

(2006) 04 P&H CK 0026

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 1649-SB of 2003 and Criminal Appeal No. 1903-SB of 2003

Sukhwinder Singh alias Badshah

APPELLANT

Vs

State of Haryana
 Arjun Singh and Islam Ansari Vs
State of Haryana

RESPONDENT

Date of Decision : 05-04-2006

Acts Referred:

Arms Act, 1959 — Section 25
Penal Code, 1860 (IPC) — Section 399

Citation : (2006) 3 RCR(Criminal) 684

Hon'ble Judges : M.M. Aggarwal, J

Bench : Single Bench

Advocate : A.S. Trikha in Criminal Appeal No. 1649-SB of 2003, Mr. Sandeep Ghangas in Criminal Appeal No. 11-SB of 2005 and Mr. Piyush Bansal, for Mr. Amit Aggarwal in Criminal Appeal No. 1343-SB of 2005, for the Appellant; A.S. Ghangas, Dy. Advocate General, Haryana, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Aggarwal, J.—This judgment shall dispose of above-said four appeals.

2. Vide judgment dated 20.5.2003 of Additional Sessions Judge, Ambala, five accused, namely, Ravi Kumar, Sukhwinder Singh alias Badshah, Arjun Singh alias Rahul, Islam Ansari alias Rahul and Rajesh alias Bangali had been convicted for offences under Sections 399/402 IPC and 25 of the Arms Act. For offence u/s 399 IPC, each of them was sentenced to undergo RI for four years and to pay fine of Rs. 500/-. In default of payment of fine to undergo further RI for three months. For offence u/s 402 IPC, each of them was sentenced to undergo RI for 3 years RI and to pay fine of Rs. 500/-. In default of payment of fine, to further undergo RI for three months. For offence u/s 25 of Arms Act, each of them was sentenced to undergo RI for three years and to pay fine of Rs. 1 month. All the sentences were directed to run concurrently.

3. Prosecution case against the appellants was that on 12.9.2002 Inspector Mange Ram of Police Station Ambala City, along with other Police officials, were on petrol duty in Government vehicle in Ghas Mandi, Ambala City, where they received secret information that all the accused who were criminals and were involved in cases of theft and dacoity, were present in a dilapidated room near HAFED Godown, situated on Ghail Road, Ambala City adjoining Harijan cremation ground and they were armed with weapons and were planning to loot liquor vend and commit dacoity and if a raid was conducted, they could be apprehended. Inspector Mange Ram then started for raid on the specified place. One Som Nath had been joined on the way. When the party had reached near the cremation ground of Ghail Road, then official vehicle was left there. When party reached at a distance of 20-30 steps from the dilapidated room, Inspector Mange Ram took ASI Randhir Singh, Head Constable Balbir Singh and Som Nath with him and directed the remaining police officials to remain at that place and wait for his signal. All these four persons secretly reached near the window in front of the cremation ground, whereas Inspector Mange Ram along with ASI Randhir Singh stood near the window in front of the main road. They heard the conversation of the accused inside the said room/kotha. One person was heard saying that first of all they would cover the liquor vend of Ghail Road and thereafter they would loot the liquor vend situated at Devi Nagar. One of the accused was heard saying and addressing other accused Badshah that they would reach the liquor vend of Devi Nagar after looting the liquor vend of Ghail Road through fields on foot. All the accused were found addressing each other by Rahul, Ravi, Bengali. ASI Randhir Singh, on instructions of Mange Ram signaled the remaining police officials through the light of torch on which the kotha was surrounded by all the police officials and then all the accused were asked to surrender. Four accused surrendered at the spot, whereas one of the accused tried to run away by jumping out of the window but he was also apprehended there soon by ASI Randhir Singh. On search, one Khukhri was recovered from the right pocket of the trouser of accused Islam Ansari, one button actuated knife was recovered from the right pocket of the trouser of accused Arjun Singh alias Rahul, one chhura (knife) was recovered from accused Ravi Kumar, one Khukhri was recovered from the pocket of accused Rajesh alias Bengali and one country made pistol of .315 bore was recovered from the pocket of accused Sukhwindr alias Badshah. One live cartridge was loaded in the pistol and one other live cartridge of .315 bore was recovered from the pocket of accused Sukhwinder as well. The accused were then brought to the police station. Case was registered. It was investigated and then challan was presented. The appellants faced trial for offences under Sections 399/402 IPC and 25 of Arms Act. The case was found to be proved against all the accused. They were accordingly convicted and sentenced as aforesaid.

4. Counsel for the accused-appellants did not address arguments on merits of the case, but had argued that in this case, no robbery or dacoity was ever committed. It was also prayed that in view of this, lenient view be taken.

5. From the statements of the prosecution witnesses, I am of the view that there is no infirmity as far as conviction of the accused-appellants is concerned. As such, their appeals as against conviction, are dismissed.

6. However, taking into account the facts and circumstances of the case that no robbery or dacoity had actually been committed, I reduce the substantive sentence of the accused-appellants for offence u/s 399 IPC from 4 years RI to 3 years RI. All other sentences, including that of fine, are maintained.

7. With above modification in the quantum of sentences, this appeal stands dismissed.

Appeal dismissed.