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

237

CRR No.3544 of 2013

Date of Decision: 30.08.2024

Pala Ram

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amarjit Singh Virk, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present revision petition has been filed by the petitioner against the judgment of conviction and order on quantum of sentence dated 01.04.2011 and 04.04.2011 respectively passed by the Presiding Officer, Special Environment Court, Kurukshetra in Criminal Complaint bearing No.23A/2007 titled as *State v. Pala Ram* filed under Section 51 of the Wild Life (Protection) Act, 1972 (For short "Act, 1972") whereby the present petitioner had been held guilty and convicted and was sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.10,000/-. In case of non-payment of fine, he was further sentenced to undergo simple imprisonment for a period of six months. The fine was paid. Challenge has also been made to the

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judgment dated 20.09.2013 passed by the learned Additional Sessions Judge, Kurukshetra thereby upholding the judgment of the Special Environment Court.

2. For the sake of continuity and coherence, the parties shall be nominated as per their original nomenclature as given during the course of trial.

3. Brief facts of the case relevant for the purpose of disposal of this petition are that on 19.07.2007 at about 7 AM, wild life guard Rameshwar Dass was performing patrolling duty in the area of fields abetting Gaushala Adampur. PW-4 Prem Kumar a member of Jeev Raksha Samiti was also accompanying him when PWs Manphool and Ram Tirth came to him and informed them that one person of Bawari caste was concealing himself in the fields of arandi crop. He was having gun and intended to hunt some animal. While the complainant was having conversation with the above named witnesses, suddenly they heard sound of some gunshot on hearing which, they rushed towards the spot and found one black buck to be falling down. One person was also found rushing towards the black buck along with a gun. However, on a lalkara being raised by the complainant and his companions, he fled from the spot. He was identified by PWs Manphool and Ram Tirth as Pala Ram. They informed that he used to live in nearby field and was involved in hunting wild animals. Black buck had died due to the firearm injury sustained by it. Its dead body was lifted and sent for postmortem examination, which was got conducted. The accused was arrested on 20.07.2007. The gun used by him was also

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recovered from his custody. Complaint was presented before the Special Environment Court.

4. On finding a prima facie case for commission of offence punishable under Section 51 of the Act, 1972, the accused had been charge-sheeted accordingly. He pleaded not guilty to the charge and claimed trial.

5. To substantiate its case, the prosecution examined six witnesses in all besides placing reliance upon certain documentary evidence and thereafter the evidence of the complainant/prosecution was closed.

6. The statement of the accused was recorded under Section 313 of Cr.P.C. wherein he abjured his guilt and pleaded innocence. No defence evidence had been adduced by him.

7. On appraising the evidence produced on record and hearing the contentions raised by both the sides, the learned Presiding Officer, Special Environment Court, Kurukshetra held the accused guilty and convicted him in the manner as indicated above. As already mentioned, the appeal filed against the aforementioned judgment of conviction and order on quantum of sentence, had also been dismissed by the Court of learned Additional Sessions Judge, Kurukshetra.

8. It is argued by learned counsel for the petitioner-accused that the impugned judgment of conviction and order on quantum of sentence passed by the Presiding Officer of Special Environment Court as well as the order of the Appellate Court are liable to be set aside as the findings given therein are not sustainable in the eyes of law and are liable to be reversed.

The learned Courts below did not appreciate the evidence produced on

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record by the complainant in a proper perspective and failed to consider the fact that there were material inconsistencies in the statements of the alleged eye-witnesses which created a reasonable doubt over the truthfulness of the story as narrated in the complaint. The identification of the petitioner-accused as the hunter of the black buck had not been established beyond doubt. The presence of these witnesses at the time when the blackbuck had been shot at, had not been established. It is further argued that a very harsh punishment had been awarded to the accused. His presence had not been established at the spot at the time of occurrence. He faced gamut of trial for a long time. With these broad submissions, it is argued that the impugned judgments are liable to be set aside, the petition deserves to be accepted and he deserves to be acquitted of the charge for which he has been held guilty and convicted.

9. Per contra, learned State counsel vehemently argued that there were specific allegations against the petitioner-accused that on 19.07.2007 at about 7-8 AM, he had killed a black buck in the area of fields of Village Adampur by firing a shot with a gun. It is argued that both the Courts below had properly appreciated the evidence produced on record and had passed well reasoned and speaking orders. While submitting that the findings so given do not warrant any interference, it is urged that the petition is liable to be dismissed.

10. I have heard learned counsel for both the parties and have minutely scrutinized the evidence placed on record of the trial Court.

11. On a perusal of the same, I am of the considered opinion that

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though the fact that the black buck had died due to sustaining a firearm injury in the area of Gaushala Adampur on 19.07.2007 stands proved from the evidence produced on record, however, the evidence led by the State in the form of testimonies of witnesses with regard to the allegation that it was the accused who had fired a shot at the black buck are contradictory in material particulars to each other as well as to the prosecution case and cannot be relied upon beyond doubt due to the following reasons.

12. As alleged in the complaint, the complainant Rameshwar Dass, wild life guard was patrolling in the area of Gaushala Adampur in the morning of 19.07.2007 when PW-5 Manphool Singh and PW-6 Ram Tirth had met him and they had informed him that one hunter was hiding himself in the arandi fields and at the same time, the black buck had been shot at. As per the allegations in the complaint, both PW-5 and PW-6 had disclosed the name of the hunter as Pala Ram. Though PW-2 Rameshwar Dass deposed that it was the accused who killed the animal but during cross-examination, it was admitted by him that he had neither seen the accused while firing shot at the animal nor he was seen by him while fleeing from the spot and categorically admitted that he had taken the name of the accused as per asking of PW-6 Ram Tirth. PW-4 Prem Kumar who was allegedly accompanying PW-2 also admitted during cross-examination that after hearing the noise of firing shot, PW-6 Ram Tirth had told them that the hunter had fled away. He admitted that he too had not seen any person while firing on the animal and even went to the extent of saying that the accused was seen by him for the first time while recording his statement before the

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Court. It is, therefore, explicit from the statements of both PW-2 and PW-4 that neither of them had actually seen the accused while firing a shot upon the animal or while fleeing therefrom and it was only on asking of PW-6 Ram Tirth they had taken the name of the hunter as that of the accused.

13. Then coming to the testimony of PW-5 Manphool Singh. He stated that on the fateful day, he was taking out his cow from the fields when he heard noise of some firearm being used and then a blackbuck had come to his fields and had fallen down. He too admitted that he had not seen the accused while firing shot upon the black buck. He stated that PW-6 Ram Tirath had reached at the spot ten minutes after the incident whereas PW-6 Ram Tirath contradicted him by saying that Manphool had reached at the spot after 5-7 minutes while the officials of wild life reached there 30 minutes thereafter. Meaning thereby that neither PW-2 and PW-4 nor PW-5 were present at the spot when the blackbuck had been shot at. PW-6 Ram Tirath stated that he had seen the accused from the back side when he was fleeing. It is difficult to believe his version because if he reached at the spot ten minutes after the incident, then there was no scope of his seeing the hunter. The testimony of PW-5 Manphool with regard to his seeing the accused is also not inspiring enough because he stated that it was only after calling Ram Tirth at the spot that they had rushed for apprehending the hunter and as stated by him he had not seen the accused firing any shot upon the animal. These inconsistencies are material and cannot be brushed aside lightly. In view thereof, a shadow of reasonable doubt has been created to the effect that infact neither of these four material witnesses had seen the

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accused while firing a shot at the black buck and their statements have been manipulated in this regard. Resultantly, the same cannot be acted and relied upon beyond doubt and the benefit of doubt deserves to be given to the petitioner-accused. The learned Presiding Officer, Special Environment Court while giving findings as to the guilt of the accused and the learned Appellate Court while upholding those findings are not shown to have taken the above discussed inconsistencies into consideration and, therefore, I am of the considered opinion that the findings so given by the Courts below are not sustainable and are liable to be reversed. Accordingly, the same are set aside, the revision petition is allowed and the petitioner-accused is ordered to be acquitted of the charge under Section 51 of the Act, 1972 for which he had been held guilty and convicted.

30.08.2024
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(MANISHA BATRA)
JUDGE

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