

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

**CRM-A-378-2020 (O&M)
Date of decision: 29.04.2022**

State of Haryana

.....Applicant/appellant

Versus

Jagpal and others

.....Respondent

**CORAM:HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Ankur Mittal, Addl. A.G., Haryana,
for the applicant-appellant.

Ritu Bahri, J.

CRM-8156-2020

In view of the averments mentioned in the application, same is allowed and delay of 113 days in filing of the appeal is condoned.

CRM-A-378-2020

State has come up in appeal against the judgment dated 01.08.2019 passed by the Additional Sessions Judge, Rohtak, whereby accused-respondents have been acquitted of the charges framed against them under Sections 148/186/188/332/342/336/353/307/427/149 IPC.

Brief facts of the case are that a complaint was made by ASI Rakesh with the allegations that on 20.02.2016, he along with other police officials was deputed for law and order duty at Sector-14 Chowk, Rohtak. At about 11.00 A.M., a huge mob, armed with sticks and petrol bombs, came towards Agro Mall from the side of Delhi by-pass indulging in arson

and rioting in connection with the Jat Agitation. The police officials and

other personnel deputed at the spot tried to stop the agitators, but all in vain. The mobsters launched a murderous attack on them and other officers present at the spot resulting in injuries to several officials. The police officials and other officers rushed into the Agro Mall to save their lives. The mobsters set ablaze the official and private vehicles parked outside the Agro Mall. They then surrounded the Mall and held the police officials and other officers captive, thus, obstructing the performance of official duty by the said officials. They could only be saved by the arrival of additional force.

On the basis of the aforesaid complaint, a case under Sections 148/149/186/188/332/342/353/307/427/436 IPC was registered. During the course of investigations, the injured were got medically examined. Disclosure statement of Jagpal was recorded in case bearing FIR No.118/2016, registered at Police Station Urban Estate, Rohtak. On the basis of above information, Jagpal, Rahul @ Dadu and Joginder @ Joga, who were in custody in FIR No.62/2016 were interrogated. Their disclosure statements were recorded. Further investigations were conducted. Narender was apprehended on 24.08.2016 and Dilawar was arrested on 02.11.2016.

On conclusion of investigation, report under Section 173 Cr.P.C. was submitted against the accused persons before the Illaqa Magistrate. Copy of challan were supplied to them free of costs as envisaged under Section 207 Cr.P.C. Since offences under Sections 307 and 436 IPC were triable exclusively by the Court of Sessions, the case was committed to the Court of Sessions.

Finding a prima facie case, charge under Sections 148/186/188/332/342/336/353/307/427/149 IPC was framed against the

accused-respondents, to which, they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Ashish (PW-1), Amit (PW-2), Rajesh (PW-3), Dr. Girish (PW-4), Chetna (PW-5), EHC Ashwani (PW-6), Sachin (PW-7), HC Harish (PW-8), Tarun Sethi (PW-9), Sandeep (PW-10), Balram Singh (PW-11), PSI Balraj (PW-12), Jasmer Singh (PW-13), Dr. Ravinder (PW-14), Constable Pawan (PW-15), ASI Samit Kumar (PW-16), SI Balkishan (PW-17), ASI Rakesh (PW-18), SI Devender (PW-19), ASI Budh Singh (PW-20), Dr. Sandeep (PW-21), Inspector Narender Pal (PW-22), EHC Jai Bhagwan (PW-23), Constable Jai Singh (PW-24), Constable Narender (PW-25), Jaldhir Singh (PW-26), SI Rajpal (PW-27), Bharat (PW-28), Constable Ravinder (PW-29), ASI Meena (PW-30), Constable Sandeep (PW-31), Inspector Ramesh (PW-32) and Inspector Aman (PW-33).

After conclusion of the prosecution evidence, statements of accused-respondents under Section 313 Cr.P.C. were recorded, wherein entire incriminating evidence was put to them. However, they denied the same. No evidence was led by accused-respondents in defence.

The accused-respondents faced trial for having allegedly assaulted police officials and other officers on duty during the Jat Agitation and for obstructing their duty at that time. They were part of a mob, which had indulged in arson and looting. They had caused intensive damage to property and life.

Trial Court, after hearing learned counsel for the parties and going through the evidence led by the parties, held that some of the eye witnesses had vaguely stated in their examination-in-chief that the accused were involved in the incident. There was a huge mob of thousands, most of whom

were armed with weapons of all shapes. The Victims feared for their lives and property and anarchy was prevailing. In this backdrop, the mob was assaulting and attacking any person in authority or any property that came their way. It was not possible that in such a scenario, any particular individual/aggressor could have been identified. As often happens when such incidents occur, some goons and criminals join the mob to act as catalysts to initiate violence. They often manage to elude authorities while others are held liable. It was further observed that the only evidence against the accused-respondents was the disclosure statements and that was not cogent evidence in the eyes of law. No recovery was effected from the accused and they were apprehended approximately six months after the incident. On account of such a long gap, the eye witnesses were not in a position to identify any of the accused. No test identification parade was got conducted. In this backdrop, vague identification of accused persons made before the Court was completely unreliable and could not form the basis for convicting them. With these observations, accused-respondents were acquitted by giving them the benefit of doubt.

Heard.

In the present case, the accused persons were apprehended after six months of the incident and the prosecution was not able to prove that the accused-respondents were present at the spot when the alleged incident had taken place. ASI Meena (PW-30) stated that she had arrested accused Dilawar on 02.11.2016 and then he made the disclosure statement Ex.P35, in the presence of EHC Jai Bhagwan (PW-23). The trial Court has observed that the said accused was already in custody in some other case, date of which, could not be recalled. Jaldhir Singh (PW-26) had proved the orders

dated 18.02.2016 and 19.02.2016, Ex.P36 and Ex.P37, passed by the Deputy Commissioner under Section 144 Cr.P.C., Another point, which has been noted while acquitting the accused, is that one witness namely SI Rajpal (PW-27) had stated that after arresting accused Narender on 24.08.2016, the said accused got recorded a disclosure statement Ex.P38 in the presence of Constable Ravinder (PW-29) and pursuant to the said statement, he got demarcated the place of occurrence vide memo Ex.P39. However, during cross-examination, this witness conceded that neither any independent witness was joined in the proceedings nor any recovery was made in pursuance thereof.

Inspector Aman (PW-33) deposed that on 13.04.2016, the case file was entrusted to him as Incharge, Detective Staff, Rohtak, for investigation. He had recorded the statement of DSP Ravinder (PW-14), Constable Pawan (PW-15), HC Harish, Reader/Naib of DSP, who brought the list of C-company employees, who were present on duty at Mall at the time of occurrence. During cross-examination, this witness stated that he had recorded the statements of above said persons on 15.04.2016 and prior thereto, the witnesses had never been joined in the investigations. Eye witnesses namely HC Harish Kumar (PW-8) and Constable Pawan (PW-15) could not identify the accused, who were present before the trial Court. No other eye witness account was available.

In the present case, after recording disclosure statements, no recovery has been effected. The accused persons were arrested after six months of the incident and even two alleged eye witnesses i.e. HC Harish Kumar (PW-8) and Constable Pawan (PW-15) could not identify the accused. In view of the above, the prosecution has miserably failed to lead

any cogent and convincing evidence to substantiate the allegations levelled against the accused-respondents. In the absence of any cogent and convincing evidence, scope of interference in the impugned judgment is very limited. Accordingly, having examined the impugned judgment, no illegality, much less perversity has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

Dismissed.

(RITU BAHRI)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

29.04.2022
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No