

2024:PHHC:006839-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(1) CRA-D-440-DB-2017(O&M)  
Decided on:- 18.01.2024

Kulwant alias Monu ....Appellant

Versus

State of Haryana ...Respondent

(2) CRA-D-500-DB-2017(O&M)

Amit alias Tinku ....Appellant

Versus

State of Haryana ...Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Shikhar Kataria, Advocate with  
Mr. Vikas, Advocate;  
Mr. Gourav Jangra, Advocate and  
Mr. Rupantran Sharma, Advocate  
for Mr. Partap Singh, Advocate  
for the appellant in CRA-D-440-DB-2017.

Mr. Randeep S. Dhull, Advocate  
for the appellant in CRA-D-500-DB-2017.

Mr. Sukhdeep Parmar, Sr. DAG, Haryana.

Mr. Anshumaan Dalal, Advocate  
for the complainant.

\*\*\*\*\*

AMARJOT BHATTI, J.

1. Both the appeals bearing CRA-D No. 440-DB of 2017 and  
CRA-D No.500-DB of 2017 are taken up together with the consent of learned  
counsel for the appellants, arising out of common judgment of conviction and

order of sentence passed by learned Additional Sessions Judge, Rohtak.

2. Appellants/convicts, Kulwant alias Monu and Amit alias Tinku have filed their respective appeals against judgment of conviction dated 03.04.2017 and order of sentence dated 07.04.2017 passed by learned Additional Sessions Judge, Rohtak in Sessions Case bearing No. 02 of 2016 dated 18.07.2016, titled as “State Vs. Kulwant alias Monu and another” vide which both of them are sentenced as under :-

| Offence U/s    | Sentence<br>( <u>Rigorous</u><br><u>Imprisonment</u> ) | Fine             | In default of fine<br>( <u>Simple</u><br><u>Imprisonment</u> ) |
|----------------|--------------------------------------------------------|------------------|----------------------------------------------------------------|
| 302 IPC        | Life imprisonment                                      | Rs.20,000/- each | Six months                                                     |
| 25 of Arms Act | Three years                                            | Rs.5,000/- each  | Two months                                                     |

3. The brief facts of the case are that on 15.09.2015, SI Jai Pal Singh was present at Police Station Meham, District Rohtak where he received an information regarding murder of Kaptan @ Kape, Sarpanch of village Bharan in front of Girls School, Madina by gun shots. On receipt of information, SI Jai Pal Singh along with police party consisting of ASI Dharambir no. 425, HC Sandeep no. 393, HC Manjeet no. 1690 and Ct. Sanjay no. 2003 reached at the place of occurrence. They met Ranbir Singh father of the deceased, who gave his statement to police that he had four sons namely Naresh, Om Parkash, Kaptan @ Kape and Ramesh @ Mesad. His son Kaptan @ Kape was Sarpanch of the village and used to reside at Kishangarh, Meham. On 15.09.2015, at about 11:00/11:30 am, his son Kaptan @ Kape went to village Bharan in his Ritz car bearing Registration No. HR-15B-7393. At about 01:30/02:00 pm, he received information that his son Kaptan @ Kape was murdered by firing shots near Girls School, G.T. Road, Madina and

thereafter, he reached on the spot. He came to know that three boys who were sitting in the car of his son had fired at his son Kaptan @ Kape causing firearm injuries on the head and forehead. His son was Sarpanch of the village and on account of some grudge he was murdered.

4. On his statement, FIR No. 438 dated 15.09.2015 under Sections 302/34 IPC and 25/54/59 of Arms Act was registered at Police Station Meham, Rohtak. The investigation was started on the spot. During the course of investigation, accused Amit @ Tinku and Kulwant @ Monu were arrested. Weapons of offence were recovered on their disclosure statements. After completion of investigation, challan was presented against present appellants in the Court of Illaqa Magistrate at Meham with proceedings being undertaken to arrest Jaibir.

5. Both the accused were supplied complete set of copies of challan report as provided under Section 207 of Cr.P.C. Since the offence under Section 302 of IPC is exclusively triable by the Court of Sessions, therefore, the learned Sub Divisional Judicial Magistrate, Meham committed the case to the Court of learned Sessions Judge, Rohtak for trial vide commitment order dated 04.01.2016.

6. The learned Additional Sessions Judge, Rohtak, after hearing the arguments, framed charge-sheet against both the accused under Section 302 read with Section 34 of IPC and Section 25 of the Arms Act, which was read over and explained to them in simple language to which they pleaded not guilty and claimed trial.

7. In order to prove the facts of case, prosecution examined SI Rajender Singh as PW1, HC Kuldeep as PW2, Om Parkash, Reader to

District Magistrate, Rohtak as PW3, ASI Ram Niwas as PW4, HC Sumit Kumar as PW5, Virender as PW6, Ranbir Singh complainant as PW7, Dr. Saroj Dahiya as PW8, Sunil as PW9, HC Sandeep as PW10, ASI Dharambir as PW11, EHC Suresh Kumar as PW12, EHC Ranbir Singh as PW13, ESI Anand as PW14, Ct. Sanjay as PW15, Ramesh as PW16, Vijay as PW17, SI Jaipal as PW18 and Dr. Komal as PW19.

8. The statements of both the accused were recorded under Section 313 Cr.P.C. to which they pleaded innocence and false implication.

9. In defence, the accused examined Sunny Sharma, Sub Editor-cum-Reporter, Amar Ujala, Rohtak as DW1, Raj Kumar, Reporter of Hari Bhoomi Newspaper, Rohtak as DW2.

10. After hearing arguments advanced by learned Public Prosecutor for the State and learned counsel representing the accused, both the accused were held guilty and were convicted under Section 302/34 of IPC and Section 25 of the Arms Act, as referred above. Feeling aggrieved of this judgment of conviction and order of sentence, present appeals have been filed by the convicts.

11. We have heard the arguments advanced by learned counsel for the appellants/convicts and learned counsel representing the State assisted by learned counsel for complainant and have gone through the record carefully with their able assistance.

12. Learned counsel for appellant/convict Kulwant @ Monu in CRA-D-440-DB-2017 argued that the impugned judgment of conviction dated 03.04.2017 and order of sentence dated 07.04.2017 are erroneous, against the facts and circumstances established on record. A false case was

registered at the instance of complainant in connivance with the police. In fact, it was a case of blind murder and there was no eye-witness to the same. Ranbir Singh – complainant is the father of deceased Kaptan @ Kape who was neither eye witness to the occurrence nor he ever saw that his son Kaptan @ Kape leaving the house in the company of appellants/convicts along with Jaibir. Both Ramesh examined as PW16 and Vijay son of the deceased examined as PW17 are procured witnesses. Cross-examination of both these witnesses clearly indicates that they did not see the occurrence taking place. They have wrongly explained that they managed to escape from the spot and later on returned after about half an hour. Cross-examination of these witnesses clearly shows that by the time they came to the spot, statement of Ranbir Singh, the complainant was already recorded. Police had already arrived and many persons had collected on the spot.

13. Learned counsel for appellant/convict Kulwant @ Monu further pointed out that ocular version of the witnesses is not corroborated by testimony of Dr. Komal Singhaniya PW19 who conducted postmortem on the dead body of Kaptan @ Kape. As per testimony of doctor, there was no bullet mark over the clothes worn by the deceased. It was further stated by the doctor that entry wound was bigger in size as compared to exit wound. She (doctor) further stated that it was not a contact range or close range firing. The testimony of Dr. Saroj Dahiya PW8 is further not trustworthy. As per her version, she inspected the dead body and found five injuries on the person of Kaptan @ Kape. Therefore, there is contradiction in the statement of Dr. Komal PW19 as well as Dr. Saroj Dahiya PW8 regarding the number of injuries on the body of deceased victim.

14. It is argued that PW16 Ramesh tried to render an improved version before learned trial Court. He claimed that when they reached near Girls School, Madina, car of his brother suddenly turned towards the gate of the school and stopped there. He was duly confronted with his statement given before the police Ex.D1, where this fact was not mentioned. This witness further claimed that firing started, when the car was stopped by Kaptan @ Kape whereas, in the statement given before the police Ex.D1, it was claimed that he heard firing while the car was going ahead. There is nothing on record to show that either Ramesh PW16 or Vijay PW17 son of the deceased informed the police. As per prosecution there was pool of blood outside the car. The alleged occurrence took place while sitting in the car. Therefore, the blood would have not spilled out of the car onto the road.

15. It is further submitted that appellant never suffered any disclosure statement nor any recovery was effected from him. There is no evidence to indicate that present appellant borrowed money from the deceased victim. He had no motive to commit this offence. Testimony of defence witnesses was wrongly ignored. In the case in hand, the convicts examined Sunny Sharma, Sub Editor-cum-Reporter, Amar Ujala, Rohtak as DW1, who stated that he visited the spot on receiving report about the murder of Kaptan @ Kape Sarpanch. The car was parked in front of the school and nobody saw anyone committing the murder. Raj Kumar, Reporter of Hari Bhoomi Newspaper as DW2 stated that he had also reported regarding the murder of Kaptan @ Kape, Sarpanch of village Bharan. When he reached there, the dead body was already removed. He saw blood oozing out of the car. No family member of the deceased was present there. The news article

was published in the newspaper on 16.09.2015 which is Ex.DD.

16. It is pointed out that fair investigation was not carried out by the police. In-fact there is no eye-witness to the said occurrence nor there is sufficient evidence on record to connect them with the said crime. There was no proper appreciation of the facts and evidence on record, as a result, appellants were wrongly held guilty under Section 302/34 of IPC as well as under Section 25 of Arms Act.

17. Learned counsel representing appellant/convict Amit @ Tinku in CRA-D-500-DB-2017, additionally urged that there was inexplicable delay of three hours in lodging the FIR. There is no independent witness to support the prosecution case. All private witnesses are interested witnesses and closely related to the deceased victim. There is no document on record to show that the present appellant/convict ever borrowed any amount from the deceased Kaptan @ Kape, Sarpanch. A false case has been registered due to political rivalry. There is long delay in sending the empty cartridges to Forensic Science Laboratory on the part of malkhana mohrar and the said delay has remained unexplained. Version put forward by the prosecution is highly improbable. Evidence led by prosecution cannot be safely relied upon. In-fact, prosecution has failed to bring home the guilt of appellant beyond the shadow of reasonable doubt. Therefore, the appellant/convict Amit @ Tinku was also wrongly convicted and sentenced by the learned Additional Sessions Judge, Rohtak by passing impugned judgment of conviction and order of sentence dated 03.04.2017/07.04.2017. It is, thus, prayed that these appeals be allowed, judgment of conviction dated 03.04.2017 and consequent order of sentence dated 18.07.2016 passed by learned Additional Sessions Judge, Rohtak be set

aside and appellants be acquitted of charges against them.

18. On the other hand, learned counsel representing the State assisted by learned counsel for complainant argued that prosecution led convincing and cogent evidence on record to prove the facts of the case and charge framed against both the appellants/convicts. There is direct evidence to the occurrence. Ramesh brother of deceased as PW16 and Vijay son of deceased as PW17 have fully supported the prosecution story. FIR was lodged by Ranbir Singh father of the deceased who also stepped into the witness box as PW7. He reached on the spot immediately when he came to know about the murder of his son Kaptan @ Kape on 15.09.2015. The ocular version is supported by Dr. Komal as PW19. There is prompt registration of FIR after completion of initial formalities. Prosecution examined SI Jai Pal Singh PW18 who is the Investigating Officer. From the place of occurrence, three empty shells were lifted from the car, one of .315 bore and two of .32 bore, which were taken in police possession vide seizure memo Ex.P12. Amit @ Tinku was arrested on 23.09.2015 and on the basis of his disclosure statement dated 25.09.2015 Ex.P1, .32 bore pistol, three live cartridges and .315 bore pistol country made, one live cartridge and blood stained clothes were recovered on 26.09.2015 which were taken in police possession vide recovery memo Ex.P17. The outer sketch of these weapons are Ex.P15 and Ex.P16. Kulwant @ Monu was also arrested on 17.11.2015 and on the basis of his disclosure statement recorded on 18.11.2015 Ex. P19, one country made pistol .315 bore along with one live cartridge and one empty cartridge of the same bore and blood stained clothes were recovered from the almirah of his house which was taken in police possession vide recovery memo Ex.P21 and

the outer sketch of the weapon is Ex.P20.

19. Learned State counsel has referred to the report of Forensic Science Laboratory (FSL) dated 28.03.2016 Ex.P67 regarding the weapons which further connects appellants/convicts with the said crime. FSL report dated 01.04.2016 Ex.P68 further shows that clothes recovered on the disclosure statement of accused tested in the laboratory were also stained with blood of same group. Therefore, culpability of appellants/convicts in murder of Kaptan @ Kape is clearly proved. There is no reason to disbelieve the testimony of Ramesh PW16, Vijay PW17. The evidence on record was rightly appreciated and appellants/convicts were rightly convicted and sentenced for the murder of Kaptan @ Kape. Appeals preferred by appellants/convicts are without merits and, thus, deserve dismissal.

20. We have considered the arguments advanced before us and carefully scrutinized the record.

21. In the case in hand, FIR was registered on the statement of Ranbir Singh father of deceased victim Kaptan @ Kape recorded on 15.09.2015 on the day of occurrence, at about 03:35 pm. Complainant Ranbir Singh, testifying as PW7 stated that on 15.09.2015 he had gone to the house of his son Kaptan @ Kape who was Sarpanch of their village and residing with his family in his own house constructed at Kishangarh, Meham. At about 11:00/11:30 am, his son left the house with three boys for going to village Bharan in Ritz car bearing Registration No. HR-15B-7393. At about 01:30/02:00 pm, he received information that his son was murdered by gun shots near Girls School, G.T. Road, Madina. He reached on the spot and came to know that three boys sitting in his car murdered his son with firearm. The

statement given to the police is Ex.P8. Investigation was started by the police and on the same day, police recorded the statements of Ramesh brother and Vijay son of the deceased Kaptan @ Kape who narrated the manner of occurrence and also named the accused as Jaibir, Amit @ Tinku and Kulwant @ Monu. After completion of investigation, Kulwant @ Monu and Amit @ Tinku were challaned and they were charge-sheeted under Section 302/34 of IPC as well as under Section 25 of Arms Act. Ranbir Singh father of the deceased Kaptan @ Kape examined as PW7 was not eye-witness to the said occurrence. He has proved the statement given to the police Ex.P8 on the basis of which FIR Ex.P3 was registered.

22. Prosecution has led direct evidence to prove the occurrence. Ramesh brother of the deceased as PW16, Vijay son of the deceased as PW17 in their respective statements categorically stated that Kaptan @ Kape who was a property dealer and a money lender had lent money to Jaibir to the tune of Rs. 8,00,000/- and to Tinku to the tune of Rs.1,20,000/-. They were neither returning the money nor they were paying any interest. On 14.09.2015, Tinku, Jaibir and Monu came to their house and met Kaptan in their presence and assured to clear the account on the next day. On the day of occurrence, these three persons came to their house at about 11:30-12:00 and Kaptan accompanied them to Rohtak for receiving the payment in his Ritz car bearing Registration No. HR-15B-7393. At the instance of Kaptan @ Kape, Ramesh brother and Vijay son of Kaptan @ Kape had accompanied them in their separate Swift car bearing Registration No. HR-15C-5175. Kaptan @ Kape had asked them to accompany him till Rohtak and return after money was received as Kaptan @ Kape wanted to proceed further to Bahadurgarh. When

the car reached near Girls School, Madina, Kaptan @ Kape suddenly stopped the car towards the gate of school and they heard three shots. They applied brakes and noticed that Jaibir, Tinku and Monu alighted from the car of Kaptan @ Kape and came towards them with their weapons. On seeing them, they fled towards Bahu Akbarpur and out of fear concealed themselves in the fields. After about one/one and a half hour, they came back to the spot and by that time police had reached the spot and Kaptan was lying dead in the car. Both these witnesses were cross-examined at length but nothing could be illicit to shatter their credibility.

23. There is no merit in the argument that conduct of these witnesses in fleeing from the spot is highly improbable, thus, impinging upon their credibility. In the given factual matrix when faced with three armed assailants proceeding towards them after shooting Kaptan @ Kape, retreating from the spot by these unarmed persons cannot be termed unnatural so as to impeach their credibility. It is to be noted that statements of PW16 Ramesh and PW17 Vijay were recorded on very same day by PW18 SI Jaipal. There is nothing on record to indicate anything abnormal in the said witnesses being asked by the deceased to accompany him till the money was handed over. It is to be reiterated that it is not opposed to normal probabilities that in the given factual matrix, deceased – Kaptan @ Kape had asked PW16 Ramesh and PW17 Vijay, i.e. brother and son, respectively, to accompany him till Rohtak where money was supposed to be returned to him as he (Kaptan @ Kape) had to proceed further to Bahadurgarh. Thus, there is no reason to disbelieve these witnesses who witnessed the occurrence. In view of clear and cogent ocular version given by PW16 Ramesh and PW17 Vijay,

argument that motive to commit the crime is not proved, pales into insignificance.

24. Learned counsel for appellants had argued that there was inexplicable delay in lodging of FIR, however, the time-line as is apparent from the evidence on record, does not indicate any such unexplained delay. Incident is stated to have occurred at about 1.00 p.m. Statement of complainant was recorded at 3.35 p.m. and FIR registered at 4.00 p.m. Names of accused were revealed later on the same day by PW16 Ramesh and PW17 Vijay. Thus, there is no merit in this argument which is accordingly rejected. There is no delay as such in registration of FIR. Equally devoid of merit is the argument raised by learned counsel for appellants that lack of independent witnesses of the occurrence, creates a dent upon the prosecution version. Occurrence in question took place at noon in front of Government Girls School, Madina. It has been stated by PW9 Sunil and PW10 HC Sandeep that a number of people had gathered at the spot, i.e. in front of Government Girls School, Madina. It is also a matter of record that number of teachers and students reached the spot. However, it is also a commonly known fact that in such a situation, people may desist from recording their statements. Adverse inference on this count cannot be drawn in this matter to allow any benefit to the accused in the wake of credible account given by PW16 Ramesh and PW17 Vijay.

25. An extremely relevant factor to be noted is that complicity of appellants in commission of the offence is duly cemented by the FSL report, Ex.P67. Investigating Officer, SI Jai Pal Singh, PW18 categorically stated

that he lifted three empty shells from the car out of which one was .315 bore and two of .32 bore, which were sealed in a parcel with his seal impression 'SR' and were taken into police possession vide recovery memo Ex.P12, duly attested by ASI Dharambir PW11, HC Sandeep PW10 being marginal witness. Amit @ Tinku was arrested on 23.09.2015. On the basis of his disclosure statement recorded on 25.09.2015 Ex.P1, he got recovered on 26.09.2015 one country made pistol of .315 bore with live cartridge, one country made pistol of .32 bore with three live cartridges and his blood stained clothes, which were sealed in a separate parcels with his seal impression 'SR' and were taken into police possession vide recovery memo Ex.P17. The photographs of the said recovery are Ex.P27 to Ex.P30. Similarly, Kulwant @ Monu was also arrested on 17.11.2015. His disclosure statement was recorded on 18.11.2015 Ex.P19 on the basis of which one country made pistol of .315 bore, one live cartridge of the same bore and his blood stained clothes were recovered which were sealed in separate parcels with his seal bearing impression 'MS' and were taken into police possession vide recovery memo Ex.P21. The photographs of the said recovery are Ex.P34 to Ex.P37. The case property was deposited in the malkhana and thereafter, it was sent to Forensic Science Laboratory for the purpose of testing. There is nothing on record to show that there was any chance of tampering the case property.

26. Empty cartridges recovered from the place of occurrence and the weapons recovered from the appellants/convicts on the basis of their disclosure statements were tested in Forensic Science Laboratory, Madhuban,

Karnal and the report dated 28.03.2016 is Ex.P67. Detailed report of the laboratory is as under :-

- “1. Countrymade pistols (each chambered for .315” cartridges) marked W/1 & W/3 and Countrymade pistol (Chambered for 7.65/.32” cartridges) marked W/2 are the firearms as defined in the Arms Act 54 of 1959. Their firing mechanism were found in working order.
  2. 7.65mm/.32” fired cartridge cases marked C/1, C/2 & bullet marked BC/1 have been fired from Countrymade pistol (Chambered for 7.65mm/.32” cartridges) marked W/2 and not from any other firearm even of the same make & bore/calibre because every firearm has got its own individual characteristic marks.
  3. .315” fired cartridge case marked C/3 and bullet marked BC/2 have been fired from Countrymade pistol (Chambered for .315” cartridges) marked W/3 and not from any other firearm even of the same make & bore/calibre because every firearm has got its own individual characteristic marks.
  4. Holes on perna contained in parcel No. I have been caused by a bullet projectile fired from close range.
  5. Report in original from Serology Division is enclosed herewith.
- Note:** i). Exhibits, after examination in the laboratory are resealed alongwith their original wrappers with the seal of AD/BALL/FSL (H).
- ii). One .315” live cartridge contained in parcel No. V, one .315” live cartridge contained in parcel No. VII and two out of three 7.65mm/.32” live cartridges contained in parcel No. VI were used during test firings in the laboratory and test fired cartridges have sent back in same parcel.”

27. The above said report Ex.P67 clearly shows that fired cartridges recovered from the place of occurrence were fired from country made pistol of .32 bore mark W/2 and .315 country made pistol mark W/3 recovered from the appellants/convicts on the basis of their disclosure statements. Forensic Science Laboratory Report, Ex.P68 shows that the clothes sealed in separate parcels belonging to the victim and both accused/convicts and cotton wool swab, all were stained with human blood. All the clothes were stained with blood group ‘B’ except swab and jeans pants, as result was inconclusive.

28. Argument on behalf of appellants that there is discrepancy in the

medical evidence inasmuch as PW8 Dr. Saroj Dahiya stated that there were five holes/injuries on the person of deceased Kaptan @ Kape, while PW19, Dr. Komal Singhaniya found three injuries, is of no avail to appellants in view of categorical statement of PW19 Dr. Komal Singhaniya, who conducted post-mortem of victim and found following injuries on the person of the victim-deceased as detailed in the post-mortem report Ex.P61:-

“Injury No. 1 :- An entry wound of firearm of size 1.5 X 1 cm present over the forehead situated 2.5 cm above the glabella with irregular margin and inverted. The wound was directed from front to back, downward and to exit through an exit wound of size 2 X .5 cm present over the left occipital region of scalp situated just left to midline and 3 cm from external occipital protuberance. On dissection, underlying tissue were ecchymosed. On further dissection of scalp, the skull bone (frontal) was directed inward along with the multiple comminuted fractures of skull bone with infiltration of blood. The brain was pierced through and through along with outward fracture of the left occipital bone. Brain was lacerated. Right side temporal bone also fractured. Extradural, subdural and subarachnoid hemorrhages were present.

Injury No. 2 :- An entry wound of firearm of size 3 X 1.5 cm present on the right side of the neck situated 8 cm from the midline and 6 cm from the right ear lobe. The margins of wound was contused, abraded collar present. The wound was directed from right to left, back to front piercing through and through tissues, muscles and left lung. Left side of thorax contain 700 cc blood. To pierce through and through tissue, skin, muscle, intercostals space and to exit wound of size 2 X 1 cm over the left anterior chest wall.

Injury No. 3 :- An entry wound of firearm of size 3 X 2 cm present in the anterolateral aspect of right side of neck with

irregular margins, situated 1 cm right to midline and 162 cm from the right heal. The wound was directed from right to left, back to front and laterally to pierce through and through underlying muscles, subcutaneous tissue, larynx, trachea and lower lobe of left lung to exit through an exit wound of size 2 X 3 cm over the left side of the chest situated 3 cm below the exit wound of injury No. 2. The whole track was ecchymosed. All injuries were antemortem in nature and caused by firearm.”

29. Cause of death was opined to be the firearm injury(ies) as detailed.

30. During cross-examination PW19 Dr. Komal Singhaniya categorically stated that there was no bullet mark on the clothes worn by deceased. Seat of injury in this case was forehead and two firearm injuries on the right side of the neck. It is the case of prosecution that Kaptan @ Kape was shot dead while sitting in the car. PW19 Dr. Komal Singhaniya had duly explained the difference in the size of the entry wound and corresponding exit wound. It is further opined by her that distance between firearm and the deceased was more than 30 cm.

31. The factual position of the place of occurrence showing the car as well as the position of dead body in the car, with a pool of blood outside the vehicle is further established from the photographs clicked on the spot, which are Ex.P38 to Ex.P43. Therefore, from the evidence on record, it is clear that Kaptan @ Kape was fired at while sitting on the driver seat of his Ritz car bearing Registration No. HR-15B-7393. Mere presence of holes on parna caused by bullet and not referred by the doctor will not help the case of appellants. Rather the parna worn by the deceased is clearly visible from the

aforesaid photographs proved on record.

32. The occurrence is further confirmed from the testimony of witnesses examined in defence. Sunny Sharma, Sub Editor-cum-Reporter, Amar Ujala, Rohtak examined as DW1 stated that he had reached the place of occurrence and took the photographs of deceased. He also confirmed that students and teachers came out of the school on hearing the firing and children were frightened. The car remained parked in front of the school for about one hour. During cross-examination, this witness also confirmed that he had met family members of deceased at the spot but they had refused to divulge the details. He also confirmed that blood was oozing out of the car. Thus reference to pool of blood outside the car to cast a doubt on prosecution version is misplaced. He also confirmed that police registered case against three persons who were sitting in the car with the deceased. Raj Kumar DW2, the Reporter of Hari Bhoomi Newspaper during cross-examination confirmed that there were few empty fired cartridges which he had seen and there was pool of blood in the car. Therefore, from the testimony of aforesaid witnesses, the manner in which the occurrence took place is duly proved on record and identity of both the appellants is established from the testimony of Ramesh PW16, Vijay PW17 duly corroborated by the FSL report.

33. The entire investigation done by the police from time to time is duly proved on record by examining all the relevant prosecution witnesses. There is direct evidence to connect appellants with the said crime supported by recoveries effected from them on the basis of their disclosure statements.

34. Therefore, considering the entire evidence on record, learned Additional Sessions Judge, Rohtak rightly came to conclusion that charge-

sheet framed against both the appellants/convicts under Section 302/34 of IPC and Section 25 of the Arms Act was duly proved on record and they were rightly held guilty thereunder. Considering the gravity of offence and brazen manner in which they had murdered Kaptan @ Kape, quantum of sentence passed by the learned trial Court does not require any interference as has been urged.

35. Resultantly, we do not find any reason to interfere in the judgment of conviction dated 03.04.2017 and order of sentence dated 07.04.2017 passed by learned Additional Sessions Judge, Rohtak. Same is accordingly, upheld.

36. Appeals preferred by both appellants/convicts are accordingly, dismissed.

37. Pending application(s), if any, also stand(s) disposed of accordingly.

**(AMARJOT BHATTI)**  
**JUDGE**

**(LISA GILL)**  
**JUDGE**

**18.01.2024**  
*'lalit'/'om'*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No