

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) **Crl. Appeal No.D-434-DB of 2015**

State of Haryana
...Appellant

VERSUS

Ajay and others
...Respondents

(ii) **Crl. Appeal No.S-4342-SB of 2014**

Devender
...Appellant

VERSUS

State of Haryana
...Respondent

(iii) **Crl. Appeal No.S-4882-SB of 2014**

Naveen Kumar
...Appellant

VERSUS

State of Haryana
...Respondent

(iv) **Crl. Appeal No.S-5009-SB of 2014**

Kawar Singh @ Bholu
...Appellant

VERSUS

State of Haryana
...Respondent

(v) **Crl. Appeal No.S-5119-SB of 2014**

Ajay
...Appellant

VERSUS

State of Haryana
...Respondent

(vi)

Crl. Appeal No.S-5350-SB of 2014

Raju @ Khan

...Appellant

VERSUS

State of Haryana

...Respondent

(vii)

Crl. Appeal No.S-187-SB of 2015

Jai Singh

...Appellant

VERSUS

State of Haryana

...Respondent

Date of Decision: February 06, 2020

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Vikrant Pamboo, DAG, Haryana
for the appellant-State (in CRA No.D-434-DB of 2015) and
for the respondent-State (in remaining cases).

Mr.S.S.Gill, Advocate for
Mr.S.S.Nara, Advocate for the appellants
(in CRA No.S-4342-SB and No.S-5009-SB of 2014).

Mr.Ashok Kumar Sehrawat, Advocate
for the appellant (in CRA No.S-4882-SB of 2014).

Mr.Sanjeev Kodan, Advocate for the appellants,
(in CRA No.S-5119-SB of 2014 and CRA No.S-187-SB of 2015).

None for the appellant (in CRA No.S-5350-SB of 2014).

ARCHANA PURI, J.

Challenge in the bunch of appeals, the detail whereof, has been

given in the head note of the judgment, is to the judgment dated 23.09.2014 passed by learned Addl. Sessions Judge, Jhajjar, vide which accused-appellants were held guilty and convicted for the commission of offences and sentenced as under:-

<i>Accused</i>	<i>Under Sections</i>	<i>Sentence</i>	<i>In default</i>
All accused	Section 120-B read with Sections 395/396 IPC	Ten years rigorous imprisonment along with fine of ₹1 lakh.	SI for six months
Ajay, Jai Singh, Naveen Kumar and Raju @ Khan	Section 396 read with Section 120-B IPC	Seven years rigorous imprisonment along with fine of ₹50,000/-	SI for six months
Ajay, Jai Singh, Naveen Kumar and Raju @ Khan	Section 395 read with Section 120-B IPC	Ten years rigorous imprisonment along with fine of ₹1 lakh.	SI for six months
Jai Singh	Section 25/27 of the Arms Act	Three years rigorous imprisonment along with fine of ₹25,000/-	SI for one month

All the substantial sentences were ordered to run concurrently.

State of Haryana, has filed the appeal bearing CRA No.D-434-DB of 2015, seeking enhancement of the sentence imposed upon the accused-appellants, from rigorous imprisonment of ten years to life imprisonment.

The background facts in nutshell are as herein given:-

That, complainant Vijender Kumar Yadav s/o Parkash Chand, was employed as Assistant in State Bank of India, Branch Matanhail. On 04.10.2010 at about 9.00 a.m., he along with Rishi Parkash, Gunman and Parveen Kumar, driver had gone to Rohtak in vehicle bearing registration No.HR-61-6430 for obtaining cash from the State Bank of India, main branch, Rohtak. After taking an amount of ₹30 lakhs, they had started at 10.45 a.m. for Matanhail. After reaching village Chhuchakwas, when they

covered distance of 2 to 2½ kms. towards village Matanhail, then vehicle bearing registration No.HR-34GA-0136 stopped in the center of the road at a culvert of the canal. Due to the blockage of the road, the driver of their vehicle had to stop the vehicle. Suddenly, two persons jumped from the rear side from the Tata-407 and rushed towards their vehicle. Both of them were armed with gun. After that, one more person, who was driver of Tata-407, had also come towards their vehicle. All the three pointed their respective weapons towards them and ordered that they alight from the vehicle. The guard of the Bolero resisted and disobeyed the order of the desperadoes. The person, who had a pistol and who was the driver of Tata-407, fired at the guard Rishi Parkash. Then, the aforesaid assailants had directed them either to get down of the vehicle or be ready to die. As directed, they had alighted from the vehicle Bolero. The injured gunman Rishi Parkash was also pulled down from the vehicle. All the three assailants boarded the Bolero and took away the vehicle along with the chest of cash, gun and cartridges of the gunman and fled away. The assailants were talking in Haryanavi dialect. One of them was of short height and other two were of medium height and all three of them had muffled faces.

Proceedings in the present case were initiated on the basis of the statement of complainant Vijender Kumar Yadav and FIR was registered.

During the course of investigation, statements of the witnesses were recorded. Even, gunman Rishi Parkash had died, whereupon, addition of offence under Section 302 IPC was made. During the course of investigation, various accused were arrested.

On completion of investigation, challan was presented. After

compliance of Section 207 Cr.P.C., the case was committed to the Court of Session.

In pursuance of the commitment proceedings, on the basis of material coming forth, charge was framed under Sections 120-B/395, 395, 302 read with Section 34 IPC against all the accused and Section 25 of the Arms Act, against accused Jai Singh, to which they pleaded not guilty and claimed trial.

In endeavour to establish its case, the prosecution examined as many as 21 witness, besides adducing documentary evidence.

PW-1 Vijender Kumar Yadav, is the complainant, who set the ball rolling. He has deposed about the manner of occurrence having caused by the accused on 04.10.2010, as detailed in the report under Section 173 Cr.P.C. He also deposed about recording of his statement Ex.PW1/A, on the basis whereof, proceedings were initiated. He also deposed about having informed Manager of Matanhail branch, Ashok Kumar Sehgal. He further deposed about police having recovered blood-stained earth from the spot of occurrence, which was taken into possession vide recovery memo Ex.PW1/B. Even, some pieces of broken glass from the spot, were taken into possession, vide recovery memo Ex.P1/C and Tata-407 bearing registration No.HR-34GA-0136, was also taken into possession, vide memo Ex.PW1/D and memos were attested by him.

PW-2 Satya Narain, deposed about Rishi Parkash, to be his younger brother, who was shot dead on 04.10.2010.

PW-3 Ashok Kumar Sehgal, who was posted as Branch Manager, State Bank of India, Matanhail, on 04.10.2010, has deposed about

manner of having received loot amount of ₹30 lakh and double barrel gun of gunman, on *sapurdari* and even deposed about preparation of inventory report Ex.PW2/A, vis-a-vis the recovered amount.

PW-4 Constable Pushpender has deposed about having lifted of seven fingerprints from Bolero vehicle bearing registration No.HR-61-6430 and proved transparent sheets containing seven impressions, which are Ex.P1 to Ex.P3.

PW-5 Khushi Ram and **PW-17 Baljit Singh**, have deposed interrogation, having so conducted upon Devender, Kanwar Singh @ Bholu, Ajay and Jai Singh and also deposed about recovery of various amounts and weapons, from the accused, on the basis of the disclosure statements.

PW-6 ESI Ishwar Singh and **PW-20 SI Ramphal (Retd.)**, have also deposed about interrogation of Naveen and disclosure statement, so made by him as well as by Raju @ Khan and recovery of various cash amounts on the basis there, which were taken into possession, vide separate memos.

PW-7 Arvind Kumar, has deposed about himself to be registered owner of Tata-407 bearing registration No.**HR-34GA-0136** and having obtained the possession of the said vehicle on *sapurdari* vide Ex.PW7/B.

PW-8 Dr.S.K.Dhattarwal, Professor of Department of Forensic Medicine, has deposed by way of affidavit Ex.PW8/A, to have conducted post-mortem examination on the dead body of Rishi Parkash along with Dr.Dharampal, Demonstrator. He proved the post-mortem report

Ex.PW8/B and he deposed about injuries, four in number, to have been

observed, on the examination of the body. He opined that cause of death was firearm injuries. He further deposed that probable time that elapsed between injuries and death was within minutes and between death and autopsy was within 12 hours. This witness also identified the fired bullet Ex.PW8/1, which was retrieved from the dead body, during the course of post-mortem examination. He also identified the clothes of the deceased, which were taken into possession, after conducting of the post-mortem examination and handed over to the police.

PW-9 Head Constable Parveen Kumar, PW-15 Head Constable Sompal and PW-16 Constable Jagdish, have tendered into evidence their affidavits Ex.PW/9D, PW/15/A and PW16/A, respectively, which is formal evidence. **PW-11 Constable Sukhbir Singh** has deposed prompt delivery of Special Report to Illaqa Magistrate, SP and DSP, Jhajjar. **PW-12 Mukesh** has deposed about having obtained the possession of Bolero jeep, on sapurdari and depositing of requisite documents.

PW-10 ASI Jaimal Singh has deposed about having accompanied SI/SHO Sant Ram, at the time of conducting of initial investigation of the case and having attested various documents.

PW-13 Manoj Kumar, Patwari, has deposed about preparation of scaled site plan of the spot of occurrence, which is Ex.PW13/A. **PW-14 SI Braham Prakash (Retd.)**, has deposed about having arrested accused Raju @ Khan and Naveen on 18.10.2010.

PW-17 Inspector Baljeet Singh (Retd.), has deposed about having arrested accused Ajay, Jai Singh, Devender and Kavar Singh on 09.10.2010, vis-a-vis case bearing FIR No.583 dated 09.10.2010 under

Police Station, Jhajjar. He also deposed about co-accused Naveen and Raju @ Khan to have fled away successfully, from the spot. He further deposed about aforesaid persons to have suffered disclosure statements Ex.PW17/A to Ex.PW17/D, respectively, about their involvement in the present case. He also deposed about having summoned the file pertaining to FIR No.183 of 2010. He arrested aforesaid persons in the present case and had obtained police remand for three days. This witness deposed that on 18.10.2010, he arrested accused Naveen and Raju @ Khan, in case FIR No.583/2010 under Section 399, 402, 307 IPC and Section 25 of the Arms Act and during course of interrogation, they made disclosure statements Ex.PW17/L and Ex.PW17/M, respectively, about their involvement in the commission of crime in the present case along with co-accused. He further deposed about recording of statements of various witnesses, during the course of his handling the investigation of the present case. He also identified the gun and two cartridges recovered from accused Jai Singh.

PW-18 Wazir Singh, has proved the sanction order Ex.PW18/A passed under Section 39 of the Arms Act passed by District Magistrate, Jhajjar, vis-a-vis accused Jai Singh s/o Ramphal r/o Balambh.

PW-19 EASI Surender Kumar has deposed that having clicked 13 photographs of vehicle Bolero on 04.10.2010, at the spot of occurrence and having developed the same. The photographs are Ex.P19/A to Ex.P19/M. He also deposed that on 28.10.2010, on the asking of ASI Ramphal, he went to Police Station Salhawas and took six photographs of currency notes and the same are Ex.PW19/N to Ex.PW19/T and they were handed over to Investigating Officer Baljit Singh.

PW-21 SI Sant Ram, has deposed about having handled the

initial of the present case and having recorded statement of complainant Vijender Kumar Yadav on 04.10.2010 and his statement is Ex.PW-1/A, upon which, his endorsement is PW-21/A, on the basis whereof, FIR was registered. He also deposed that in pursuance of receipt of telephonic message qua death of Rishi Parkash, Gunman, he had reached PGIMS, Rohtak and conducted inquest proceedings and the same is PW-21/B. He further deposed about having facilitated conducting of the post-mortem examination on the dead body of Rishi Parkash and parcel of the clothes of the deceased, having taken into possession, vide recovery memo Ex.PW-10/A. He also deposed about having gone to the spot of occurrence, where, he had taken into possession, Tata-407 bearing registration No.HR-34GA-0136 vide separate memo. This witness deposed about lifting of broken pieces of glass and having converted the same into parcel and lifting of blood-stained earth and the same also having converted into parcel and same were taken into possession, vide separate memos. He also deposed about lifting of empty cartridge from the place of occurrence and preparation of site plan of the spot, at the instance of Vijender.

This witness further deposed that when they reached village Bilota, in pursuance of secret information, he visited the disclosed spot and one Bolero jeep bearing registration No.HR-61-6430, was found and on inspection, one iron box, containing two locks and said box having broken from back side, which was taken into possession vide recovery memo Ex.PW-10/B. He further deposed about other articles, having so recovered and lifting of blood from the left front seat of the Bolero and having taken into possession, vide separate memo. He also deposed about preparation of

site plan of the spot of recovery.

Thereafter, the evidence of the prosecution was closed.

On closure of the prosecution evidence, all the incriminating circumstances appearing in the prosecution evidence were put to the accused in their respective statements under Section 313 Cr.P.C. However, the accused denied those allegations and pleaded their innocence and asserted their false implication.

In defence, accused examined as many as 8 witness.

DW-1 Pardeep Kumar, has deposed that he is Sarpanch of village Balam for the last 3½ years. On 07.10.2010, at about 7.30 p.m., while he was present in the house of accused Ajay, one Kuljit, Balraj, Rakesh etc. were also present with him. At that time, about 12 persons, some in police uniform and some armed with weapons had come there and had made inquiries about Ajay. Ajay was produced by his father before the police party. The party searched their house. About 6-7 persons had entered the house and searched it, while others had gone to the house of Jai Singh to bring him. On enquiry, the police told him that Ajay and Jai Singh are wanted in the investigation of some major case and they had also taken Rakesh, who is brother of accused Ajay along with them. They had gone to Police Station Kalanaur and made a complaint Ex.DA regarding the said episode.

DW-2 Rakesh has also deposed about this manner as deposed by DW-1 about the police officials, having come to their house and having brought Jai Singh also. He also deposed that he protested, when his brother was being taken away and without any rhyme or reason, police had also bundled him into the vehicle and took them away. However, he was

dropped on the road by the police, when the vehicle was near Bhagalpuri

(Beri) and the police party went towards Jhajjar. He also produced the certified copy of order passed by learned Addl. Sessions Judge, Jhajjar, relating to case No.91 of 2011/2013 decided on 14.08.2013, under Section 399/402/307 IPC bearing FIR No.583 dated 09.10.2010 of Police Station Jhajjar, which is Ex.DB. He also tendered into evidence the certified copy of disclosure statements of accused Ajay and Jai Singh, which are Ex.DC and Ex.DD, respectively. He also tendered in evidence certified copy of order passed by learned Judicial Magistrate Ist Class, Rohtak, relating to case bearing FIR No.214 dated 04.10.2010 under Section 392 IPC bearing case No.220/1 of 2010, decided on 11.9.2013, which is Ex.DE. He also tendered into evidence, the certified copy of disclosure statement of accused Ajay in case bearing No.220/1 of 2010 and the same is Ex.DF. DW2 further tendered into evidence the certified copy of disclosure statement of accused Jai Singh produced in the court of learned JMIC, Rohtak, which is Ex.DG. He also tendered into evidence the attested copy of their Ration Card, which is Ex.DH.

DW-3 Khazani has deposed about herself along with her son Kavar Singh and his wife Manjit, to be present in their *Gher* on 08.10.2010 at 5.00 a.m. She also deposed about the manner of 10-12 persons, some of whom, were in police uniform, having come there and asked about her son Kavar Singh. They dragged Kavar Singh. She also deposed that these persons pushed her daughter-in-law Manjit, when she tried to intervene. Alarm was raised. Thereafter, she informed the PCR at 100 number at about 5.15 a.m. regarding this incident and after some time, they made a call at about 5.20 a.m. She further deposed about the manner of having informed Police Station Sadar, Bahadurgarh. She further deposed that she

along with other persons, had gone to DSP at Bahadurgarh and S.P. Jhajjar, but they did not initiate any action towards on their request. After 2-3 days, they came to know about false case having fastened upon her son Kavar Singh.

DW-4 Rajbir has deposed about his sister Manju @ Manjit, being married to Kavar Singh s/o Om Parkash and she was having a mobile phone No.98896936467, which was given by him, to his sister Manjit, about six months prior to the incident. He also deposed that in the month of October 2010, the said mobile phone was used by his sister Manjit.

DW-5 Naresh Kumar, has deposed about Devender s/o Dharmbir, to be his nephew and further deposed that on 03/04.10.2010, Devender was present in the village, at his house and was playing cards. He also deposed that accused persons had never met to Devender on that day at his father's poultry farm. He further deposed that on 07/08.10.2010, in the midnight, Devender was lifted from his house by the police and further also deposed that on the next day, they had gone to the office of S.P. Jhajjar to inquire the matter, but they did not disclose about the whereabouts of Devender. Later on, they came to know about false implication of Devender, one relating to attempt to dacoity and other the present one. He also deposed application having been filed by his brother Dharmbir, before IG Rohtak against the police. He further deposed that his nephew Devender was acquitted in case FIR No.583 dated 09.10.2010, vide judgment Ex.DB.

DW-6 Dharmbir, who is father of Devender, has also deposed on similar lines, as DW-5, thereby denying about accused persons having met Devender on 03/04.10.2010, at village Karodha, at his poultry

on 07/08.10.2010 and also deposed about his son, to have been falsely implicated. Also, he deposed about the acquittal of the accused in case FIR No.583 dated 9.10.2010, vide judgment Ex.DB.

DW-7 Harish Kumar, who is employee on poultry farm of Dharambir, has also deposed about no private person, to have visited poultry farm on 03/04.10.2010, in his presence and further also deposed about the false implication of Devender, on similar lines, as deposed by DW-5 and DW-6.

DW-8 Sandeep Kumar, who is Panch of Gram Panchayat, Karodha and also Panch at the time of alleged occurrence, has also deposed about Devender to be present along with them on 03/04.10.2010 and playing cards with them, throughout the day, as usual. He also deposed that Devender did not meet any private person, in his presence and further also deposed about manner of lifting of Devender, by the police, in the night 07/08.10.2010 and his false implication, as asserted by earlier defence witnesses.

Thereafter, the evidence of the defence was closed.

After hearing learned Public Prosecutor, learned counsel for the accused and on appraisal of the evidence, brought on record, vide judgment dated 23.09.2014, accused-appellants were held guilty and convicted and sentenced, as detailed in the earlier portion of the judgment

Feeling aggrieved by the aforesaid judgment of conviction and order of sentence, appellants-convicts have filed the five appeals, the detail whereof, has been given in the head note of the judgment.

State of Haryana has also preferred an appeal against the judgment, seeking enhancement of the sentence imposed upon the accused,

as detailed aforesaid.

Lower Court record was requisitioned.

We have heard learned counsel for the appellants, learned State counsel and have perused the record.

Learned counsel for the appellants have refuted the claim of the prosecution, tooth and nail. Learned counsel for the appellants submitted in unison that when stringent punishment is provided, then stricter should be the onus of proof. It is submitted that acquittal of the accused in case bearing FIR No.583 dated 9.10.2010 under Sections 399, 402, 307 IPC and Section 25 of the Arms Act, registered at P.S. Jhajjar, vide judgment Ex.DB, counters the prosecution version, vis-a-vis commission of dacoity with murder by all the accused. Also, it is submitted that once order of acquittal has been passed, the disclosure statements and the recoveries, as claimed on the basis of the disclosure statements made by the accused in the aforesaid FIR, also falls flat. Furthermore, it is submitted that false case has been implanted upon the appellants. The recovery of entire loot amount, so projected to have been effected from the accused, is also very improbable version. Thus, learned counsel for the appellants have made a prayer for acceptance of appeal and seek acquittal of the appellants.

On the contrary, learned State counsel has refuted the claim of the appellants. In fact, he assiduously submits that learned trial Court has appraised the evidence in correct perspective. In fact, from the evidence, brought on record, it stands established that accused Ajay, Jai Singh, Kavar Singh @ Bholu and Devender, who were arrested in case FIR No.583 dated 9.10.2010, had made disclosure statements. Even Naveen and Raju @

18.10.2010 and they had also made disclosure statements and the said statements are Ex.PW-17/A to Ex.PW-17/D and on the basis thereof, recovery of loot amount and weapons, have also been effected. Therein, they have clearly stated about their participation in the occurrence of the present case. Rather, it is submitted that credence is lent to the version of the prosecution from the recovery of the fire arm weapon of the Rishi Parkash, Gunman (since deceased), which fact, further stands fortified from the recitals of the FSL report. In fact, the recovery of entire loot amount from the possession of all the accused persons, also is a pointer to the incriminating role of all the accused, in the occurrence in question. Such being the evidence brought on record, it is submitted that involvement of all the appellants in the dacoity, wherein, murder of Rishi Parkash was committed, stands duly established. Thus, summing up his arguments, learned State counsel has made a prayer for dismissal of the appeals. Rather, looking at the manner of commission of the crime by all the accused and thereby, having murdered the gunman, who put forth resistance, learned State counsel has made a prayer for enhancement of sentence imposed upon the appellants from **ten years to life imprisonment**.

So far as, fact of death of Rishi Parkash is concerned, the same stands amply established from the medical evidence brought on record. PW-8 Dr.S.K.Dhattarwal has proved the post-mortem report Ex.PW8/B and he opined the cause of death in the present case was due to fire arm injuries. In the light of the same, the fact of death of Rishi Parkash, stands amply established.

Throughout the arguments, much emphasis has been laid upon

No.583 dated 9.10.2010 under Sections 399, 402, 307 IPC and Section 25 of the Arms Act, registered at P.S. Jhajjar. However, it is pertinent to mention that it has been brought to the notice by learned State counsel that appeal qua aforesaid judgment of acquittal is pending, as such, no sustenance, can be drawn from the judgment of acquittal. Considering the same, firstly, let us consider the defence, so pleaded by the accused by way of examination of witnesses i.e. DW-1 to DW-8. Though, the said witnesses have deposed about lifting of Ajay and Jai Singh, as claimed, in the evening of 07.10.2010 and also about Devender, on the intervening night 7/8.10.2010 and Kavar Singh @ Bholu on 08.10.2010 but however, no satisfactory evidence, relating to their taking away by the police has been established. Even though, the application Ex.DA, is stated to have been filed by DW-1 but however, the same does not bear any endorsement of Police Station Kalanaur nor any police official has been examined to establish about the said application, having so filed by the said witness. Likewise, DW-3 Khazani, though has deposed about making of the telephonic call at number 100 but no call detail has been so proved. Even though, DW-4 Rajbir, has deposed about Manjit to have used the mobile to make a phone call but however, no call detail, relating to the same, has been produced. Furthermore, witnesses DW-5 to DW-8 also have though deposed about manner of lifting of Devender on the intervening night of 7/8.10.2010 and said fact also does not stand duly established. Even though, application Ex.DJ is stated to have been filed before IG but the same also does not bear any endorsement of the office of IG nor any official of the said office, has been examined, to so establish about the filing of the said application. In

the light of the same, when the said witnesses have so pleaded only at the

time of recording of the defence evidence, their assertion of this manner of taking away of the accused, does seem to be an exaggerated effort, so made, to facilitate the accused to wriggle out of the criminal liability. As such, the plea of false implication, so pleaded by the aforesaid witnesses, does not stand established.

From the evidence adduced by the prosecution, it is evident that in case FIR No.583 dated 9.10.2010 under Sections 399, 402, 307 IPC and Section 25 of the Arms Act, registered at P.S. Jhajjar, various accused had made the disclosure statements before Incharge, CIA Jhajjar, from which, it is evident that in the morning of 03.10.2010, they were at the poultry farm of Devender situated at Karodha and hatched a criminal conspiracy, to commit the dacoity by looting cash being collected by SBI Matanhail from SBI Rohtak, while in the process of transit. As per planning, accused Devender was assigned the duty to check and verify from which vehicle the said money will be collected and transported by SBI Matanhail from SBI Rohtak. When this vehicle reaches Rohtak for collecting cash, Bholu will pick-up Raju @ Khan and Naveen in Alto car of Ajay, and thereafter they will reach at village Chhuchakwas, Matanhail road. Ajay and Jai Singh will hire one Tata Canter on the pretext of taking buffalo and will take same to Kalanaur road, and thereafter they will snatch the same. Further, it is evident from the disclosure so made that Ajay will bring his Donga licensed gun and the remaining weapons will be arranged by Naveen and after commission of dacoity, they will pay for the said weapons. Also, it is evident from the disclosure so made that as per their planning on 04.10.2010, at about 7.00 a.m., they gathered at the poultry farm of

pistol, .32 bore pistol, two country made pistols of .315 bore. Devender gave the information that Bolero No.HR-61-6430 will depart at 9.00 a.m. from SBI Matanhail along with driver, gunman and cashier to collect the cash from Rohtak. The said vehicle will reach back at Matanhail branch at about 12 noon, after collecting the cash, as in normal course. Ajay had then handed over his double barrel gun to Naveen and Naveen gave 9 MM pistol along with two live cartridges to Jai Singh. One country made .315 bore pistol along with cartridge was given to Raju @ Khan and .32 bore pistol was retained by Naveen along with cartridge. Thereafter, as per disclosure statement Ajay and Jai Singh hired Tata-407 No.HR-34GA-0136, on the pretext of taking buffalo from village Kasni, on hire charges of ₹1100/-. Then, near village Nigana, Jai Singh pointed out pistol to the driver and driver fled away after leaving his vehicle. Then these persons had taken Tata-407 near Chhuchakwas on Matanhail road. There they met Naveen, Raju @ Khan and Kavar Singh @ Bholu in Alto car. Even Naveen and Raju @ Khan boarded Tata-407 but Bholu remained in the Alto car. After that, Tata-407 was taken towards the side of Matanhail. After some time, Bholu conveyed telephonic message that Bolero has crossed his vehicle. Upon receipt of this information, they parked Tata-407 diagonally to block the canal bridge. After some time, Bolero had come and halted behind Tata-407. Ajay took his gun from Naveen and surrounded the Bolero. Jai Singh opened the window of the left side. When Gunman caught hold the neck of Jai Singh, then Naveen shouted to Jai Singh, as to what he is doing and instructed him to fire the shot. Upon this, Jai Singh fired the shot on Gunman. Naveen dragged the Gunman on the road. Even Driver and

Cashier were made to alight from the vehicle and all the four accused

persons, fled away from the spot in the Bolero, after taking the double barrel gun of the Gunman along with cartridge and the cash of the bank, towards Chhuchakwas. Bolero was abandoned by them in the fields of Imlota, after taking out the cash of ₹30 lakhs, after breaking the *kunda* of the chest. Before fleeing, the gun of Gunman along with cartridge were thrown in the fields. Further, it is adduced from the evidence, so led by the prosecution that in pursuance of the disclosure of this manner of causing of the occurrence by the aforesaid accused, police remand was sought and during the course of interrogation on 11.10.2010, Ajay made the disclosure Ex.PW5/C, Jai Singh made the disclosure statement Ex.PW5/A and on the basis thereof, Ajay got recovered the double barrel gun .12 bore Ex.P-5 from the field of village Imlota. The said gun was belonging to Gunman of the bank Rishi Parkash, who was murdered in the dacoity. Even out of the looted amount of ₹30 lakhs, sum of ₹2 lakhs was recovered, from the house of accused Ajay, vide recovery memo Ex.PW5/H. Ajay also demarcated the place where they committed the dacoity vide memo Ex.PW17/J.

Further, it is deduced from the evidence, so brought that accused Jai Singh made disclosure statement Ex.PW5/D, on the basis whereof, he got recovered the pistol 9 MM and two cartridges Ex.P4 and cash of ₹12 lakhs vide recovery memo Ex.PW5/I. He also demarcated the place of offence Ex.PW17/K. Also from the FSL report Ex.PX, it is evident that the said pistol was used for committing murder of Rishi Parkash, Gunman of the bank, as the cartridge case and the bullet recovered from the body of Rishi Parkash, completely matched being fired from the said weapon. This also lends strong credence to the version of the participation

Also, from the disclosure so made, it is evident that Kavar Singh @ Bholu made the disclosure **Ex.PW5/B**, on the basis whereof, ₹5 lakh was got recovered from his house, vide recovery memo **Ex.PW5/E**. Even, Devender made the disclosure statement **Ex.PW5/A** regarding hatching of conspiracy at poultry farm, situated in village Karodha, on the intervening night of 03/04.10.2010. Naveen and Raju @ Khan made disclosure statements on 20.10.2010, which are **Ex.PW6/A** and **Ex.PW6/B** respectively, on the basis whereof, they got recovered ₹5.5 lakhs each, vide recovery memos **Ex.PW6/B** and **Ex.PW6/E** and they demarcated the place of incident, vide **Ex.PW6/C** and **Ex.PW6/F**.

Thus, considering the aforesaid disclosure so made and the recovery of cash amount, total whereof comes to be ₹30 lakhs, it stands established that the entire loot amount, was duly recovered from the aforesaid accused. Though, now it is submitted by the learned counsel for the appellants that the recovery of the whole of the loot amount, is highly improbable and the recoveries have been falsely implanted, but however, we do not agree to the aforesaid submission. Looking at this manner of disclosures, so made, by the accused and the recoveries having effected from their house, which stand duly proved, there is no element of improbability. Rather, the extent of the loot amount, so recovered, in itself counters the plea of false implantation. As already detailed aforesaid, Jai Singh had fired upon Rishi Parkash, Gunman, who had resisted to the conduct of the accused. The bullet recovered from the body of Rishi Parkash, matched with 9 mm pistol, recovered from the possession of Jai Singh, as per FSL report **Ex.PX** and it also matches with the cartridge case,

recovered from the place of occurrence. Thus, this matching of the used

bullet with the weapon, so recovered, further gives strength to the prosecution version. It also stands established that conspiracy was hatched at the poultry farm of Devender and he had also participated in the same.

Though, some contradictions are stated to be there, relating to the number of the persons, who had participated in the occurrence in question but however, the same does not matter much, as there are strong pieces of evidence, against the accused-appellants, about their participation in the crime, by way of recovery of loot amount and weapons of offence, used in causing of the occurrence.

In the light of the aforesaid discussion, we find that learned trial Court has appraised the evidence in correct perspective and has rightly held all the accused to be guilty and convicted them, as detailed aforesaid.

Though, State of Haryana has also filed an appeal, seeking enhancement of the sentence imposed upon the accused-appellants from ten years to life imprisonment but however, we find that the sentence imposed by learned trial Court, is just and reasonable.

As such, impugned judgment, merits no interference.

Resultantly, all the appeals sans merit and the same are hereby dismissed.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

February 06, 2020
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No