

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

**CRA S-878-SB of 2007  
Reserved on:-11.01.2023  
Date of Decision : 17.01.2023**

|                  |     |               |
|------------------|-----|---------------|
| Karan Singh      | Vs. | ...Appellant  |
| State of Haryana |     | ...Respondent |

**CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Ms. Shalini Sharma, Advocate  
for the appellant.

Mr. Rajinder Kumar, DAG, Haryana.

**N.S.SHEKHAWAT, J**

The present appeal is directed against the judgment of conviction dated 16.05.2006 and order of sentence dated 18.05.2006 passed by the learned Additional Sessions Judge, (Fast Track Court), Bhiwani, whereby, the appellant was convicted for the offences punishable under Section 341 and 307 of IPC and was sentenced to simple imprisonment for fifteen days under section 341 read with Section 34 IPC and was also sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs. 1,000/- under Section 307 IPC alongwith default stipulation.

The brief facts of the case are that on receipt of the information from General Hospital, Bhiwani, on 25.01.2003 regarding admission of injured Naresh Kumar son of Kanshi Ram, the police officials reached there and found that Naresh Kumar had suffered firearm injuries and had already been referred to P.G.I.M.S., Rohtak.

SI Balwant Singh collected the MLR of Naresh Kumar and parcels containing the clothes of Naresh from General Hospital, Bhiwani, and went to P.G.I.M.S., Rohtak for recording the statement of Naresh, injured, who was found to be unfit for statement. SI Balwant Singh found Jai Parkash, brother of injured Naresh Kumar and he recorded his statement. Jai Parkash stated that Naresh Kumar was his younger brother and was married to Meena daughter of Subhram about four years back, but he had divorced Meena after some time. About one year back, Naresh Kumar married to Suman Devi daughter of Jagmal. Suman Devi was earlier married Karan Singh son of Ran Singh (accused) and divorce had taken place between Suman Devi and Karan Singh. About 09 days ago, Suman Devi had gone to her parental house at village Jui. On 25.01.2003, Naresh Kumar @ Billu, injured had gone to village Jui to bring Suman Devi back. Naresh Kumar and Suman Devi reached Loharu and Jai Parkash was also present in Loharu due to some personal work and they met at Bus Stand Loharu. All three of them hired a Maruti car, 1000CC, bearing registration No. HR16-B-6898 driven by Devender Singh for going their village. At about 3.00 p.m., on 25.01.2003, they were on their way to their village, one Armada vehicle waylaid their car. Naresh Kumar, injured, and the driver were in the front row whereas the complainant and Suman Devi were sitting on the back seats of the car. All of a sudden, two young persons armed with pistols alighted from Armada and one of them Karan Singh son of Ran Singh (accused),

who were known to the complainant earlier and he could identify the second person, if brought before him, who was of weak physique, slim and was of blackish complexion. Both the accused forced the complainant and driver Devender Singh to come out of the car at pistol point and Karan Singh fired a shot at Naresh Kumar with an intention to kill him after opening the front left window of the car and the fire shot hit him on his left shoulder. Another person fired shot from the driver seat side, which hit on the right side of his brother Naresh and his brother fell down in the car. Karan Singh again fired the shot which hit on the shoulder and near the back of his brother. The other person also fired another shot, which did not hit his brother and went over the car. Both the assailants remarked that it was done due to marriage of Suman Devi with Naresh. The complainant, Suman Devi and driver Devender Singh raised the noise to save them and certain persons present in the fields reached there and on seeing them Karan Singh and unknown person fled away in the Armada vehicle. Naresh Kumar, injured was shifted to Loharu in the same vehicle and after arranging for vehicle at Loharu, they took him to General Hospital Bhiwani from where he was referred to P.G.I.M.S., Rohtak.

After necessary investigation, on 08.05.2003, Prem Chand, co-accused was arrested by SI Gugan Singh. Prem Chand, co-accused suffered a disclosure statement Ex.PO and identified the spot, where he had left the vehicle used in the commission of the crime. During investigation, Karan Singh could not be arrested and

was declared as proclaimed offender. He was arrested by ASI Mahabir Singh on 07.05.2005, i.e., after more than 02 years. On disclosure statement of the accused Karan Singh, he identified the place of occurrence. After the presentation of the challan, the learned trial Court ordered framing of charge under Sections 341, 307, 34 IPC and Section 27 of the Arms Act, to which, the appellant pleaded not guilty and claimed trial.

In support of the case of the prosecution, 13 witnesses were examined.

HC Joginder Singh was examined as PW1 and he submitted his sworn affidavit Ex.PA. PW2 Raja Ram was examined, whose evidence was formal in nature. Dharam Pal, Record Keeper, P.G.I.M.S., Rohtak, was examined as PW3, who stated that the bed head ticket of Naresh has already been sent from the P.G.I.M.S., Rohtak. The prosecution examined PW5 Naresh, injured, who gave vivid description of the occurrence. However, he stated that the assailants were not known to him. Still further, Ram Kunwar SI/SHO was examined as PW6. He had registered the FIR in the instant case. ASI Mahabir Singh was examined as PW7, he had formally arrested the appellant before obtaining the police remand. Risal Singh, Patwari was examined as PW8, who had prepared the scaled site plan. Jai Parkash, complainant, was examined as PW9, who supported the case of the prosecution and specifically named the present appellant and assigned him role. Apart from that, Suman was examined as PW10,

who also supported the case of the prosecution. Dr. Vinod Kumar Pathak, who had conducted the X ray examination on the injured, was examined as PW11. PW12 Dr. Anil Sharma, had medico legally examined Naresh Kumar and noticed following injuries:-

1. *A lacerated wound of 2 x .5 cm in right side of the head with swelling present around it for which surgeon's opinion was advised.*
2. *2 x 1 cm wound on the scapula with inverted margins and ragged margins, muscles were torn. Adjacent area around wound was burnt. Surgeon's opinion was advised.*
3. *.5 x .5 cm wound with everted margins on the back just in the middle, for which Surgeon's opinion was advised.*
4. *There was swelling in the left scapula with pain and tenderness in the area for which ortho surgeon's opinion was advised.*

Balwant Singh SI, the Investigating Officer of the case was examined as PW13 and he supported the case of the prosecution.

After the closure of the prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C., and he pleaded his false implication. He stated that his wife had taken divorce from him and he was falsely implicated in the case by the police, in connivance with the complainant side. His wife Suman remarried Naresh Kumar, injured and falsely involved in the instant case.

Learned counsel for the appellant vehemently argued that there was delay in registration of the FIR and the said delay was utilized by the complainant to falsely involve the present appellant. It was further argued that the occurrence had taken place at about 03.00 p.m., on 25.01.2003 whereas the statement of the complainant Jai Parkash Ex.PC was recorded at about 1.50 a.m., in the night of 26.01.2003. Still further, the injured was initially taken to Loharu and a police station was also located at Loharu and no member of the complainant party could report the matter to the police at Loharu. The said submission has been opposed by the learned State counsel by submitting that the first priority of the complainant party was to provide best medical treatment to Naresh Kumar, injured, who had suffered fire shot injuries and immediately after receipt of the *rukka*, the police had gone to General Hospital, Bhiwani and after that to P.G.I.M.S., Rohtak and recorded the version of the complainant. Thus, the delay stood well explained by the prosecution. I have considered the rival submissions made by the learned counsel for the parties. The occurrence had taken place at about 03.00 p.m., on 25.01.2003 at some distance from Loharu. Immediately, after the occurrence, the injured was taken to Loharu and then, he was shifted to General Hospital, Bhiwani. The *rukka* was sent at about 05.00 p.m., on 25.01.2003 itself. Since Naresh Kumar, PW5 was critically injured, he was referred to P.G.I.M.S., Rohtak. When the police reached General Hospital Bhiwani, the injured had already been taken to P.G.I.M.S.,

Rohtak. Thereafter, the police officials went to P.G.I.M.S., Rohtak and recorded the statement at about 1.50 a.m., and immediately, thereafter, the FIR in the instant case was registered. Thus, the delay in lodging of the FIR was sufficiently explained and could not serve as a ground to reject the prosecution case.

The learned counsel for the appellant vehemently argued that PW5 Naresh was caused injuries by some unknown persons and later on the present appellant was falsely implicated after due deliberations and with an ulterior motive. The said submission made by the learned counsel for the appellant has been vehemently opposed by the learned State counsel. He submitted that the appellant has been specifically named by PW5 Naresh Kumar, injured, as well as by two eye witnesses, namely, PW9 Jai Parkash and PW10 Suman Devi. All the three witnesses had supported the prosecution case completely and were subjected to lengthy cross-examination and their testimonies could not be shattered in any manner. Thus, the appellant was liable to be convicted by this Court. I find sufficient force in the argument raised by the learned counsel for the State. PW9 Jai Parkash had lodged the FIR without unnecessary delay and the present appellant was specifically named and was attributed fire shot injuries. Even, Karan Singh appellant was known to prior to the occurrence and he could identify the accused at the time of the occurrence itself. Even in the statement Ex.PC, which was lodged without any undue delay, when PW9 Jai Parkash had specifically named the present appellant.

Apart from that, the present appellant was known to eye witness, i.e. PW10 Smt. Sunam Devi as well as the appellant was the ex-husband of Suman Devi. Even she had specifically named the present appellant. The statement of PW9 Jai Parkash and PW10 Suman Devi have been duly supported by the testimony of PW5, Naresh Kumar, injured, who had no reason to falsely implicate the appellant. In fact, he will be the last person to spare the real assailants, who had caused fire shot injuries to him and to falsely involve the present appellant. Even, all three witnesses had been searchingly cross-examined and there was nothing in their cross-examination, which could discredit their testimonies in any manner.

Even, the ocular account is duly supported by the testimony of PW12 Dr. Anil Sharma, who found above mentioned injuries on his person. He had opined that the injury on the person of Naresh was declared to be dangerous to life and injuries were caused by firearm. Similarly, PW11 Dr. V.K. Pathak, conducted the X ray examination on the person of PW5 Naresh Kumar and supported the testimony of PW12 Dr. Anil Sharma. Thus, it is apparent that the appellant had caused fire shot injuries to PW5 Naresh Kumar and the version of the prosecution has been correctly believed by the learned trial Court.

Learned counsel for the appellant further vehemently argued that in the instant case, it has been alleged that the present appellant fired shots from a pistol, whereas no recovery has been

effected from the present appellant and the entire story is liable to be disbelieved. In fact, the said submission is without any substance. Naresh, injured, PW5 had suffered serious injuries on his person, which could not be self suffered. Still further, the alleged occurrence had taken place on 25.01.2003 and the appellant was arrested after more than 02 years and 03 months of the occurrence and during his interrogation, he disclosed that he had given his weapon of offence to some body else. Apart from that, the appellant is a criminal and might have handed over the weapon of offence to some other criminal. Thus, the non recovery of the weapon of offence would not affect the credibility of the prosecution case and the argument is liable to be rejected by this Court.

I have perused the trial Court judgment and the learned trial Court has recorded detailed reasons for believing the prosecution version and I find no ground to interfere with the same. The impugned judgment is based on correct appreciation of evidence and the settled law and is liable to be upheld and is affirmed. Thus, there is no merit in the instant appeal and the same is ordered to be dismissed.

The appellant/accused is directed to surrender within 15 days from today, failing which, the CJM concerned shall issue non bailable warrants against the present appellant/accused and shall commit him to custody to serve the remaining sentence of imprisonment.

All pending applications, if any, are disposed of, accordingly.

The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

Records of the Court below be sent back.

**17.01.2023**  
amit rana

**(N.S.SHEKHAWAT )**  
**JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No