

(2004) 05 J&K CK 0003
In the Jammu And Kashmir High Court
Case No : Acquittal Appeal No. 24-A of 2004

State of Jammu and Kashmir	Vs	APPELLANT
Zahid Iqbal and Another		RESPONDENT

Date of Decision : 20-05-2004

Acts Referred:

Ranbir Penal Code, 1989 — Section 380

Citation : (2005) CriLJ 864 : (2010) 4 JKJ 267

Hon'ble Judges : Sudesh Kumar Gupta, J

Bench : Single Bench

Advocate : B.S. Salathia, A.A.G, for the Appellant;

Final Decision : Dismissed

Judgement

S.K. Gupta, J.—The accusations against the accused, emanated from the record, depicted in the narration, are that on 2-4-2001, Karan

Singh, while posted on guard duty at Vehicle Garage, Gulshan Ground, Jammu, became suspicious on hearing the noise about the presence of

somebody in the Vehicle Garage and found a person taking away parts of the vehicle. He immediately called another guard, Ashish Kumar and

saw Zahid Iqbal, Driver, Security Line, Jammu and Mohd. Tahir, driver of Bus No. 61991 -JK02F running with keys in their hands. He raised

alarm, but the accused by that time managed to flee away from the place of occurrence taking advantage of the darkness. On checking, the

complainant found the gearbox of Bus No. 95394-JK02E missing from the bus. It was on his report that a case was registered u/s 380, RPC and

after conclusion of investigation, the challan was presented in the Court. The trial Court, after framing of the charge and recording of the evidence

let in by the prosecution reached the conclusion that the prosecution has not

succeeded to bring offence home to the accused by convincing, positive and reliable evidence and, accordingly, acquitted the accused, vide his order dated 14-1-2004, which became the subject-matter of challenge in this appeal.

2. Mr. B. S. Salathia, learned counsel appearing for the State-Appellant, submitted that the offence has been committed by the police official,

which is very serious matter and he should not go unpunished, so as to become an eye-opener and deterrent for other police officials to refrain

from indulging in such offence.

3. On going through the record, it is found that the prosecution, in substance of the charge, examined only Karan Singh, Complainant, in the case,

out of total six witnesses cited in the challan. P.W. Karan Singh is the Complainant and the FIR was registered on his complaint. The statement of

the complainant is to the effect that while on patrol duty at 7.30 p.m. on 2-4-2001, near the old vehicle garage at Gulshan Ground, he heard the

noise, checked the vehicles and saw some people running away from the vehicles in the darkness. He denied to have named the accused or given

his address in the FIR when confronted with it, though identified his signatures. He denied his signatures on the disclosure memo of Zahid Iqbal,

besides the recovery memo of the stolen articles. He also denied in his statement to have known the accused. It is also in his evidence that the

Police did not record his statement during investigation. The prosecution case crumbles down like a pack of cards on the sole evidence of the

complainant examined in the case.

4. Mr. Salathia, however, submitted that there is recovery of stolen articles, which connects the accused with the commission of the crime. This

plea is not available when the alleged recovery memo of the stolen articles is denied by the complainant bearing his signatures along with denial of

the signatures on the disclosure memo of Zahid Iqbal.

5. Taking into account the facts and circumstances of the case in its totality, the inevitable conclusion reached is that the prosecution has miserably

failed to prove the guilt of the accused beyond any pale of doubt. The order of acquittal, pronounced by the trial Court, does not suffer from any

infirmity, legal or factual, to invite interference.

6. In the result, I do not find any merit in this appeal, which is, accordingly, dismissed at the preliminary stage of admission.