

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

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CRM-A-603-MA-2018(O&M)
Date of Decision : **October 17, 2022**

STATE OF HARYANA

.....Applicant

VERSUS

PURUSHOTAM DASS AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sumit Jain, Addl. AG, Haryana.

PANKAJ JAIN. J. (Oral)

CRM-9108-2018

For the reasons mentioned in the application, the same is allowed and the delay of 87 days in filing the appeal is condoned, subject to all just exceptions.

Main case

The State is in appeal. The FIR was registered on the statement made by one Sukhdev Singh who made a telephonic call to the police control room to the following effect that he is follower of Sant Ram Pal. He and some other persons wanted to come outside the Ashram but Purushotam Dass, Raj Kumar, Mahender Singh, Rajender Singh, Rahul and 30-40 other followers have restrained them in Ashram. On the basis of this complaint, a case FIR under Sections 147, 149, 188, 342 of Indian Penal Code was registered. A prayer for taking action in this regard has been made. On this present case FIR had been registered. Statements of witnesses as envisaged under Section 161 of Cr.P.C. were recorded.

During the course of trial, all the material witnesses turned hostile. The trial Court after discussing the evidence on record found as under:-

“11. Further, the prosecution relied upon the disclosure statements of accused which are not admissible in the case as there is no further discovery on these statements. In **Pandu Rang Kallu Patil v. State of Maharashtra**, it was held by Supreme Court that Section 27 of Evidence Act was enacted as proviso to. The provisions of Sections 25 and 26, which imposed a complete ban on admissibility of any confession made by accused either to police or at any one while in police custody. Nonetheless, the ban would be lifted if the statement is distinctly related to discovery of facts. The object of making provision in Section 27 was to permit a certain portion of statement made by an accused to Police Officer admissible in evidence whether such statement is confessional or non-confessional.

Sections 24, 25, 26 of the Evidence Act exclude certain confessions. Section 24 lays down that if a confession appears to have been caused by threat, promise or inducement from some man in authority it will be irrelevant and cannot be proved against the confessor. Section 25 excludes a confession made to a police officer. Section 26 lays down that if a person while in custody of a policeman, confess his guilt to any other person not being a Magistrate his statement will not be proved against him. Section 27 lays down that when at any trial, evidence is led to the effect that some fact was discovered in consequence of the information given by the accused of an offence in custody of the police officer, so much of the information as relates to the facts discovered by that information, may be proved irrespective of the facts discovered by that information may be proved irrespective of the facts whether that information amounts to concession or not. In view of the above discussion the

evidence adduced by prosecution is highly doubtful.

12. The criminal jurisprudence says that prosecution has to prove the guilty of the accused beyond shadow of reasonable doubt. If there is any doubt even then the benefit of the same should be extended to the accused. Prosecution story may be true but criminal jurisprudence says that prosecution has to prove that it must be true. Between may be true and must be true there is inevitability a long distance to travel and whole of the distance must be covered by the prosecution by legal reliable and unimpeachable evidence before an accused can be convicted. The prosecution has not covered the same in the present case.”

Mr. Jain while attacking the findings recorded by the trial Court asserts that as per the settled law even though the witnesses have been declared hostile yet cogent piece of statement of a person can be relied upon to drive home the guilty of the accused.

There is no dispute with respect to the said legal proposition. However, the trial Court while returning a finding has found that the prosecution is relying upon the mere disclosure statements suffered by the witnesses which would be barred by the provisions as contained under Sections 25 and 26 of the Evidence Act. Mr. Jain is not in a position to dispute the aforesaid findings.

Consequently, the present application seeking leave to appeal is declined.

October 17, 2022

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(PANKAJ JAIN)
JUDGE

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