



CRA-S-1354-2020 & other connected cases

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on:- 05.09.2024

Pronounced on:- 16.10.2024

(1)

CRA-S-1354-2020

Sahil Rana	Appellant
Versus	
State of Haryana	Respondent

(2)

CRA-S-199-2021

Gaurav alias Roda	Appellant
Versus	
State of Haryana	Respondent

(3)

CRA-S-231-2021 (O&M)

Bhupinder Singh alias Bhuppi	Appellant
Versus	
State of Haryana	Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. S.K. Tripathi, Advocate
for the appellant in CRA-S-1354-2020.

Mr. L. M. Gulati, Advocate with
Ms. Divya Gulati, Advocate,
Mr. Satwinder Singh, Advocate and
Mr. Ashwani Kattar, Advocate
for the appellant in CRA-S-199-2021.

Mr. Preetinder S. Ahluwalia, Advocate
for the appellant in CRA-S-231-2021.

Ms. Aditi Girdhar, AAG, Haryana.

AMARJOT BHATTI, J.

1. All three appeals, CRA-S-1354-2020, CRA-S-199-2021 and
CRA-S-231-2021 as referred above arising out of common judgment of



conviction and order of sentence dated 26.02.2020 passed by learned Additional Sessions Judge (I)-cum-Presiding Officer, Children Court, Yamuna Nagar at Jagadhri were taken up together with the consent of learned counsel for parties.

2. Appellants/convicts in CRA-S-1354-2020, CRA-S-199-2021 and CRA-S-231-2021 namely Sahil Rana, Gaurav alias Roda and Bhupinder Singh alias Bhuppi have filed their respective appeals against judgment of conviction and order of sentence dated 26.02.2020 passed by learned Additional Sessions Judge (I)-cum-Presiding Officer, Children Court, Yamuna Nagar at Jagadhri in Sessions Case bearing No.46 of 2017, title “State Vs. Sahil Rana and others” vide which Sahil Rana, Gaurav alias Roda and Bhupinder Singh alias Bhuppi are sentenced as under :-

Name of Convict(s)	Offence	Period of sentence	Fine	In default of fine
1. Sahil Rana	U/s 307 read with Section 34 IPC	To undergo rigorous imprisonment for a period of ten years each	Rs. 10,000/- each	To undergo simple imprisonment for one year each
2. Gaurav alias Roda				
3. Bhupinder Singh alias Bhuppi	U/s 25 of Arms Act, 1959	To undergo rigorous imprisonment for a period of seven years each	Rs. 7,000/- each	To undergo simple imprisonment for six months each

3. Brief facts of the case are on 04.01.2017, Inspector/SHO Sunil Kumar, Police Station City Jagadhri alongwith other police officials was present at Police Station, when he received a telephonic message regarding firing incident which took place at Court Complex, Jagadhri. On receipt of this information, Inspector/SHO Sunil Kumar alongwith other police officials reached Court Complex, Jagadhri, where he came to know that



sustained gun shot injuries and were taken to Gaba Hospital, Yamuna Nagar. On this, Inspector Sunil Kumar alongwith other police officials reached Gaba Hospital where he recorded statement of SI Joginder Singh, after obtaining fitness report from concerned doctor. In his statement, SI Joginder Singh stated that on 04.01.2017, he was sitting outside at the door of Court of Sandeep Garg, Additional Sessions Judge, Jagadhri and was going through a file for giving his statement in Court. A police personnel alongwith accused Shamsher alias Monu Rana passed by him. On inquiry, he disclosed that he was taking Monu Rana who wanted to go to Toilet. In the meantime, a young boy wearing yellow coloured Turban came from stairs and fired gun shots at Shamsher Singh alias Monu Rana. SI Joginder Singh tried to catch hold of said boy and in the meantime, another boy from behind fired a shot which hit him in the leg. Due to firing in Court complex there was chaos and people present in Court complex tried to save themselves. Taking advantage of crowd, said boys ran away from there. Police officials present in Court complex chased said boys and one of them was caught within the Court premises. He disclosed his name as Sahil son of Vikram Singh resident of Shehjadpur. He further disclosed name of another assailant as Gaurav resident of Barwala.

4. Investigation was commenced. Rough site plan of place of occurrence was prepared and two empty cartridges, 10 live cartridges alongwith .32 bore and .315 bore pistols were taken into police possession. Medical record was collected. Other formalities were completed. Sahil Rana was declared Juvenile vide order dated 23.02.2017. Later on, Sahil

Rana was declared as adult by Juvenile Justice Board, Yamuna Nagar at



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Jagadhri vide order dated 04.08.2017 and challan was presented against him accordingly and was tried by Children Court, Yamuna Nagar at Jagadhri.

During further investigation, on 01.08.2018, SI Gurdarshan Singh issued production warrants of accused Bhupinder Singh Bhuppi and Gaurav alias Roda and on 13.08.2018, both accused were arrested. On the disclosure statement suffered by accused Gaurav alias Roda dated 14.08.2018, one country made pistol (*Desi Katta*) having one live cartridge was recovered, which was taken into police possession. Similarly, on the disclosure statement of accused Bhupinder Singh alias Bhuppi recorded on 17.08.2018, one country made pistol (*Desi Katta*) and one live cartridge were recovered. Statements of witnesses were recorded. After completion of necessary formalities, supplementary challan was later presented against Gaurav alias Roda and Bhupinder Singh alias Bhuppi.

5. Initially accused Sahil Rana was supplied complete set of copies of challan report as provided under Section 207 of Cr.P.C. and accordingly, he was charge-sheeted on 05.09.2017 for the commission of offences punishable under Section 307 read with Section 34 of IPC and under Section 25 of Arms Act, to which he pleaded not guilty and claimed trial.

6. On receipt of supplementary challan qua accused Bhupinder Singh alias Bhuppi and Gaurav alias Roda, learned Judicial Magistrate Ist Class, Yamuna Nagar, vide its order dated 16.10.2018, committed the case to the Court of learned Sessions Judge, Yamuna Nagar for trial. After finding prima facie case against accused Bhupinder Singh alias Bhuppi and



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Gaurav alias Roda, learned trial Court framed charge-sheet dated 28.01.2019 under Section 307 read with Section 34 of IPC and under Section 25 of Arms Act, to which they pleaded not guilty and claimed trial.

7. Learned Additional Sessions Judge, vide order dated 06.03.2019 clubbed supplementary challan bearing case No. SC/46 titled “State Versus Bhupinder” arising from same FIR filed against Bhupinder Singh alias Bhuppi and Gaurav alias Roda with main case file of Sahil Rana for further proceedings.

8. In order to prove the facts of case qua accused Sahil Rana and accused Bhupinder Singh alias Bhuppi and Gaurav alias Roda, witnesses were examined and re-examined in the presence of accused as under;

SI Joginder Singh as PW1, Mulk Raj, Draftsman as PW2, Dr. Nikhil Mehta as PW3/PW24, Dr. Vandana as PW4/PW23, Kuldeep Singh, Criminal Ahlmad as PW5, Ishwar Singh as PW6, ASI Subhash Chand as PW7, SI (Retd.) Devi Dayal as PW8, ESI Rulda Ram as PW9, ASI Rajesh Kumar as PW10, EHC Suresh Pal as PW11, Inspector/DSP Pardeep Kumar as PW12/PW22, SI Yashpal as PW13/PW16, Shamsher Singh alias Monu Rana as PW14, SPO Manjeet Singh as PW15, EHC Randeep Singh as PW17, ASI Amar Singh as PW18, SI (Retd.) Davinder Singh as PW19, ASI Pawan Kumar as PW20, Ct. Sandeep Singh as PW21, Inspector Sunil Kumar as PW25, EHC Surender Singh as PW26, EHC Gurvinder Singh as PW27, SI Gurdarshan Singh as PW28 and Rajeev Kumar as PW29.



9. Statements of all the accused were recorded under Section 313 Cr.P.C. While denying all incriminating evidence put to them, they pleaded innocence and false implication. They alleged that they never suffered any disclosure statement. Nothing was recovered from them. No identification parade was got conducted by police. Police has planted country made pistol (Desi Katta) upon them.

10. In defence evidence, accused Bhupinder Singh alias Bhuppi and Gaurav alias Roda examined Mukesh Kumar, Criminal Ahlmad as DW1 and Ashok Kumar as DW2 and thereafter, closed defence evidence.

11. After hearing arguments advanced by learned Public Prosecutor for State and learned counsels representing accused persons, all accused Sahil Rana, Gaurav alias Roda and Bhupinder Singh alias Bhuppi were convicted and sentenced for the commission of offence punishable under Section 307 read with Section 34 of IPC and under Section 25 of Arms Act, vide judgment of conviction and order of sentence dated 26.02.2020 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri.

12. Feeling aggrieved of this judgment of conviction and order of sentence, aforementioned appeals have been filed by convicts Sahil Rana, Gaurav alias Roda and Bhupinder Singh alias Bhuppi.

13. Learned counsel for appellant/convict Sahil Rana in CRA-S-1354-2020 argued that judgment of conviction and order of sentence passed by learned trial Court is not on sound footing. Trial Court has misread the facts established on record. All relevant facts were not considered in its right perspective. It is totally ignored that appellant Sahil

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Rana was juvenile at the time of commission of alleged offence on 04.01.2017. His date of birth is 23.10.1999. Even then he has been tried as an adult and has been convicted for maximum sentence of 10 years. Case of prosecution is based on the statement of SI Joginder Singh who did not know the appellant/convict earlier. In order to establish the identity of appellant/convict, Investigating Officer did not make any effort to conduct test identification parade. As per prosecution case, present appellant/convict was apprehended from Court premises by police officials. Entire case of prosecution is based on statement of complainant SI Joginder Singh, who himself is a police official. There is no independent corroboration to prosecution story. In fact, appellant/convict did not suffer any disclosure statement nor he named other accused. On the basis of alleged disclosure statement, false recovery of weapon is planted on him. Considering material inconsistencies in the testimonies of prosecution witnesses, prosecution had failed to prove his guilt beyond shadows of reasonable doubt. Documents produced in defence were totally ignored. In fact, Shamsher Singh alias Monu Rana is a life convict in another criminal case in which Bhupinder Singh alias Bhuppi, one of the co-accused, was a witness. Due to enmity, he along with other co-accused is falsely implicated. It is submitted that judgment of conviction and order of sentence qua present appellant/convict Sahil Rana, who was a juvenile, is not on sound footing and is liable to be set aside by accepting the present appeal.

14. In addition to aforesaid arguments, learned counsel for appellant/convict Gaurav alias Roda in CRA-S-199-2021 argued that

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appellant/convict was not named in FIR nor he was arrested at the spot. Investigating Agency alleged that Sahil Rana co-accused and present appellant/convict had attacked Shamsheer Singh alias Monu Rana. After the occurrence, Sahil Rana co-accused was allegedly apprehended, whereas present appellant/convict was allegedly named by Sahil Rana. Challan was presented against Sahil Rana alone and thereafter supplementary challan was presented against present appellant/convict and co-accused Bhupinder Singh alias Bhuppi. Even though appellant/convict was not named in FIR but during the course of evidence, SI Joginder Singh complainant as PW1 identified present appellant/convict. So far as testimony of Shamsheer Singh alias Monu Rana as PW14 is concerned, his version is contradictory regarding the role attributed to present appellant/convict. Initially, he claimed that present appellant/convict fired shot towards police official but later on, he claimed that a boy named Prince had fired shot at SI Joginder Singh. Therefore, there is material contradiction in the version of prosecution witnesses and same cannot be relied upon. Present appellant/convict has not suffered any disclosure statement before Investigating Officer nor any recovery was effected on the basis of said disclosure statement. False recovery is planted on him. There are several inconsistencies in the testimonies of prosecution witnesses, therefore, it does not inspire confidence. In fact, prosecution had failed to prove the guilt of present appellant/convict beyond the shadows of reasonable doubt. Ignoring all these facts, appellant/convict has been wrongly convicted by learned trial Court. Therefore, judgment of conviction and order of sentence passed by learned trial Court may be set aside by accepting the



present appeal.

15. Learned counsel for appellant/convict Bhupinder Singh alias Bhuppi in CRA-S-231-2021 argued that initially present appellant was not named in FIR. As per prosecution case, co-accused Sahil Rana was apprehended by police officials in Court premises, whereas Gaurav alias Roda, other co-accused, was named by accused Sahil Rana. Appellant/convict Bhupinder Singh alias Bhuppi was neither named in FIR nor present at the spot. Learned counsel referred to the statement of SI Joginder Singh, complainant PW1, who did not even identify present appellant. It has come in his statement that he did not see appellant/convict at the time of alleged occurrence. Shamsher Singh alias Monu Rana, as PW14 falsely named present appellant/convict due to previous enmity. Appellant/convict Bhupinder Singh alias Bhuppi examined Mukesh Kumar, Criminal Ahlmad as DW1, who has proved on record statement of Bhupinder Singh alias Bhuppi examined as PW21 in Sessions Trial titled “State Vs. Bhupesh Rana and others” in FIR No. 110 dated 07.08.2014 under Sections 148, 149, 323, 307, 302, 216, 120-B and 212 of IPC and Section 25 of Arms Act, Police Station Barara, Tehsil Ambala. List of witnesses in said trial is Ex. D2. In aforesaid trial, complainant Shamsher Singh alias Monu Rana was convicted. Copy of judgment dated 01.08.2019 is Ex. D3. Due to previous enmity, present appellant/convict was wrongly named by Shamsher Singh alias Monu Rana as PW14. In light of this, his testimony regarding role of present appellant/convict cannot be safely relied upon. It is pointed out that present appellant/convict was arrested subsequently. He did not suffer any disclosure statement to police nor any



recovery was effected. False recovery of weapon is planted on him to implicate him in this case. As per prosecution case, role of conspiracy is alleged qua present appellant/convict but in order to substantiate alleged conspiracy, there is no convincing evidence on record. Disclosure statements recorded by Investigating Agency regarding alleged occurrence and role of present appellant/convict are not admissible in evidence. Learned trial Court while holding appellant/convict Bhupinder Singh alias Bhuppi guilty for the offence, failed to consider these facts. In fact, appellant/convict has not committed any offence. He was falsely implicated in this case and later on convicted on the basis of inconsistent testimonies of prosecution witnesses. Therefore, appellant/convict deserves acquittal by setting aside impugned judgment of conviction and order of sentence passed against him.

16. Learned counsel representing State of Haryana argued that prosecution had led convincing evidence on record to prove the guilt of all appellants/convicts and they were rightly held guilty under Section 307 read with Section 34 of IPC and Section 25 of Arms Act. Entire prosecution case is proved by examining both injured i.e. SI Joginder Singh, complainant as PW1 and Shamsher Singh alias Monu Rana as PW14. Both of them suffered firearm injuries. Their MLRs are proved on record by Dr. Vandana of Gaba Hospital, Yamuna Nagar as PW4/PW23. Shamsher Singh alias Monu Rana was referred to PGI, Chandigarh for further treatment. His medical record is proved by Dr. Nikhil Mehta as PW3/PW24. It is pointed out that Sahil Rana and Gaurav alias Roda were duly identified by both injured. Sahil Rana was apprehended immediately after the

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occurrence, whereas Gaurav alias Roda was arrested subsequently. Alleged occurrence took place at the instance of Bhupinder Singh alias Bhuppi. Appellants/convicts hatched a conspiracy to end the life of Shamsheer Singh alias Monu Rana while he was produced in Court in custody. Entire investigation carried out by police is duly proved on record by examining Inspector Sunil Kumar as PW25 and SI Gurdarshan Singh as PW28, supported by recovery witnesses. Weapons of offence were recovered from accused Bhupinder Singh alias Bhuppi and Gaurav alias Roda. Said weapons were duly tested by ASI Amar Singh, Armour as PW-18 and the test reports are Ex.P23/P41 and Ex.P24/P40 respectively. There is a report of Forensic Science Laboratory, Madhuban, Karnal (Haryana) Ex. PX, which further shows that bullets recovered from the body of Shamsheer Singh alias Monu Rana and piece of lead, duly matched with country made pistol marked W/1, recovered from appellant/convict Sahil Rana which further connects him with said occurrence. Therefore, there is convincing evidence on record to hold appellants/convicts guilty for the charges framed against them and they were rightly convicted and sentenced under Section 307 read with Section 34 of IPC and Section 25 of Arms Act. Appeals preferred by aforesaid appellants are without merit and deserve dismissal.

17. I have considered the arguments advanced by learned counsel for appellants/convicts and learned counsel representing State of Haryana and have gone through detailed evidence on record with their able assistance.



Firstly, I will deal with appeals i.e. CRA-S-1354-2020 and CRA-S-199-2021 preferred by appellants Sahil Rana and Gaurav alias Roda respectively. As per the facts of case narrated by SI Joginder Singh, Complainant, on 04.01.2017, he was sitting outside at the door of Court of Sandeep Garg, Additional Sessions Judge, Jagadhri and was going through a file for giving his statement in Court. A police personnel alongwith accused Shamsher Singh alias Monu Rana passed by him. On inquiry, he disclosed that he was taking Shamsher Singh alias Monu Rana who wanted to go to toilet. In the meantime, a young boy wearing yellow coloured Turban came from stairs and fired shots at Shamsher Singh alias Monu Rana. SI Joginder Singh tried to catch hold of said boy and in the meantime, another boy from behind fired a shot which hit him in the leg. Due to firing in Court complex there was chaos and people present in Court complex tried to save themselves. Taking advantage of crowd, said boys ran away from there. Police officials present in Court complex chased said boys and one of them was caught within the Court premises. He disclosed his name as Sahil son of Vikram Singh resident of Shehjadpur. He further disclosed name of another assailant as Gaurav resident of Barwala. Initially, challan was presented against Sahil Rana who was declared juvenile and thereafter his trial was conducted, treating him as an adult. Supplementary challan was later presented against Gaurav alias Roda and Bhupinder Singh alias Bhuppi. As a result, all appellants/convicts were tried together before Trial Court.

In order to prove the guilt of accused persons, prosecution examined SI Joginder Singh, complainant as PW1, who confirmed

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aforesaid statement given before Investigating Agency Ex. P1 and further identified Sahil Rana as accused who was wearing yellow coloured Turban and had fired at Shamsher Singh alias Monu Rana and further identified Gaurav alias Roda as accused who had fired at him from behind. Similarly, Shamsher Singh alias Monu Rana stepped into witness box as PW14. During his statement recorded on 01.02.2018, he stated that Sahil Rana fired shot at him which hit on his back and he fell backwards, on this Sahil Rana claimed that work was done and that they should run away. Another boy, Prince, standing in the group, fired a shot at police party. As per the version of Shamsher Singh alias Monu Rana, on that day, Sahil Rana, Gaurav, Bhupinder Singh alias Bhuppi, Prince, Manjeet, Anil and Ashok were present outside the Court when the said occurrence took place. Later on, statement of Shamsher Singh alias Monu Rana PW14 was again recorded on presentation of supplementary challan of Gaurav alias Roda and Bhupinder Singh alias Bhuppi. At this stage, he claimed that Bhupinder Singh alias Bhuppi fired gunshot at him, which hit his right arm, whereas Sahil Rana fired a shot which hit on his back/waist. Regarding Prince, he claimed that Prince had fired a shot at police.

Therefore, Shamsher Singh alias Monu Rana PW14 has given different version as compared to SI Joginder Singh complainant, PW1 regarding role of Gaurav alias Roda and Bhupinder Singh alias Bhuppi. So far as role of Sahil Rana is concerned, it is consistently claimed by both witnesses that he fired shot at Shamsher Singh alias Monu Rana. It cannot be ignored that Sahil Rana was apprehended on the same day in Court premises and he named another assailant as Gaurav. SI Joginder Singh



PW1 categorically stated that when he tried to apprehend Sahil Rana, another boy fired shot from his backside which hit on his leg. When statement of SI Joginder Singh as PW1 was recorded in Court, he identified Sahil Rana as well as Gaurav alias Roda, who had fired shot at him. Therefore, considering the aforesaid facts together, it is clear that it was Sahil Rana who had fired shot at Shamsher Singh alias Monu Rana (PW14) and Gaurav alias Roda, fired shot at SI Joginder Singh complainant (PW1). Presence of appellants Sahil Rana and Gaurav alias Roda at the time of occurrence is duly established on record. Said occurrence took place in Court complex at around 11:30 AM during peak hours, when there is maximum footfall in the Courts. SI Joginder Singh complainant (PW1) had clearly seen the assailants, whereas Shamsher Singh alias Monu Rana (PW14) knew them prior to the occurrence. Under these circumstances, no purpose would have been served by holding test identification parade. SI Joginder Singh, complainant was injured in the occurrence. He had no enmity with any of the appellants/convicts, thus his testimony cannot be ignored.

18. Said occurrence is further proved on record by examining ESI Rulda Ram as PW-9, who confirmed that on 04.01.2017, he had produced Shamsher Singh alias Monu Rana (PW14) along with other accused from Central Jail, Ambala to District Courts Yamuna Nagar at Jagadhri, in a case pending in the Court of Sandeep Garg, Additional Sessions Judge, Jagadhri, in FIR No. 408/2015 under Sections 148, 149 and 307 of IPC and Section 25-54 of Arms Act, Police Station Farakpur. He had handed over Shamsher Singh alias Monu Rana to EHC Suresh, who was examined as



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PW11 and SPO Manjeet Singh, who was examined as PW15. He was to produce other accused brought by him in other Courts. After 15-20 minutes, he heard noise of firing and when he reached in front of the Court of Sandeep Garg, Additional Sessions Judge, he saw that Shamsher Singh alias Monu Rana had received firearm injury while being taken to Toilet. Said occurrence is also proved on record by SPO Manjeet Singh as PW15 and EHC Suresh Pal as PW11. EHC Suresh Pal PW11 identified Sahil Rana, accused facing trial in this case. He confirmed that he was apprehended by police officials and fire arm was also recovered. SPO Manjeet Singh PW-15 claimed that he could not see the assailant as shot was fired from his backside.

19. Prosecution examined Dr. Vandana from Gaba Hospital, Yamuna Nagar as PW4/PW23 where she deposed that on 04.01.2017, Shamsher Singh alias Monu Rana and Joginder Singh were admitted in their hospital i.e. Gaba Hospital, Yamuna Nagar. She had sent Rukka to police Ex. P4/P46. Police moved an application Ex. P5/P47 to know about the fitness of both injured. As per her opinion Ex. P6/P48, Joginder Singh was declared fit to make statement, whereas Shamsher Singh alias Monu Rana was declared unfit to make statement. MLR of SI Joginder Singh is Ex. P7/P49, according to which he suffered two injuries i.e. entry and exit wound by gunshot over left leg above ankle. As per MLR of Shamsher Singh alias Monu Rana Ex. P8/P50, he suffered three injuries i.e. entry wound over right forearm, entry wound over back and he also faced difficulty in breathing. All injuries suffered by aforesaid injured were caused by gunshots and were declared grievous in nature.



20. Investigation carried out by police is established from the testimony of Inspector Sunil Kumar PW25, who recorded statement of injured SI Joginder Singh Ex. P1. He made his endorsement Ex. P42 and Rukka was sent to police station for registration of formal FIR. ASI Subhash Chand as PW7 has proved registration of FIR on the basis of statement of SI Joginder Singh. Inspector Sunil Kumar as PW25 prepared site plan of place of occurrence, which is Ex. P43. SI Davinder Singh as PW19, SI Yashpal as PW13/PW16 apprehended Sahil Rana, who was wearing an orange Turban. Personal search of Sahil Rana was conducted by SI Yashpal PW13/PW16 and one pistol in his hand and another country made pistol and one magazine having eight live cartridges and two cartridges were found in the pocket of his pants, were recovered. Outer sketch of .32 bore pistol is Ex. P25 and outer sketch of pistol .315 bore is Ex. P26. These weapons sealed in separate parcels and live cartridges total ten in number were also sealed in separate parcels and were taken into police position vide recovery memos Ex. P27 and Ex. P28 respectively. Aforesaid weapons and two magazines were also produced in Court. ASI Pawan Kumar PW20 recovery witness also confirmed their version. ASI Rajesh Kumar as PW10 had collected parcel of bullets recovered from the body of Shamsher Singh alias Monu Rana which was taken into police position vide recovery memo Ex. P15. There is report of Forensic Science Laboratory Ex. PX, according to which country made pistol .315 bore marked as W/1, one country made pistol marked as W/2 alongwith extra magazine, recovered from Sahil Rana were found to be in working order.

Two fire cartridges from the place of occurrence of 7.65 mm marked as C/1

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and C/2 were fired from country made pistol marked W/2. It was further observed that one .315 bore fired cartridge case, fired bullet recovered from the body of Shamsher Singh alias Monu Rana BC/1, .315 deformed fired bullet BC/2 and lead piece BC/3 were fired from country made pistol .315 bore marked as W/1, recovered from Sahil Rana. Therefore, recovery of aforesaid country made pistols from the possession of Sahil Rana, appellant/convict coupled with report of Forensic Science Laboratory Ex. PX duly connects appellant/convict Sahil Rana with occurrence which took place on 04.01.2017. To prosecute Sahil under Section 25 of Arms Act, prosecution examined Ishwar Singh, Reader to District Magistrate, Yamuna Nagar as PW6, who has proved sanction order dated 23.02.2017, Ex. P10, duly signed by then District Magistrate, Yamuna Nagar.

21. Prosecution examined SI Gurdarshan Singh as PW28, who deposed that investigation of this case came into his hands on 01.08.2018. He procured custody of Bhupinder Singh alias Bhuppi and Gaurav alias Roda by taking their production warrants. On 13.08.2018, they were produced before Illaqa Magistrate. On 14.08.2018, Gaurav alias Roda was interrogated who suffered disclosure statement Ex. P46, duly signed by him and witnessed by EHC Surender Kumar PW26 and Constable Vipan Kumar. As per his disclosure statement, he recovered one country made pistol (*Desi Katta*) having one live cartridge from bushes near bridge of Yamuna river. Outer sketch of weapon is Ex. P48. It was sealed in a parcel and was taken into police possession vide recovery memo Ex. P47. Site plan of place of recovery is Ex. P51. EHC Surender Singh as PW26 has also confirmed aforesaid disclosure statement on the basis of which



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weapon was recovered from the possession of Gaurav alias Roda. ASI Amar Singh, PW-18, has proved test report of aforesaid .315 bore country made pistol, which is Ex. P24/P40. Accused was not having any permit or license for carrying the weapon. To prosecute under Section 25 of Arms Act, prosecution examined Rajeev Kumar, Ahlmad, District Magistrate, Yamuna Nagar, PW29, who has proved sanction order dated 11.10.2018, which is Ex. P55, duly signed by then District Magistrate, Yamuna Nagar.

22. Therefore, considering aforesaid evidence led by prosecution, it is duly established that both Sahil Rana and Gaurav alias Roda were involved in occurrence. Sahil Rana fired shot at Shamsheer Singh alias Monu Rana and to help Sahil Rana in his escape, Gaurav alias Roda fired shot at SI Joginder Singh. Both tried to escape from place of occurrence but Sahil Rana was apprehended by the police officials present in the Court Complex but Gaurav alias Roda managed to escape who was arrested in this case later on.

In view of evidence led by prosecution, learned trial Court rightly held both appellants/convicts Sahil Rana and Gaurav alias Roda guilty under Section 307 read with Section 34 of IPC and Section 25 of Arms Act. Considering the manner in which offence was committed and its gravity, sentence imposed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri on both appellants/convicts Sahil Rana and Gaurav alias Roda does not require any interference. **Consequently, judgment of conviction and order of sentence qua Sahil Rana and Gaurav alias Roda is accordingly upheld and appeals i.e. CRA-S-1354-2020 and CRA-S-199-2021 preferred by them are accordingly dismissed.**



23. Appellant/convict Bhupinder Singh alias Bhuppi is also convicted for the offence under Section 307 read with Section 34 of IPC and Section 25 of Arms Act. As per the facts detailed above, Bhupinder Singh alias Bhuppi was not present on the spot. SI Joginder Singh complainant as PW1 categorically stated that he had not seen Bhupinder Singh alias Bhuppi alongwith other accused on that day. He further stated that he did not see other persons present alongwith accused Sahil Rana and Gaurav alias Roda. So far as testimony of Shamsheer Singh alias Monu Rana is concerned, in his statement recorded on 01.02.2018, he claimed that Sahil Rana and Gaurav alias Roda had come along with Bhupinder Singh alias Bhuppi, Prince, Manjeet, Anil and Ashok. During cross-examination, he conceded that he did not disclose about the presence of aforesaid persons outside the Court as he did not expect that they would attack him. Later on, when this witness appeared on 04.02.2020, he attributed role to Bhupinder Singh alias Bhuppi, stating that he fired shot at him which hit on his right arm. Therefore, Shamsheer Singh alias Monu Rana PW14, in his subsequent statement changed his version, naming Bhupinder Singh alias Bhuppi and attributing specific role to him. At initial stage, he was neither claimed to be present on the spot nor he was named by co-convict Sahil Rana. Accused have led evidence in defence by examining Mukesh Kumar, Ahlmad, DW1 who confirmed that Bhupinder Singh alias Bhuppi was witness in FIR No. 110 dated 07.08.2014 under Sections 148, 149, 323, 307, 302, 216, 120-B and 212 of IPC and Section 25 of Arms Act, Police Station Barara, Tehsil Ambala, titled "State vs. Bhupesh Rana and others". Copy of statement of Bhupinder Singh alias



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Bhuppi as PW21 is Ex.D1 and copy of judgment dated 01.08.2019 is Ex. D3. Therefore, Shamsher Singh alias Monu Rana had enmity towards Bhupinder Singh alias Bhuppi. Prosecution claimed that occurrence took place at the instance of Bhupinder Singh alias Bhuppi in connivance with Sahil Rana and Gaurav alias Roda. Motive claimed by prosecution for commission of said offence qua Bhupinder Singh alias Bhuppi is a double edged weapon. It can be a reason for commission of offence and it can also be a reason for false implication. In light of this, testimony of Shamsher Singh alias Monu Rana PW14, naming Bhupinder Singh alias Bhuppi for firing shot at him in his subsequent statement cannot be safely relied upon. There cannot be a direct evidence to prove the conspiracy, even then, prosecution is required to lead some convincing evidence on record to establish element of conspiracy. Prosecution has relied upon the disclosure statement of Bhupinder Singh alias Bhuppi dated 13.08.2018 Ex.P49 recorded by SI Gurdarshan Singh as PW28. Said disclosure statement recorded by police official is hit by the provisions of Section 26 of Indian Evidence Act and same is not admissible in evidence.

Section 26 and 27 of The Indian Evidence Act, 1872 reads as under:-

“26. Confession by accused while in custody of police not to be proved against him. - No confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

xxx xxx xxx



27. How much of information received from accused may be proved. - Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

Therefore, disclosure statements recorded by Investigating Officers from time to time during course of investigation about occurrence are not admissible. Gainful reference can be made to the judgment of Hon’ble the Supreme Court in *Criminal Appeal No. 1030/2023*, case title **“Manoj Kumar Soni Versus State of Madhya Pradesh”**. Relevant paras No. 22 and 24 thereof read as under :-

“22. A doubt looms: can disclosure statements per se, unaccompanied by any supporting evidence, be deemed adequate to secure a conviction? We find it implausible. Although disclosure statements hold significance as a contributing factor in unriddling a case, in our opinion, they are not so strong a piece of evidence sufficient on its own and without anything more to bring home the charges beyond reasonable doubt.

xxx	xxx	xxx
xxx	xxx	xxx

24. The law on the evidentiary value of disclosure statements of co-accused too is settled; the courts have hesitated to place reliance solely on disclosure statements of co-accused and used them merely to support the conviction or, as Sir Lawrence Jenkins observed in *Emperor vs. Lalit Mohan Chuckerburty*, to “lend assurance to other evidence against a co-accused”. In *Haricharan Kurmi vs. State of Bihar*, this Court, speaking through the Constitution Bench, elaborated



upon the approach to be adopted by courts when dealing with disclosure statements:

13. ...In dealing with a criminal case where the prosecution relies upon the confession of one accused person against another accused person, the proper approach to adopt is to consider the other evidence against such an accused person, and if the said evidence appears to be satisfactory and the court is inclined to hold that the said evidence may sustain the charge framed against the said accused person, the court turns to the confession with a view to assure itself that the conclusion which it is inclined to draw from the other evidence is right.”

Therefore, on the basis of said disclosure statement, Ex. P49 proved on record by SI Gurdarshan Singh PW28 and EHC Gurvinder Singh PW27, appellant/convict Bhupinder Singh alias Bhuppi cannot be connected with the occurrence which took place in Court complex on 04.01.2017. It was for prosecution to bring home the guilt of appellant/convict Bhupinder Singh alias Bhuppi beyond the shadows of reasonable doubt, which prosecution has failed to do. **Therefore, in my opinion, conviction of appellant/convict Bhupinder Singh alias Bhuppi under Section 307 read with Section 34 of IPC is not on sound footing and he is accordingly acquitted of this charge framed against him by giving him benefit of doubt.**

So far as recovery of country made pistol alongwith one live cartridge on the basis of his disclosure statement Ex. P34 is concerned, same is duly proved on file by SI Gurdarshan Singh as PW28 and recovery witness Ct. Sandeep Singh PW-21. Aforesaid witnesses consistently stated



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that on the basis of disclosure statement Ex.P34 on 17.08.2018, one country made pistol (*Desi Katta*) alongwith one live cartridge were recovered by Bhupinder Singh alias Bhuppi, concealed under the bushes near bridge of Yamuna River. Outer sketch of weapon is Ex.P35 and said country made pistol alongwith one live cartridge were taken into police possession vide recovery memo Ex.P37. ASI Amar Singh PW18, the Armour has proved test report of country made pistol of .32 bore Ex. P23/P47. ASI Rajeev Kumar, Ahlmad, District Magistrate, Yamuna Nagar as PW29 has proved sanction order dated 11.10.2019 qua Bhupinder Singh alias Bhupi, Ex. P56, duly signed by then District Magistrate, Yamuna Nagar. From the evidence led by prosecution, it is established that Bhupinder Singh alias Bhuppi was in possession of an illegal unauthorized weapon without any permit or license. Therefore, his conviction under Section 25 of Arms Act does not require any interference and same is accordingly upheld.

With this observation, appeal i.e. CRA-S-231-2021 preferred by appellant/convict Bhupinder Singh alias Bhuppi is partly allowed.

24. All appeals referred above are accordingly, disposed of.

25. Pending application(s) if any, in all case(s), also stands disposed of accordingly.

16.10.2024

lalit

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No