled site plan Ex.P1.

12. PW2 Jagdish Chand Ahlmad Revenue, office of Deputy Commissioner, Kurukshetra proved the sanction order Ex.P2 for prosecution of accused for the offence under Section 25 of the Arms Act.

13. PW3 Sanjay Kumar stated that about three years back one person had come to his shop for getting prepared number plate of Registration No. HR-06B-1224. He had prepared two number plates of that registration number. He had seen the registration certificate before preparing the number plates.

14. PW4 Ravinder Kumar stated that he was running a gun-house at Hoshiarpur in the name and style of M/s Ajit Singh and Sons Arms Ammunition Dealer, Bassi Khawaju, Jalandhar Road, Hoshiarpur. In March and April 2009 licence holders of arms deposited their weapons in his shop for safe custody. On the intervening night of 9/10.4.2009, some unknown persons committed theft in his shop and had taken away 90 weapons regarding which he had got registered the FIR in Police Station, Model Town, Hoshiarpur. On 01.06.2009 he came to know through newspaper that some weapons were recovered at Police Station, Sadar Thanesar, Kurukshetra. He reached there and identified the weapons which were stolen from his shop as per his record. His statement under Section 161 of the Code of Criminal Procedure, 1973 was recorded by the police.

15. PW5 Tilak Raj stated that about three years back one person had come to his shop for getting prepared number plate of registration No.

CH-03X-0010. He had prepared two number plates of that registration number. He had seen the registration certificate before preparing the number plates.

16. PW6 SI Hukam Singh stated that on 06.06.2009 he was posted as SI in Police Station Sadar Thanesar. On that day he received ruqa through C. Ram Parshad No.320, on which he recorded formal FIR Ex.P3. He also made endorsement Ex.P4 on the written intimation.

17. PW7 Jatinder Bhatia stated that about three years ago one person had come to him for getting the number plates bearing registration No.7373 and 7474 prepared. He stated that he did not remember the complete registration certificate number of the number plates that he wanted to be prepared. The person who came had shown him the registration certificates. He had prepared one number plate of each number. He had made statement to the police in this respect. He stated that he was of the opinion that two persons out of the accused present in Court (pointing to (Rajiv and Ramandeep) had come to him for this purpose.

18. At the request of the Public Prosecutor he was declared hostile and permitted to be cross-examined. In cross examination he stated that Bhupinder Singh had come to him about two months before 25.7.2009 and got prepared two numbers plates of numbers PB-05F-7474 and PB-05F-7373.

19. PW8 Amrit Pal Singh Clerk D.T.O. Office, Jalandhar stated that when he was posted in DTO Office Amritsar an application was moved by the police for ascertaining the genuineness of the driving licence mentioned in that application. He had made report Ex.P6 on the application. In the

application were not issued from office of D.T.O. Amritsar. The driving licence No.82363 has been issued in the name of Manjot Kaur d/o Saravjeet Singh, resident of H.No.3171/21, Azad Nagar, Opposite Bedi Market, Amritsar while DL No.90673 has been issued in the name of Durga Dass Mahajan son of Inder Dass, resident of Railway Road, Amritsar.

20. PW9 Dhoop Singh stated that on 24.08.2009 he was posted as SI/SHO, Police Station Sadar Thanesar. On that day after completion of the investigation he prepared the report under Section 173 Cr.P.C in this case which bears his signature.

21. PW10 HC Labh Singh stated that on 6.6.2009 he was posted as MHC at Police Station Sadar, Thanesar. He tendered affidavit Ex.P7 regarding receipt of case property, its deposit in the Malkhana and sending case property from Sr. No.2 to 7 and 12 to the FSL, Madhuban through Constable Rajesh Kumar. He stated that on 09.06.2009, SI Sita Ram had taken into possession two identity cards out of which one in the name of Aryan and the other in the name of Gurdeep Singh, one DL of Aryan, another DL and one identity card issued by Election Commission of India and one ATM card of HDFC Bank. In this regard recovery memo Ex.P8 was prepared and he had signed it.

22. PW11 Constable Rajesh Kumar deposed regarding delivery of special reports to the Illaqa Magistrate, S.P. And D.S.P. Kurukshetra. He also deposed regarding depositing of six sealed parcels with FSL Madhuban on 17.06.2009.

23. PW12 ASI Dharamvir stated that on 06.06.2009 he along with ASI Rajesh Kumar had joined the investigation of the case with Inspector

Rajesh Kumar had arrested accused Rajive alias Raja, Bhupinder alias Bhuppi and Ramandeep alias Romi and one Rekha. On interrogation by Inspector Rajesh Kumar accused Rajive alias Raja, Bhupinder singh alias Bhuppi and Ramandeep alias Romi suffered disclosure statements Ex. P 10, P11 and P12 respectively and disclosed about the offences committed by them at Bareilly, Barwala, Jalandhar and Chandigarh etc. except this case. All the disclosure statements were signed by him and ASI Rajesh Kumar as witnesses. The accused also appended their signatures thereupon. He identified the accused in Court.

24. PW13 ASI Kuldeep Singh stated that on 08.06.2009 he was posted as ASI in CIA Staff, Kurukshetra. On that day HC Subhash and ASI Dayal were joined in the investigation of the present case by SI Sita Ram. Accused Rajive alias Raja, Bhupinder alias Bhuppi and Ramandeep alias Romi were in police custody. They were interrogated separately by SI Sita Ram. They suffered disclosure statements Ex.P13, Ex.P14 and Ex.P15 respectively. All the disclosure statements were signed by him and HC Subhash as witnesses and the concerned accused.

25. In cross examination he stated that accused Rajiv alias Raja, Bhupinder and Ramandeep were arrested in this case on 6.6.2009. He was also a member of the police party when the accused were apprehended. The police party was in three jeeps. He stated that no police official had suffered any gun shot injury. He stated that he did not know whether the accused had fired any gun shot. But voluntarily added that he had heard some fire shots.

26. PW14 SI Sita Ram stated that on 05.06.2009 he was posted in CIA Staff, Kurukshetra. In the midnight of 5/6.6.2009 at about 11.30 pm he

received a telephonic message from Inspector Rajesh Kumar asking him to

reach near the Partapgarh T-point on G.T. Road. Thereafter, he alongwith SI Balbir Singh and other police officials went there in a Govt. vehicle where Rajesh Kumar Inspector met with them alongwith his team. One team of ASI Dayal Singh and one team of Inspector Kulbhushan CIA Ambala also came there. Inspector Rajesh Kumar informed them about the secret information to the effect that the accused involved in the occurrences at G.T. Road at night are Rajiv, Bhupinder Singh and Ramandeep and one girl namely Rekha. They were coming from the side of Babain in two vehicles on the G.T. Road. The vehicles were bearing false numbers PB-05F-7474 and PB-05F-7373. The accused were having arms and ammunition and were very dangerous persons. Inspector Rajesh Kumar constituted three teams. He directed Inspector Kulbhushan and ASI Dayal Chand to lay naka near Radha Swami Satsang Bhawan situated at Babain Road. He alongwith Inspector Rajesh Kumar were present at a distance of 400 yards from G.T. Road on Babain Road. About 15-20 minutes thereafter two vehicles came from Babain side. Inspector Kulbhushan gave signal through torch. The two vehicles were stopped. The accused persons tried to back their vehicles, but Inspector Kulbhushan blocked them from back side. The driver of the vehicle bearing No.PB-05F-7474 came outside the vehicle and started firing at the police party. The person who was sitting alongside the driver also came out and started firing at police party. The driver of the vehicle bearing No.PB-05F-7373 also came out and started firing. The police officials to save themselves also fired in the air. Inspector Rajesh Kumar apprehended Rajiv alias Raja the driver of vehicle bearing No.PB-05-F7474. ASI Ranbir Singh apprehended Ramandeep alias Romi who was

Bhupinder Singh driver of the vehicle bearing No.PB-05F-7373. Rekha who was sitting in the rear seat of the vehicle bearing No.PB-05F-7474 was also apprehended. .32 bore pistol which was in the hand of accused Rajive alias Raja was taken into the custody. Another pistol of 7.65 bore was recovered from the right side of accused Rajiv. These weapons were unloaded. Rough sketch were prepared which are Ex.P16 and Ex.P17. One revolver of .32 bore was recovered from the hand of accused Ramandeep. Another revolver of .32 bore was recovered from the right side of accused Ramandeep. Both were unloaded. Their rough sketches Ex.P18 and Ex.P19 were prepared. One revolver of .32 bore was recovered from the hand of accused Bhupinder. Another revolver of .32 bore was recovered from the right side of accused Bhupinder. Both were unloaded. Their rough sketches Ex.P20 and Ex.P21 were prepared. Thereafter vehicle No.PB-05F-7474 was searched. One suitcase was found which contained 69 revolvers. 63 were of .32 bore, 2 of .38 bore and 3 of 455 bore and one of .22 bore. Two of these revolvers had no numbers. Their rough sketch are Ex.P22 and Ex.P23. The rough sketch of those revolvers were prepared, they were converted into separate parcel and sealed with the seal of RK. The seal after use was handed over to ASI Ranbir. Another bag containing 852 live cartridges, one laptop, its charger and other articles were found from this vehicle. Four number plates, two bearing No.HR-06B-1224 and two bearing No.CH-03X-0010 were found from the vehicle.

27. Thereafter vehicle No.PG-05F-7373 was searched. One bag containing 9 DBBL guns one SBBL gun, one carbine .30 was found from the boot of the car. Rs.1.5 lacs cash was found from the dash board. The

recovery memo Ex.P24. The same bears his signatures as well as of ASI Ranbir Singh. Accused also appended their signatures. The bullet proof jacket worn by Inspector Rajesh Kumar bearing two shots fired by the accused and jacket worn by ASI Ranbir Singh bearing one shot fired by the accused were converted into separate parcels with the seal of 'RK' and recovered vide recovery memo Ex.P25 which bears his signatures as well as of ASI Ranbir. On checking Govt vehicle bearing No.HR-01M-8376 it was found that one shot was fired by the accused on the bonnet and one shot was fired by the accused on the front side window. On further checking vehicle bearing No.PB-05F-7474 one small bag was found under the mat which contained many gold and artificial ornaments and 6 watches which were converted into a parcel and sealed with the seal of 'RK'. It was taken into possession vide recovery memo Ex.P26 under Section 102 of Cr.P.C. The recovery memo was signed by him and ASI Ranbir. Accused also appended their signatures.

28. On 07.06.2009 the investigation of this case was handed over to him. On 08.06.2009 the accused were taken out from the lock up of CIA Staff, Kurukshetra and interrogated separately in the presence of ASI Kuldeep and HC Subhash. All three made their separate disclosure statements Ex.P13, Ex.P14 and Ex. P15 which they also signed. Thereafter for the purpose of investigation of this case SI Sita Ram visited Hoshiarpur, Amritsar and Firozpur. Next day he visited Police Station Sadar, Thanesar and took into possession from MHC Labh Singh vide recovery memo Ex.P8. the articles which were already taken into police possession while searching the accused. Accused Rajiv made disclosure statement Ex.P1 on 09.06.2009

presence of ASI Dayal Chand and C. Amit.

29. On 22.07.2009 he arrested the accused Sunil alias Raja and Naveen alias Monu under Arms Act. They were produced before the Court and send to judicial custody. He identified accused Rajiv alias Raja, Ramandeep alias Romi, Bhupinder alias Bhupi and Naveen in Court.

30. One sealed parcel with the seal of 'RK' was opened. One pistol and four live cartridges were taken out. SI Sita Ram identified that the same were recovered from accused Rajive alias Raja which were Ex.P27 to Ex.P31. Another sealed parcel with the seal of 'FSL' was opened. One revolver and six empty cartridges were taken out. He identified that the same were recovered from accused Ramandeep which were Ex.P32 to Ex.P38. Another sealed parcel with the seal of 'FSL' was opened. One revolver was taken out. He identified the same to be recovered from accused Ramandeep which Ex.P39.

31. Another sealed parcel with the seal of 'FSL' was opened. One revolver and two live cartridges were taken out. He identified the same to have been recovered from accused Bhupinder which were Ex.40 to Ex.42. Another parcel was produced in Court out of which one revolver and four live cartridges were taken out. He identified the same as having been recovered from accused Bhupinder which were Ex.P43 to Ex.P47. Another parcel was produced out of which six empty cartridges were taken out. He identified the same as having been recovered from accused Rajiv which were Ex.P48 to Ex.P53.

32. Another sealed parcel with the seal of 'RK' was opened. One revolver was taken out. He identified the same as having been recovered from the car of accused which was Ex.P55. A briefcase was produced in

Court. From this briefcase 13 revolvers were taken out. He identified the same to be recovered from the car of accused which were Ex.P56 to Ex.P69.

A bag was produced out of which 3 guns were taken out. He identified the same to be recovered from the car of accused which were Ex.P70 to Ex.P73.

33. Another bag containing 630 live cartridges of .12 bore gun, 106 live cartridges of .32 bore revolver, 73 live cartridges in box of .32 bore pistol, 17 live cartridges of .38 bore revolver and 26 live cartridges of 9 mm pistol was produced. He identified the same to be recovered from the car of accused. The bag containing all abovesaid 852 live cartridges was Ex.P 74. Another sealed parcel with the seal of 'FSL' was opened and two bullet proof jackets were taken out. He identified that the same were Ex.P75 and Ex.P76.

34. Two drill machines along with 10 drill bit, two number plates bearing No. CH-03X-0010, two number plates bearing No. HR-06B-1224, one number plate bearing No.PB-05F-7474 and two number plates bearing No. PB-05F-7373 and tool box was produced. PW 14 identified the same to be recovered from the car of accused which were Ex.P77 to Ex.P86. Another sealed parcel with the seal of 'RK' was opened and one poly bag containing artificial ornaments (8 bangles, three bracelets, one pair of foot chain, eight necklace sets with earrings, six rings, one coin golden colour, one 'Moti' (pearl) packet and two watches were taken out. He identified the same to be recovered from the car of accused which were Ex.P87.

35. On being recalled for further examination he stated that he had seen revolver .32 bore No.FG-03877 Ex.P115, revolver .32 bore No.A-455 Ex.P116, revolver .32 bore No.FG0-1261 Ex.P117, revolver .32 bore

No.D5585 Ex.P118, revolver .32 bore No.C-2444 Ex.P119, revolver .32

bore No.M-3434 Ex.P120, revolver .32 bore No.B-14989 Ex.p121, revolver .32 bore No.FG-04733 Ex.P122, revolver .32 bore No.4379 Ex.P123 and Gun .12 bore No.DBBL-18612 Ex.P124. He stated that all the accused except Jai Pal were present in the court. He further stated that he had seen revolver .32 bore No.K-2620 Ex.P125, revolver .32 bore No.A9446 Ex.P126, revolver .32 bore No.D-3272 Ex.P127, revolver .32 bore No.F-6050 Ex.P128, which were recovered from the accused.

36. PW15 SI Ranbir Singh stated that on 5.6.2009 he was posted in CIA Staff, Kurukshetra. In the midnight 5/6.6.2009 at about 11.30 PM, he along with other police officials was present with Inspector Rajesh Kumar at Partapgarh T-point on G.T. Road. Inspector Rajesh Kumar received secret information. Thereafter Inspector Rajesh Kumar called teams from CIA Staff, Kurukshetra and SIT Ambala with arms, ammunitions and bullet proof jackets etc. SI Sita Ram alongwith his team, ASI Dayal Singh alongwith his team and Inspector Kulbhushan CIA Panchkula along with his team reached there. Inspector Rajesh Kumar appraised them about the secret information to the effect that the accused involved in the occurrences that had taken place G.T. Road at night are Rajiv, Bhupinder Singh and Ramandeep and one girl namely Rekha beloved of Rajiv. They were coming from the side of Babain in two vehicles on the G.T. Road. PW15 deposed on similar lines as PW 14 ASI Sita Ram about constitution of three teams, the arrival of accused in two cars, firing by them, their apprehsion at the spot, the recoveries effected from them and the vehicles. He also identified the recovered articles in Court. He specifically stated that one of the shots fired hit his jacket.

that he has seen Revolver .32 bore bearing No.FG-13255 Ex.P90, Revolver .32 bore No.42755 Ex.P91, 12 bore DBBL gun bearing No.16595-06 Ex.P92, .32 bore Revolver No.FG-23605 Ex.P93, Revolver .32 bore No.FG25590 Ex.P94, revolver .32 bore No.FG 38955 Ex.P95, Revolver .32 Bore No.SAF-H5256 Ex.P96, Revolver .38 bore No.8790 Ex.P97, Revovler .32 bore No.A19928 Ex.P98, Revolver .32 bore No.SAF-D-7564 Ex.P99, Revolver .32 bore No.SAF-B-6973 Ex.P100, Revolver .32 bore FG-14650 Ex.P101, Revolver .32 bore No.SAF-C-9152 Ex.P102, Revolver .22 bore No.085100418 Ex.P103, Revolver .32 bore No.FG-5672 Ex.P104, SBBL pump action 12 bore No.BE-634-1998 Ex.P105, revolver .03 bore FG-18608 Ex.P106, Revolver .32 bore FG-13495 Ex.P107, Revolver .32 bore No.SAF-H-0871 Ex.P108, Revolver .32 bore No.FG-14458 Ex.P109 DBBL gun .12 bore No.VS 20892 Ex.P110, .32 bore Revolver No.A60332 Ex.P111 (made in England), Revolver .32 bore No.FG-04469 Ex.P112, Revolver .32 bore No.FG 05087 Ex.P113, Revolver .32 FG-04616 Ex.P114 in the court. These weapons had been produced in the court by the concerned Superdars. He stated that abovesaid weapons along with other weapons which had not been produced in the court had been taken into possession by I.O. in his presence vide recovery memo Ex.P24. He identified the accused present in court.

38. PW16 HC Anit Kumar stated that on 09.06.2009 he was posted as such in CIA, Kurukshetra. On that day he along with ASI Dayal Chand joined investigation of this case with SI Sita Ram . On interrogation by SI Sita Ram accused Rajive Kumar suffered disclosure statement Ex.P88. The same was signed by him and ASI Dayal Chand as well as the accused. His statement was recorded by the IO. He identified the accused in the Court.

Kurukshetra police had come to him and enquired about his Voter ID card. He had told them that about 5-6 months ago his Voter ID card and two credit cards of American Express were lost. In this regard he had lodged report with the police of Ghaziabad. The police told him that his ID card had been misused by someone. His statement was recorded by the police.

40. PW18 Lalit Behl stated that about 2½ years ago he was returning from Delhi to Chandigarh in Honda Civic car bearing No.CH-04B-6587 which was being driven by his driver. The car was stopped by four boys in an Innova. They were in muffled faces. At gun point they snatched the key from the driver. The driver was pushed to another sideby seat. He was tied with rope. All the boys got into the car. One of them started driving the car. They robbed him of a gold karha, chain, three gold rings, some foreign currency (dollars), laptop and other articles. They then took him to his residence. There they looted all his belonging. Thereafter they tied him with a rope and locked him in the bathroom. They left the house with the car and his belongings. He got registered FIR No.235 dated 27.05.2009, under Section 395 IPC in Police Station Sector 34 Chandigarh. The Kurukshetra police had called him to Kurukshetra where he identified his car but with another number plate PB-05F-7373. His statement was recorded by the police. In cross examination he stated that he could not identify the accused present in Court as the boys who looted his car were in muffled faces. He stated that the police had called him to Kurukshetra for identification of his vehicle on 1.6.2009.

41. PW19 Inspector/SHO Dayal Chand stated that on 09.06.2009 he was posted as ASI at CIA Staff, Kurukshetra. On that day accused Rajiv

and in the presence of EHC Anit Kumar. During the interrogation accused Rajiv Kumar had suffered a disclosure statement Ex.P129 which is already exhibited as Ex.P1. It was reduced into writing and was signed by the accused and witnessed by him and EHC Anit Kumar.

42. PW20 Hans Raj stated that on 10.06.2009 he was posted as Armourer in Police Line, Kurukshetra. On that day SI Sita Ram came in his office with three weapons i.e.38 bore revolver and two 9 mm pistols. He mechanically tested the same and submitted his test report Ex.P89 to SI Sita Ram which bears his signatures. His statement was recorded by the IO.

43. PW21 ACP Crime Gurgaon, Rajesh Kumar stated that on 5.6.2009 he was posted as Incharge CIA Staff, Kurukshetra and STF Ambala. He deposed about the receipt of secret information on the midnight 5/6.6.2009 about the accused, the constitution of three teams, the firing by the accused, the firing by the police in the air, the apprehension of the accused at the spot and the recoveries effected from them and from the vehicles. He specifically stated that two of the shots fired by the accused hit his jacket. He identified the accused in Court. He also identified the weapons produced in court as being the same which were taken into possession.

44. From the above evidence it is clear that accused Rajiv Kumar alias Raja , Bhupender alias Bhupi , Ramandeep alias Romi and Rekha were apprehended by police teams comprising of Inspector Rajesh Kumar, Inspector Kulbhushan, ASI Dayal Singh and S.I.Sita Ram on the midnight of 5/6.6.2009. In their attempt to evade arrest and escape accused Rajiv fired at the police party of which two shots hit the bullet proof jacket worn

by Inspector Rajesh Kumar. Accused Ramandeep also fired at the police

party and one shot fired by him hit the bullet proof jacket worn by ASI Ranbir Singh. One shot was fired by the accused was found that on the bonnet of Govt vehicle bearing No.HR-01M-8376 involved in the operation and one shot had hit its front side window.

45. The accused were carrying weapons on their person which were seized. Huge quantity of arms and ammunition were recovered from the vehicles in which they were travelling. These included 75 revolvers and pistols, 10 guns of .12 bore, one carbine, 887 live cartridges, drill machines, iron rods, fake identity cards and registration certificates. PW 18 Lalit Behl deposed that the car bearing No.CH-04B-6587 Honda Civic was looted at gun point from him by four boys with muffled faces. He identified the car having fake registration No.PB-05F-7373 seized from the accused lying in the police station as being the car that had been stolen from him. He however did not identify the accused as being the persons who had snatched it from him on the plea that the looters had muffled their faces and could not be recognized.

46. PW7 Jitender Bhatia deposed that he had prepared the number plates bearing registration number PB 05-F-7474 and PB-05-F-7373 for two persons. Initially he pointed to accused Rajiv and Ramandeep as the ones who had come to him for the said purpose. In cross-examination by the Public Prosecutor he said accused Bhupender had come to him to get the fake number plates prepared. In cross examination by counsel for the accused he stated that he was not sure that the accused were the same persons who had come to him for prepration of the number plates.

Considering that the fake number plates were used by the accused for the

vehicles they were found in possession of, the failure of PW7 to firmly

identify them cannot be of much help to the accused.

47. Fake driving licenses were recovered from the possession of accused. PW8 Amrit Pal Singh, Clerk, D.T.O. Office, Jalandhar proved the his report Ex.P6 regarding the genuineness of the licences No.90673/NDL and No.82363/NLD recovered from the accused. He stated that the driving license No.82363 was issued in the name of Manjot Kaur d/o Sarvjit Singh resident of Azad Nagar, Amritsar while driving license No.90673 was issued in the name of Durga Dass Mahajan son of Inder Nath resident of Amritsar. Thus both the licences were fake.

48. The accused in their statement under Section 313 Cr.P.C. admitted that that on 9/10.4.2009 they had committed theft in Ajit Gun House, Hoshiarpur. This is corroborated by the evidence on record. The gun house belonged to PW4 Ravinder Kumar . He deposed that in the month of March and April, 2009 many license holders of the arms deposited their weapons in his shop for safe custody. On the intervening night of 9/10.4.2009 some unknown persons committed theft in his shop and took away 90 weapons. He got registered FIR in this regard at PS Model Town Hoshiarpur. These arms were recovered from the possession of the accused. They were released to the owners on Superdari during trial. At the time of trial 44 superdars appeared in the Court and produced the weapons. They were identified by (PW15)S.I.Ranbir Singh as being the same which were recovered from the possession of the accused.

49. PW14 S.I.Sita Ram, PW15 SI Ranbir Singh identified in Court the articles including revolvers, pistols, guns, ammunition, drill machines along with drill bits, two number plates bearing No.CH-03X-0010, two number plates bearing No.PB-05F-7373 and PB-05F-7474 and other articles

recovered from the accused at the time of their arrest.

50. One voter identity card belonging to Sunil Jindal, two credit cards of Amrican Express were among the articles recoverd from the accused. PW17 Sunil Jindal deposed that about 5-6 months ago he had lost these documents. He had lodged the report with the police of Gaziabad. One driving license in the name of Ankur Jain was among the articles recovered. It has the photograph of accused Rajiv. Two cheques in favour of Ankur Jain for ₹ 45,000/- each were recovered. An identity card allegedly issued by District Congress Committee Block Mamdot in the name of 'Aryan' was recovered. It has the photograph of accused Rajiv. Another identity card issued by Central Public Works Department in the name of Gurdeep Singh which has the photograph of accused Rajiv was recovered. Two registration certificates of No.PB-05F-7373 and PB-05F-7474 are also on record. Clearly these documents are proved to be forged and fabricated.

51. Learned counsel for the appellants has contended that the version of the prosecution regarding the arrest of the accused on the midnight of 6/7.11.2009 is belied by the statements of PW4 Ravinder Kumar and PW18 Lalit Behl. PW4 Ravinder Kumar in his evidence stated that on 1.6.2009 he had come to know through newspapers that some weapons stolen from his shop had been recovered at Police Station Sadar Kurukshetra. He reached there and identified the weapons which had been stolen from his shop as per his record. Similarly, PW18 Lalit Behl in his cross-examination stated that police had called him to Kurukshetra on 1.6.2009 for identification of his vehicle. He argued that these independent

witnesses fully corroborate the version of the accused that they were taken into custody by the CIA staff Kurukshetra on 29.5.2009 from their residential house No.880, Sector-5, Urban Estate Kurukshetra where they were staying on rent and that a false case relating to the incidents of 5/6.6.2009 has been foisted on them.

52. It is not possible to accept the aforesaid contention of the learned counsel for the appellant. PW14 SI Sita Ram, PW15 SI Ranbir Singh and PW21 Inspector Rajesh Kumar have deposed in unison that secret and very specific information was received on the midnight of 5/6.6.2009 at about 11.30 PM by Inspector Rajesh Kumar about the movement of the accused (who were earlier involved in a large number of lootings on GT Road at night) on G.T.Road in two vehicles bearing fake registration numbers with intent to loot vehicles. Whereupon Inspector Rajesh Kumar summoned police force from CIA Staff Kurukshetra and STF Ambala with weapons and equipments to help nab these dangerous looters. On arrival of the force Inspector Rajesh Kumar constituted three separate teams. He directed Inspector Kulbhushan and ASI Dayal Chand to lay naka near Radha Swami Satsang Bhawan situated at Babain Road. Inspector Rajesh Kumar remained present at a distance of 400 yards from G.T. Road on Babain Road. About 15-20 minutes thereafter two vehicles came from Babain side. Inspector Kulbhushan gave signal through torch. The two vehicles were stopped. The accused persons tried to back their vehicles, but Inspector Kulbhushan blocked them from back side. The driver of the vehicle bearing No.PB-05F-7474 came outside the vehicle and started firing at the police party. The person who was sitting alongside the driver also came out and started firing at police party. The driver of the vehicle bearing No.PB-

05F-7373 also came out and started firing. The police officials to save themselves and to stop the accused started firing in the air. Two shots fired by the accused hit the jacket worn by Inspector Rajesh Kumar. One shot hit the jacket worn by ASI Ranbir Singh. The bullet proof jacket worn by Inspector Rajesh Kumar bearing two shots fired by the accused and jacket worn by ASI Ranbir Singh bearing one shot fired by the accused were converted into separate parcels with the seal of 'RK' and recovered vide recovery memo Ex.P25 which was duly signed. The bullet proof jackets were sent to the Forensic Science Laboratory, Madhuban, Karnal. As per the FSL report Ex.P134 the jackets were contained in parcel No.VII and VIII received in the laboratory. Parcel No.VII was described as *“contained one green printed bullet-proof jacket along with front and back metallic plates described as jacket of Inspector Rajesh Kumar. Two holes were found on front side of the jacket. Two deformed bullet pieces were taken out from the jacket. (Bullet pieces marked BC/1 and BC/2 by me).”* After examination, it was found that *“Holes on the front side of jacket contained in parcel No.VII have been caused by two shots of .32” lead bullet projectiles fired from distance beyond blackening/tattooing range.”* Parcel No.VIII was described as *“contained one green printed bullet-proof jacket along with front and back metallic plates described as jacket of ASI Ramveer Singh, One hole was found on the jacket on front side. One deformed and mutilated piece of bullet was taken out from the jacket. (Bullet piece marked BC/3 by me).”* On examination it was found that *“Hole on the front side of jacket contained in parcel No.VIII has been caused by a .32” bullet projectile fired from distance beyond blackening/tattooing range.”* .

53. The report of the FSL is further clinching evidence to corroborate the version of the prosecution.

54. The news report dated 1.6.2009 which PW4 Ravinder Kumar refers to about the weapons stolen from his Gun House and recovered at Police Station Sadar Kurukshetra has not been produced. No record of his having visited the Police Station on 1.6.2009 to identify the weapons lying recovered there has been produced. In the absence thereof it is not possible to rely on the oral testimony of PW4 regarding him having visited the police station on 1.6.2009. Similarly the assertion of PW18 Lalit Behl in his cross-examination that police had called him to Kurukshetra on 1.6.2009 for identification of his vehicle cannot be given credence considering that PW 18 even did not identify the accused as being the ones who had snatched his vehicle.

55. There is no other evidence led by the accused to show that they were indeed arrested on 29.5.2009 from their rented house as pleaded by them.

56. Ld. Counsel for the appellants further contended that the prosecution case that the shots fired by the accused hit PW15 SI Ranbir Singh and PW21 Inspector Rajesh Kumar is incorrect. He argued that PW13 ASI Kuldeep Singh who stated that he was a member of the police party when the accused were apprehended in his cross examination had stated that no police official had suffered any gun shot injury and that he did not know whether the accused had fired any shot.

57. This statement does not help the accused. Firstly, PW13 in his evidence has not stated that the accused did not fire. He has only disclaimed

knowledge whether the accused had fired any shot. He however voluntarily

stated that he had heard some fire shots. The deposition of PW15 SI Ranbir Singh is categorical that the driver of PB-05F-7373 (Ramandeep) got out of the car and started firing and one shot hit his jacket. Similarly the deposition of PW21 Inspector Rajesh Kumar is to the effect that driver of PB-05F-7474 (Rajiv) came out of the car and started firing at the police party. Two of the shots hit his jacket. Both these bullet proof jackets were converted into separate parcels with the seal of 'RK' and recovered vide recovery memo Ex.P25 which was duly signed. Thus there is no merit in this contention of the Ld. of the counsel for the accused as well.

58. The Ld. Trial Court has rightly appreciated the evidence and convicted the accused. Accordingly, the judgment of conviction is upheld. The sentence awarded to the appellants for offences under Sections 307 read with Section 34 IPC, Section 398 IPC, Section 401 IPC, 411 IPC, 420 IPC, 468 IPC and Section 25 of the Arms Act is maintained as such.

For the offence u/s 467 IPC the Ld. Trial Court has sentenced the appellants to undergo rigorous imprisonment for life and pay a fine of Rs.10,000/- each. In default of payment of fine, they shall further undergo simple imprisonment for a period of one year. For the offence under Section 471 IPC they have been similarly sentenced to undergo rigorous imprisonment for life and fine of Rs.10,000/- and simple imprisonment for one year in case of default of payment of fine. This sentence appears to be excessive and harsh and not warranted. Accordingly, the sentence of the accused under these two provisions is reduced to rigorous imprisonment for seven years with fine of Rs.10,000/-. In default of payment of fine they shall further undergo simple imprisonment for a period of one year. All the

59. With the aforesaid modification in the order of sentence the appeals are disposed of.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

July 03, 2019
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No