
(2010) 10 SHI CK 0083

In the High Court Of Himachal Pradesh

Case No : Criminal Appeal No. 299 of 2000

State of Himachal Pradesh

APPELLANT

Vs

Jagtar Singh alias Jagga

RESPONDENT

Date of Decision : 18-10-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 395

Citation : (2010) 10 SHI CK 0083

Hon'ble Judges : Surjit Singh, J;Rajiv Sharma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—This appeal, by the State, is directed against the judgment dated 7.3.2000 of the learned Sessions Judge, Chamba, whereby Respondent Jagtar Singh, who was charged with and tried for an offence, u/s 395 of the Indian Penal Code, has been acquitted.

2. Material facts and circumstances necessary for the adjudication of this appeal are that on 29.12.1990, Ajay Kumar, owner of taxi No. HP-02-0754, was coming towards Tunuhatti from Pathankot with his passengers. One person signaled him to stop his taxi ahead of Katori-Bangla towards Tunuhatti. He stopped the taxi. Ajay Kumar noticed two persons sitting in other Maruti van. One of them was carrying a gun. The taxi was bearing registration No. PB-06 and the rest of the registration number was not legible. The person, who stopped the taxi, demanded the papers of the taxi from Ajay Kumar. Thereafter the persons, sitting in the taxi bearing No. PB-06 together with the man standing outside the taxi, forcibly took the taxi of Ajay Kumar towards Pathankot alongwith Ajay Kumar. A sum of Rs. 361/- was snatched from Ajay Kumar. He reported the matter to the police. On 27.1.1991, Maruti van bearing registration No. PB-06-5042 was spotted coming from Pathankot. The Police made inquiries from the Driver of the Maruti van and took into possession the same. Rakesh Kumar, Driver of Maruti van, disclosed that his taxi had been hired by one Dr. Raj Kumar

on the date of occurrence, i.e. 29.12.1990. The Police went to Taragarh and found that accused Jagtar Singh and Raj Kumar were plying the taxi No. PB-02-0089. Thereafter, engine number and chassis number of the taxi were checked and were found to be of the taxi having actual registration No. HP-02-0754, owned by Ajay Kumar. One, two-barrel gun and live cartridges were also recovered. The matter was investigated and the challan was presented by the police only against Respondent Jagtar Singh. He was charged with for offence u/s 395 of the Indian Penal Code. Learned Trial Court acquitted the Respondent after noticing inherent infirmities and contradictions in the statements of prosecution witnesses. Hence, this appeal by the State against the judgment dated 7.3.2000.

3. Mr. R.K. Sharma, learned Sr. Additional Advocate General has strenuously argued that the prosecution has proved its case against the Respondent.

4. Mr. B.C. Negi has supported the judgment dated 7.3.2000.

5. We have heard the learned Sr. Additional Advocate General and also the counsel for the Respondent and gone through the record.

6. PW-1 Ajay Kumar has deposed that he had gone with police to Taragarh, District Bilaspur. He was shown vehicle No. PB-06-0089. The person, who was driving the same, fled away from the spot. He was apprehended later on. Gun and eight cartridges were recovered from him. PW-1 was declared hostile. In his cross-examination, he stated that the person, who was arrested at Taragarh, was clean shaved and the person, who is present in the court, was not the same person.

7. PW-2 Inderbir Singh has also not supported the case of prosecution. He was also declared hostile. In his cross-examination, he stated that accused was not present at the time when Ajay Kumar's taxi was stopped.

8. PW-5 Bansidhar has testified that he had gone to Taragarh to trace out the vehicle. He stated that Jagtar Singh and Raj Kumar fled away from the spot when the vehicle was apprehended. He has not deposed when the Respondent was apprehended. It is difficult to believe that PW-5 could identify the accused while he was fleeing from the spot.

9. PW-6 Rakesh Kumar has also not supported the case of prosecution. He was also declared hostile. He has deposed that accused was not one of the persons, who was involved in snatching the vehicle from PW-1. Since the very presence of the Respondent at the spot is doubtful, the prosecution story has also become suspicious and cannot be believed.

10. In view of above stated position, we see no reason to interfere with the judgment of acquittal passed by the trial court. Hence, the appeal is dismissed.