
(2014) 12 P&H CK 0181

In the Punjab And Haryana At Chandigarh

Case No : CRM No. 38500 of 2014 in/and CRA No. S-330-SB of 2009 (O and M)

Manjinder Singh and Others

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 17-12-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313 — Penal Code, 1860 (IPC) -
Section 34, 342, 392, 397, 506

Citation : (2015) 2 RCR(Criminal) 643

Hon'ble Judges : Jitendra Chauhan, J.

Bench : Single Bench

Advocate : H.S. Dhindsa, Advocate, for the Appellant; Mehardeep Singh, DAG,
for the Respondent

Final Decision : Dismissed

Judgement

Jitendra Chauhan, J.

CRM No. 38500 of 2014

Application is allowed as prayed for and documents are taken on record, subject to all just exceptions.

CRA No. S-330-SB of 2009

1. The present appeal is directed against the judgment and order dated 27.01.2009, passed by the Addl. Sessions Judge, (Ad hoc), Fast Track Court, Jalandhar, vide which the accused/appellants were convicted and sentenced to undergo rigorous imprisonment and to pay a fine as under:--

The facts of the case noticed by the trial Court in para No. 2 of the judgment which are as under:--

"That accused Manjinder Singh, Charanpreet Singh and Sakatar Singh were arrested by the police of P.S. Division No. 6, Jalandhar. ON 10.11.2005 Inspector Gurmit Singh of P.S. Division No. 6, Jalandhar, received information regarding the

commission of dacoity in UCO Bank, Bhargo Camp, Nakodar Road Branch, Jalandhar. On getting the said information, the SHO accompanied by other police officials went to the Bank. There they met one Suresh Chander Makkar, Officer-cum-Senior Manager of UCO Bank, who suffered statement to them that on the date of the occurrence, he was sitting in his office and the other staff members were busy in their work. There were 15-16 customers in the bank and Sh.Malkiat Singh, Security Guard of the Bank was standing in the main gate. He was armed with 2 bore Gun. At about 3.15 P.M. one Sikh Gentleman of the height of 5"-8" having beard entered the Bank. He was having a pistol in his right hand. He started grappling with the security guard. In the meantime another youngman of the height of 6" wearing pant and shirt also entered the Bank. He was also armed with a pistol. He gave kick blows to the Security Guard. The first person placed the pistol on the head of the Security Guard and the taller man snatched the gun of the Security Guard. Thereafter other young-man of the height of 5"-6" wearing pant came into the block. He stopped near the main entrance. The taller man came into the office. He took the complainant to the place where the other staff members were sitting. Thereafter he threatened all the staff members that they will be killed. He also directed them to place their mobile phones on the table. All the staff members and the customers from the public conceded to his demand. Thereafter he searched each and every person and locked them in the strong room. Thereafter he took them to the cash room. One person kept standing outside the strong room with a pistol. Thereafter, they opened the safe lying in the strong room and took the cash in a bag. The person who was standing outside the strong room sent three more bags to them. They put the total cash in the bag and a cloth of yellow colour and they tied it in the shape of gathri (Bundle). They took all the cash with them and locked them in the strong room. They left the Bank after throwing the keys of the strong room in the Bank. After about half an hour the customers came to the Bank. They were knocking door from the inner side. A person enquire regarding the matter. Accordingly, they replied from inside that they have been locked in the strong room. The said person whose name was later on known as Mohit Sharma S/o. Vijay Kumar R/o Basti Sheikh took them outside. They verified the loss which came to Rs. 1,56,000/-, Rs. 63,20,120/- and they have also taken all bags full of cash from Satish Kumar s/o Chander Lal of Mohan Patrol Pump, Wadala Chowk, Jalandhar. The matter was reported to the police on telephone. They have told further that if the persons are produced before them, they can identify them. On the basis of this the formal FIR was registered and rough site plan was prepared. On completion of investigation, the challan was presented against the accused in the Court for trial."

2. Initially the challan was presented under Sections 392, 342, 506 and 34 of the Indian Penal Code, later on the case was committed to the Court of Sessions on finding that the case under Section 397 IPC was exclusively triable by the Court of Sessions.

3. Learned Addl. Sessions Judge (ad hoc) Fast Track Court, Jalandhar, after going

through the record, framed charges under Sections 392, 397, 342 and 506 IPC against the accused, to which they pleaded not guilty and claimed trial.

4. The prosecution in order to bring home the guilt of the accused examined 16 witnesses namely PW1 Dr. Suresh Chander Makkar, Deputy Chief Officer-complainant, PW2 Surender Mohan Verma, Asstt. Manager (cash), PW3 ASI Amrik Singh, PW4 Ashish Mahajan, PW5 H.C. Major Singh, PW6 Charan Singh ASI, PW7 Gurvinder Singh, PW8 ASI Kashmir Singh, Investigating Officer, PW9 Hardev Singh S.I, PW10 ASI Harbhajan Singh, PW11 Malkiat Singh Gunman, PW12 Gurpal Krishan, PW13 Hardeep Singh Inspector Finger Print Expert, PW13/ A Ajay Sharma, PW14 Prithi Pal Singh Inspector, PW15 Gurpreet Singh and PW16 Inspector Gurmit Singh and thereafter the prosecution concluded its evidence.

5. After conclusion of the prosecution evidence the accused were examined under Section 313 Cr.P.C. and all the incriminating evidence was put to each of the accused, to which they pleaded false implication. In defence evidence they examined DW1 Pritam Kaur and DW2 Jasbir Singh.

6. The learned trial Court after appraisal of the evidence convicted and sentenced them to undergo rigorous imprisonment and to pay the fine as narrated above by holding as under:--

"Keeping in view all this, I find that considerable amount of the total cash from UCO Bank/Bhargo Camp Branch was recovered. The witnesses have specifically stated that the cash bundles were having impression of UCO Bank, Bhargo Camp, Jalandhar. So, no doubt is left that the same was recovered which was looted by the accused. Similarly, the pistols used in the commission of the offence was also recovered. They have been proved by certain witnesses while deposing in the Court. Accordingly, I find that investigation part of the case is complete. All the police officials have proved the case of the prosecution".

7. Aggrieved against the judgment and the order dated 27.01.2009, the accused-appellants have preferred the present appeal, which was admitted by this Court on 11.02.2009.

8. Learned counsel for the appellants contends that no Test Identification Parade of any of the accused was conducted that recovery of the currency notes is doubtful; that at the time of production of currency notes the same were open and not sealed; that the statements of PW2 Surinder Mohan Verma and PW1 Suresh Chand Makkar are unreliable and that the prosecution has failed to prove case against any of the accused-appellants. At the end, he contended that a lenient view may be taken in the matter of sentence.

9. On the other hand, the learned State counsel referred to the statements of PW1 Suresh Chand Makkar and PW11, Malkiat Singh, the bank security staff, who are the eye-witnesses and contends that identity of the accused-appellants coupled with the statement of PW14, Inspector Pritpal Singh, Finger Prints Expert is fully established. The recovery of the currency notes at the instance of the

accused looted from the bank is also duly proved. Referring to the evidence appearing against the accused-appellants, the learned counsel concluded that from direct eyewitnesses and circumstantial evidence, the prosecution case is fully proved beyond reasonable doubt. The accused-appellants looted the public money from the bank and from a customer by illegally detaining the bank staff and criminally intimidating them, and therefore, they deserve no leniency.

10. This Court has carefully perused the evidence on record with the able assistance of the parties.

11. The most independent and reliable evidence in this case is report Ex. P.L of the Director, Finger Print Bureau, Phillaur, proved by PW14 Inspector Pritpal Singh, the bank was looted on 10.11.2005, on the same day, tumbler (table glass etc.) were taken into possession and were sealed, as is proved by PW10 ASI Harbhajan Singh. On 23.11.2005, ASI Charan Singh took rolled prints and finger prints of each of the accused which were later on sent to the Finger Print Bureau, Phillaur for comparison with the finger prints already taken from the place of occurrence i.e. the bank. On comparison, the finger prints taken from various articles were found to be matching with that of the accused. The report Ex. P.L is self-explanatory.

12. The bank officials PW1, Subhash Chand Makkar and PW11, Gunman Malkiat Singh have cogently proved that the accused/appellants were the persons who had looted the bank, these eyewitnesses, also identified the accused-appellants. They narrated the minute details of the incident, which fully corroborates the other evidence recorded. When there is no doubt about the complicity of the accused in the crime non-continuing of test identification parade becomes insignificant. During scuffle, the handkerchief wrapped over the face of one of the accused fell, thus the witness had remembered and recognized his face and salient features. PW1 Suresh Chand Makkar during his testimony in Court pointed towards the accused telling name of each accused.

13. Apart from the above the appellants were arrested with the booty on 11.11.2005 by the Batala Police and Ranghal Police, District Gurdasspur. This case is of Jalandhar. Batala Police could not plant such a heavy recovery on the appellants as the main case was with Jalandhar Police, which is another district. The money recovered bear the UCO Bank slips which connect the recovery with the looted money. Surprising, none of the accused had claimed money recovered from the accused. All the accused denied the recovery of any money from them in their statements under Section 313 Cr.P.C. The recovery of the looted currency from the accused-appellants is fully proved. The defence counsel could not point out any infirmity in the lengthy cross-examination of the prosecution witnesses, which is consistent, cogent, reliable and trustworthy.

14. The contention that fake currency unsealed notes were produced in Court does not weaken the case of the prosecution as the bank officials proved that these were the same currency notes bearing slips of UCO Bank, which were

looted from the bank. It is noticed that the bank officials with naked eye could detect a fake currency note during discharging of bank duty. Whenever any fake currency notes is detected by an bank official, it is his/her duty to immediately destroy it by bringing it to the notes of higher officer. So this contention that fake currency notes were produced in Court has no force.

15. DW1 Pritam Kaur, Ex. Sarpanch of village Marianwal is not of much help to the accused as she stated that she came to know that Manjinder Singh had been falsely implicated by the police. It is only hearsay evidence. This witness had not made any complaint to the higher authorities regarding false implication of the accused Manjinder Singh. No enmity is alleged by any of the accused against any of the witness. Taking from any angle ocular version, circumstantial evidence, recovery of booty from the accused, report Ex. P.L of the Finger Print Bureau, the prosecution has proved its case beyond any doubt. The defence counsel failed to put any hole in the prosecution story in spite of his best efforts.

16. Rather the trial Court appreciated the conduct of the bank staff in supporting the prosecution story and observed that they are the brave persons, who have come out to depose in favour of the prosecution, though they were given threats from the side of the accused. In most of the robbery cases even truthful witnesses resile due to the fear of might of the robbers and nobody wants to earn the wrath of the robbers. The police force recovered Rs. 61 lacs from the accused out of looted amount of rupees more than 64 lacs the investigation was conducted fairly.

17. The learned defence counsel lastly contended for leniency. He contended that the accused-appellants have already sufficiently suffered and they may be sentenced to the period already undergone by them. But in the considered view that the appellant do not deserve any leniency. The custody certificates show that the accused/appellants are not first offenders and are also involved in other cases. They appears to be hardened criminals who looted more than sixty five lacs from the bank out of which with the vigil of the police rupees sixty one lacs were recovered. The bank dacoities are on the rise. These kinds of short cuts for money making cannot be allowed in any civilised society. The appellant looted public money and deserve no leniency. The learned State counsel by referring the custody certificates brought to the notice of the Court that the appellant, Manjinder Singh @ Ladi was released on 22.02.2012 after completion of his sentence, who had undergone five years, eight months and five days actual sentence and earned remissions of two years, three days and twenty five days. Learned State counsel pointed out that appellant No. 3 Sakatar Singh was ordered to be released on bail in this appeal on 19.11.2009 and by then he had undergone about three years, eleven months and fifteen days. No custody certificate of appellant Charanpreet Singh is available on the file. In the circumstances, the Court feels that the sentence passed by the leaned trial Court is proportionate to the gravity of the offence.

18. Keeping in view the above discussion, the judgment of conviction and

sentence passed by the Additional Sessions Judge, (Ad hoc), Fast Track Court, Jalandhar on 27.01.2009 is affirmed and this appeal is dismissed. The bail bonds of the accused on bail stands cancelled. The accused on bail, are directed to surrender before the Chief Judicial Magistrate, Jalandhar to undergo the remaining part of the sentence.