

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

CRA-S-606-SB-2004  
Date of decision: 05.12.2023

Mangaljit Singh and others

...Appellants

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Sarbjit Singh, Advocate for the appellants

Mr. Vinay Kumar Gupta, AAG, Punjab.

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**KARAMJIT SINGH, J. (ORAL)**

1. The present appeal has been filed by both the appellants against the judgment and order dated 28.01.2004 passed by the Court of Additional Sessions Judge (Fast Track Court), Kapurthala whereby the appellants along with their co-accused were convicted and sentenced to RI for 4 years each and to pay a fine of Rs.1,000/- each and in default of payment of fine to further undergo RI for 2 months each under Section 402 of IPC and appellant No.2 Maan Singh was also convicted and sentenced to RI for 3 years and to pay a fine of Rs.500/- and in default of payment of fine to further undergo RI for 2 months. The sentence awarded to appellant No.2 was ordered to run concurrently.

2. The brief facts of the case of prosecution are that on 07.04.2000 SI Surinder Pal Singh SHO Police Station Kotwali, Kapurthala along with

police party was present at Chahal Chowk, Kapurthala where he received secret information that 5-6 persons armed with deadly weapon have assembled in cremation shed of Village Shekhupura and they are planning to commit decoity in the city. The information being reliable, ruqa was sent and FIR was registered, thereafter, the police official raided the disclosed place and apprehended co-accused Gurpreet Singh armed with 12 bore country-made pistol having 2 live cartridges, appellant No.2 Mann Singh having 2 live cartridges of 12 bore, appellant No.1 having sword, co-accused Balwinder Singh having iron belt and co-accused Gurcharan Singh having Dattar. One scooter No. PB-09-B-1237 was also recovered from the spot. The separate recovery memos were prepared at the spot. Subsequently, appellant No.2 Mann Singh and co-accused Gurpreet Singh got recovered 2 gold chains while recovery of one another gold chain was effected appellant No.1. On completion of investigation challan was presented against the accused persons and the case was committed to the Court of Sessions by the Court of CJM, Kapurthala vide order dated 18.10.2000.

3. The Sessions Court framed charges under Sections 399/402/411 of IPC against the accused persons and appellant No.2 was also charged under Section 25 of the Arms Act. The accused had not plead guilty and claim trial.

4. In order to prove its case prosecution examined PW-1 SI Surender Pal Singh investigation officer of the case, PW-2 ASI Bawa Singh and PW-3 Constable Mohan Lal all of whom supported the case of prosecution.

5. The accused persons were examined under Section 313 of

Cr.P.C and they pleaded innocence and further stated that they are falsely implicated in the present case.

6. In defence, the accused examined DW-1 Baldev Singh DW-2 Jit Singh DW-3 Bhajan Singh and DW-4 Balkar Singh in order to establish their innocence.

7. After hearing the counsel for the parties the learned trial Court acquitted the accused under Sections 399 and 411 of IPC but convicted them under Section 402 of IPC and further appellant No.2 Mann Singh was also convicted under Section 25 Arms Act. The appellants were sentenced to imprisonment as has been detailed in the opening paragraph of this judgment.

8. The appellants being aggrieved have filed the present appeal. I have heard the counsel for appellants and the State counsel.

9. The counsel for appellants while assailing the impugned judgment and order dated 28.01.2004 has *inter alia* contended that the appellants were falsely implicated in the present case and no weapon was recovered from their possession and police planted the alleged weapons on appellants in order to strengthen its case. It is further contended that no reliable evidence is available on the record to prove that the appellants and other accused were apprehended by the police when they were sitting together having different weapons with them. It is further contended that there was no independent corroboration to the depositions made by the police officials. It is further contended that the trial Court rightly acquitted the appellants for offences punishable under Sections 399 and 411 of IPC. It is further contended that the appellants also deserve to be acquitted under

Section 402 of IPC and conviction of appellant No.2 is also not sustainable under Section 25 of Arms Act.

10. The State counsel while supporting the impugned judgment and order submits that there is no illegality or infirmity in the same. It is further contended that trial Court rightly convicted the appellants and other accused after proper appreciation of the evidence available on the record.

11. I have considered submission made by counsel for the parties.

12. There is nothing on the record to show that the police official were having any previous enmity with the accused persons. So there was no reason for them to falsely implicate the accused persons in the present case. The testimony of the police officials cannot be disbelieved just on the ground that they belong to police department and are interested in success of case of prosecution. While appearing in the witness box all the prosecution witnesses made consistent statements and the defence counsel failed to make any dent in their testimony during their cross examination. No ground is made out to disbelieve the depositions made by the PWs in the trial Court. Thus, the judgment dated 28.01.2004 whereby both the appellants were convicted under Section 402 of IPC and appellant No.2 was also convicted under Section 25 of the Arms Act is hereby upheld.

13. Counsel for the appellants and the State counsel have not disputed the fact that appellant No.2 Mann Singh has died.

14. The counsel appearing on behalf of the appellant No.1 made prayer that only sword was recovered from possession of appellant No.1 at the time of his arrest by the police on 07.04.2000. It is further submitted that appellant No.1 is having no criminal history. So prayer is made that lenient

view be taken and appellant No.1 who remained in custody for more than 1 year be sentenced to imprisonment for a period already undergone by him.

15. The fact that appellant No.1 is first offender has not been disputed by the State counsel. Undisputedly, one sword was recovered from possession of appellant No.1 at the time of occurrence. There is nothing on the record to show that at the time of police raid appellant No.1 tried to escape from the spot or attacked any police official with sword. As per the custody certificate, appellant No.1 has already undergone custody for a period of 1 year and 15 days. Taking into consideration the aforesaid facts, this Court is of the opinion that the sentence awarded to appellant No.1 deserves to be modified and should be reduced.

16. In light of the above, the appellant No.1 is hereby sentenced to imprisonment for a period already undergone by him. To this extent, the order of sentence dated 28.01.2004 is modified qua appellant No.1.

17. The appeal filed by the appellants is disposed of in aforesaid terms.

**05.12.2023**

*Yogesh*

**(KARAMJIT SINGH)  
JUDGE**

**Whether speaking/reasoned:-  
Whether reportable:-**

**Yes/No  
Yes/No**