

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

1. CRA-S No.595 of 2020 (O&M)

Ranpreet Singh @ Rana @ Titu & others

... Appellants

Versus

State of Punjab

... Respondent

2. CRA-S No.852 of 2020 (O&M)

Talwinder Singh @ Chan

... Appellant

Versus

State of Punjab

... Respondent

3. CRA-S No.1028 of 2021 (O&M)

Joginder Singh

... Appellants

Versus

State of Punjab

... Respondent

Date of decision: 7th October, 2023

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Nandan Jindal, Advocate for the appellants
in CRA-S Nos.595 of 2020 & 1028 of 2021.

Mr. S.S. Rana, Mr. Arvind K. Sharma & Mr. Harkaran Singh
Advocates for the appellant in CRA-S No.852 of 2020.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The appellants, in all the three appeals detailed hereinabove,
are challenging the judgment of their conviction dated 18.01.2020 and

order of sentence dated 20.01.2020, passed by learned Additional Sessions Judge, S.A.S. Nagar (Mohali) in case bearing FIR No.17 dated 05.02.2014 under Sections 382, 457, 395 of the IPC and Section 25 of the Arms Act.

2. The case as set up by the prosecution is as follows:

3. On 05.02.2014, during a routine police patrol, the police received a telephonic information that some persons had entered House No.123 in Phase 3B1, SAS Nagar (hereinafter referred to as, 'the house in question'), where they had held a family hostage and thereafter, committed loot/dacoity. The police party headed by SI Navin Pal reached the house in question and recorded the statement of complainant Rajiv Kumar, which then led to the registration of the FIR in question.

4. As per the statement made by the complainant, at about 10.50 p.m., six armed persons entered his house. Two were carrying pistols, two were armed with sharp weapons, while the remaining two had cutting tools with them. The assailants first targeted the maid of the complainant, Poonam, and thereafter, went to the first floor, where one of the other employees of the complainant, Sandeep, was sleeping. A scuffle ensued between Sandeep and the assailants, who injured him on his right arm with a sharp edged weapon. He was tied with a rope by the assailants. Thereafter, the assailants went into the room of the son of the complainant and at gunpoint took him to his parents' room. On knocking the door, wife of the complainant, Seema, opened the door and on seeing

the assailants raised an alarm. The assailants brought Sandeep and Poonam also to the room of the complainant, where they were all threatened at gun point. The assailants attacked the complainant on his head with a butt of the pistol. The family of the complainant was also inflicted fist blows and asked to hand over all the valuables and cash lying in the house. About ₹ 4,000/-, which was lying in the house, was then handed over to the assailants. The assailants took the keys of the almirah and after opening the same, looted gold and diamond jewellery including one gold ring embossed with “RK” and another gold ring embossed with “SLA”. Before leaving with the loot, the accused tied up the entire family of the complainant with a rope, but released Poonam, who then freed the others. However, before fleeing, the assailants threatened the complainant of dire consequences in case they disclosed about the crime in question to the police. The complainant, while getting his statement recorded before the police, also mentioned that the assailants were referring to each other as Harry and Mithi, and he and his family members could easily identify them in case they were produced before them.

A formal FIR was then registered under Sections 458, 382 IPC and Section 25 of the Arms Act, at Police Station Mataur. Injured Sandeep Kumar was removed to the Civil Hospital on 05.02.2014 for his medical examination. Since no lead was found, the Investigating Agency prepared an untraced report on 06.10.2014.

On 20.03.2015, MHC, Police Station Mataur informed regarding the recovery of looted articles from the house of the complainant, having been effected from accused in FIR No.28 dated 11.03.2015 under Sections 399, 402 IPC and Section 25 of the Arms Act, registered at Police Station Kharar by CIA Kharar. Resultantly, on 22.03.2015, accused appellants Ranpreet Singh alias Rana, Joginder Singh, Manpreet Singh alias Manna, Talwinder Singh alias Chan, Buta Gir, Harjeet Singh alias Harry, Gurjant Singh and Harwinder Singh were nominated as accused in the instant case. On 01.04.2015, all these accused after being taken out of the Police lock up, were interrogated, wherein they suffered their individual disclosure statements under Section 27 of the Evidence Act. In pursuance of their respective disclosure statements, recovery of the stolen articles from the house of the complainant, was effected. On 02.04.2015, the complainant, his family, Poonam and Sandeep Kumar duly identified all the assailants. Separate identification memos of all the accused were prepared, which were duly signed by all the above said persons. Recovered stolen articles were taken into possession vide separate memos duly attested by the witnesses and signed by the complainant. Challan was then presented against all the accused appellants except accused Gurjant Singh and Harwinder Singh, who were kept in column No.2. Finding a prima facie case made against the accused appellants, they were charged under Section 458, 394, 398, 201 IPC and Section 25 of the Arms Act, to which

they pleaded not guilty and claimed trial. The accused did not examine any witness in their defence. On the basis of the material on record and other evidence led, the trial Court convicted and sentenced the accused appellants as under:

Name of convicts	Section of conviction	Sentenced of imprisonment
Ranpreet Singh, Joginder Singh, Manpreet Singh, Talwinder Singh & Buta Gir	458 IPC	To undergo RI for 7 years and to pay a fine of ₹ 10,000/- each. In default of payment of fine to further undergo imprisonment for a period of five months.
Ranpreet Singh, Joginder Singh, Manpreet Singh, Talwinder Singh & Buta Gir	395 IPC	To undergo RI for 7 years and to pay a fine of ₹ 5,000/- each. In default of payment of fine to further undergo imprisonment for a period of three months.
Ranpreet Singh, Joginder Singh, Manpreet Singh, Talwinder Singh & Buta Gir	398 IPC	To undergo RI for 7 years and to pay a fine of ₹ 5,000/- each. In default of payment of fine to further undergo imprisonment for a period of three months.
Ranpreet Singh, Joginder Singh, Manpreet Singh, Talwinder Singh & Buta Gir	201 IPC	To undergo RI for 2 years and to pay a fine of ₹ 2,000/- each. In default of payment of fine to further undergo imprisonment for a period of two months.
Manpreet Singh	25 of the Arms Act	To undergo RI for 2 years and to pay a fine of ₹ 2,000/- each. In default of payment of fine to further undergo imprisonment for a period of two months.

5. Learned counsel for the appellants have vehemently contended that the trial Court erred in not appreciating the evidence in the current perspective and erred in recording a finding of conviction against the appellants. It was further submitted that the false implication of the appellants in the case in hand is evident from the fact that initially the Investigating Agency had filed an untraced report. However, the accused, on being arrested in another case, were then linked to the present case, solely on the basis of their alleged disclosure statements, where they were falsely accused of having stolen various articles from the house of the complainant Rajiv Kumar. Learned counsel have further vehemently argued that the evidentiary value of the disclosure statements suffered by the accused was of a weak nature and thus, the trial Court erred in basing their conviction solely on these statements, more so, since there was no other cogent evidence collected by the Investigating Agency to connect them with the crime in question. It has also been asserted by the learned counsel that three material witnesses i.e. Poonam (maid servant of the complainant), Seema (wife of the complainant) and Karan (son of the complainant), who were allegedly present during the occurrence in question, were strangely not examined during trial, which significantly created a serious dent in the case of the prosecution.

6. Learned counsel have also still further vehemently argued that the Test Identification Parade, wherein the complainant and others identified the accused, had not been done as per the procedure prescribed

but had been done in the presence of police officials, for which the benefit should have gone to the accused. It was lastly prayed that in the alternative, the accused/appellants be released on probation since they were still young and the reformatory purpose of law could be served by releasing them on probation with good conduct.

7. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the appellants and prayed for dismissal of the instant appeals. Learned State counsel has submitted that the articles looted from the house of the complainant were recovered, pursuant to the disclosure statement made by the accused themselves, and had been duly identified by the complainant i.e. PW-1 Rajiv Kumar, PW-8 Sandeep and PW-11 Sohan Lal. Furthermore, it has been argued that the firearms and other weapons, which the accused were carrying at the time of alleged occurrence, were also recovered from accused Manpreet Singh and Buta Gir. Learned State counsel has asserted that the complainant and other material witnesses including the injured witnesses had fully supported the prosecution version and duly identified the accused, not only during their Test Identification Parade but also during trial, which left no manner of doubt qua their involvement and participation in the crime in question. Learned State counsel has further asserted that there was no reason for the complainant and others to falsely identify the accused as no previous enmity has been alleged between the parties, and furthermore, since the occurrence in question had lasted for a

considerable period of time, the complainant party had ample opportunity to register the physical attributes of the accused, hence, they would not have faulted in identifying the appellants, which was particularly noteworthy, given the explicit statement of the complainant while lodging the FIR that he and his family members would be in a position to identify the assailants if they were brought before them. Besides this, recovery of various articles belonging to the complainant from none other than the appellants, along with their positive identification, clinchingly proved without doubt their participation in the crime in question.

8. The prayer made by the learned counsel for the appellants to release the appellants on probation has been vehemently opposed by the State in the wake of their involvement in numerous criminal cases. In support, learned State counsel has placed on record the custody certificates of the appellants, wherein their involvement in other criminal cases stands reflected.

9. I have heard learned counsel for the parties and perused the relevant material on record.

10. A perusal of the material on record reveals that the prosecution, in support of their case, examined as many as 15 prosecution witnesses including complainant Rajiv Kumar, who deposed as PW-1, injured Sandeep Kumar, who stepped into the witness box as PW-8 and PW-10 Sohan Lal Arora, father in law of the complainant, who too was present at the time of occurrence. Besides this, Dr. Parminderjeet Singh

stepped into the witness box as PW-15. The complainant while stepping into the witness box as PW-1, duly supported the version of prosecution and identified the appellants/accused in Court. He further identified the parcels of stolen articles Ex.MO-1 to Ex.MO-10. All the material witnesses fully supported the prosecution version and identified the accused in the Court.

11. Although, it was argued with vehemence that the only evidence linking the appellants with the crime in question were their respective disclosure statements, however, this contention lacks merit, since all the material witnesses i.e. the eye-witnesses including complainant, PW-8 and PW-9, as already noticed earlier, supported the case of the prosecution against the appellants/accused. Still further, though disclosure statements suffered by the accused, may not be very strong pieces of evidence on their own, however when they are supported by some other evidence, they do gain credibility. In the case in hand, the disclosure statements made by the accused led to the recovery of the stolen articles, which were duly identified by the complainant as well as other material witnesses.

12. All the eye witnesses, including the complainant, identified the appellants during trial, apart from identifying them during their Test Identification Parade also. Furthermore, no suggestion was given nor any evidence led by any of the appellants qua any prior history of enmity between the parties that might have led to the accused being falsely

identified in Court or during the Test Identification Parade. In addition, it also needs to be observed that in the FIR, which was a prompt one, the complainant had categorically stated that in case the assailants are brought before him and his family, they would be in a position to identify them. Without any motive to falsely implicate the appellants, along with the recovery of stolen items based on the disclosure statements of the accused, the identification of the appellants in the Court would not in any manner adversely affect the case of the prosecution.

13. This Court also does not find any substance in the submissions made by the learned counsel with respect to all the witnesses not being examined by the prosecution. It is settled law that prosecution cannot be compelled to examine all of the cited witnesses. It is crucial to underscore that the pivotal factor lies in the quality and not quantity of the evidence adduced during trial. It is a matter of record that 3 of the key witnesses i.e. the complainant Rajiv Kumar, PW Sandeep Kumar and PW Sohan Lal Arora, who were present during the occurrence, while stepping into the witness box, supported the case of the prosecution on all material aspects of the case, hence, the non-examination of the other 3 witnesses, i.e. Poonam, Seema and Karan, would not in any manner create a dent in the case of the prosecution.

14. Coming to the prayer made for releasing the accused on probation, the same is also bereft of any merit. This Court can, no doubt, extend the concession of probation for good conduct under Section 360

Cr.P.C., however, the antecedents of the accused would be a relevant consideration while deciding as to whether he deserves to be released on probation for good conduct. In the case in hand, the accused are involved in a number of criminal cases, which finds reflected in their respective custody certificates, which have been placed on record by the learned State counsel. In view of their antecedents, the appellants do not deserve the benefit of probation.

15. As a sequel to the discussion made above, there being no merit in all the appeals, the same stand dismissed.

(MANJARI NEHRU KAUL)
JUDGE

October 7, 2023
rps

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