

(2012) 03 SHI CK 0402
In the High Court Of Himachal Pradesh
Case No : Criminal Appeal No. 147 of 2004

State of Himachal Pradesh

APPELLANT

Vs

Kuldeep @ Nadeem @ Sandeep

RESPONDENT

Date of Decision : 29-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 378
Penal Code, 1860 (IPC) — Section 380, 454, 511

Citation : (2012) 03 SHI CK 0402

Hon'ble Judges : V.K. Ahuja, J;Deepak Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

V.K. Ahuja, J.—This is an appeal filed by the State of H.P. u/s 378 Cr.P.C. against the judgment of the Court of learned Additional Chief Judicial Magistrate, Paonta Sahib, dated 16.12.2003, vide which he acquitted the respondent of the charge framed against him under Sections 454, 380 and 511 I.P.C. Briefly stated, the facts of the case are that on 20.7.2001, a statement was made by one Pradeep Singh u/s 154 Cr.P.C. to the police that during day time, he had gone to the house of his sister, near the house of Harcharan Singh. He heard a noise and when he went inside the house of Harcharan Singh, he found the door open and one person was standing near the door. He made an attempt and apprehended the said person with the assistance of other persons. On his statement, a case was registered and after investigation, the challan was filed before the learned trial Court, who tried the respondent as detailed above, leading to his acquittal.

2. We have heard the learned counsel for the parties and have gone through the record of the case.

3. We may make a reference to the statements of most material witnesses in the case. PW-2 Pradeep Singh, complainant, has stated that he had gone to meet his sister living near the house of Harcharan Singh. He heard a noise and he and Raj Kumar found that locks of room of Harcharan Singh were broken and Harcharan

Singh was away. The accused came out from the premises and was intercepted. He stated that at that time one Ramesh and Narender were also present there at the spot. He proved his statement Ext. PW2/A.

4. PW-3 Raj Kumar is the other witness, who had allegedly seen the accused and they apprehended the accused. He has stated that the accused was seen in the premises and was intercepted by him and Pradeep, whereas the perusal of statement Ext. PW2/A shows that one person was standing outside the house and not inside the house. PW-1 Narender Pal has stated that the accused was intercepted by Pradeep and Raj Kumar inside the room, whereas PW-2 Pradeep Singh is specific that the accused was intercepted outside the premises when he tried to run away. He has simply stated that he had seen the accused near the door. Thus, both PW-2 Pradeep Singh and PW-3 Raj Kumar have contradicted one another as to the place where the accused was standing at that time and the other witnesses had come to the spot afterwards and had not seen actually the accused outside or inside the room. There is no evidence that the accused was standing outside the house and keeping in view the contradictions in the testimonies of the material witnesses, it cannot be said that the guilt of the respondent was established by the prosecution. The learned trial Court has discussed the evidence in detail and has come to a right conclusion, which findings cannot be termed as perverse, calling for an interference by this Court. In view of the above discussion, we accordingly hold that there is no merit in the appeal filed by the appellant, which is dismissed accordingly. The bail bonds furnished by the respondent shall stand discharged forthwith.