

In the Court of Sonia Sheokand, Addl. Chief Judicial Magistrate, Nuh.

CIS No. CHA-200-2019

Crl. Case no. 503/RBT

Date of Instt: 12.06.2019/15.04.2025

Date of Decision: 22.07.2026

State	Versus	1. Juber @ Teda S/o Rahim Baksh r/o Panchgaon, PS Tauru.
		2. Jakir S/o Rahim Baksh r/o Panchgaon, PS Tauru.

.....Accused

FIR No. 122 dated 01.03.2016
Under Section: 5/13(2) of HGS
and GS Act
Police Station: Nuh.

Present: Shri Surender, Ld. APP.
Accused Juber @ Teda and Jakir on bail with Sh. T.H.
Ruparya, Ld. Defence counsel.

JUDGMENT:

1. The accused named above have been sent by the Station House Officer, Police Station Nuh for facing trial under 5/13(2) of HGS and GS Act.

2. Brief facts of the prosecution case are that on 01.03.2016, HC Kamal along with other police officials was present at Ripitor Naka for crime detection and patrolling duty where he received a secret

information that Juber @ Teda and Jakir sons of Rhim Bakash are involved in cow slaughtering and on that day, they would transport lean and feeble cows via Kaccha Rasta of Palla Pahad to Chuhadpur Rajasthan and if timely barricading is done then they can be caught red handed. Accordingly, barricading was done and passersby were asked to join the same but, they showed their helplessness and left from there. HC Kamal alongwith other police officials and the secret informer reached at the spot and after 15-20 minutes, two men with three cows were seen coming on foot along with knife and axe in their hands but, on seeing the police party, they left the cows there only and fled away from there. The police officials tried to chase them but, they could not be apprehended and fled away from there. The secret informer identified them as accused above named. From the spot, three lean and feeble cows were recovered tied up together. FIR was registered. Investigation was carried out.

The accused could not be arrested and vide order dated 04.02.2017, they were declared P.O. and their P.O. challan was filed before the court on 20.02.2017.

On 12.04.2019, accused Juber @ Teda was joined into

investigation in this case and was arrested as per law and thereafter, produced before the court. After completion of investigation, the challan was filed against accused Juber @ Teda under above offence.

Thereafter, on 25.02.2021, the production warrant of accused Jakir were issued on 08.03.2021. He came present before the court and was joined into investigation and thereafter, arrested as per law and produced before the court. After completion of investigation, supplementary challan was filed against accused Jakir under above offence on 30.07.2021.

3. Copy of challan supplied to the accused free of cost, as envisaged under section 207 of Cr.P.C.

4. On finding a prima facie case under Sections 5/13(2) of HGS and GS Act against the accused, they were charge sheeted vide order dated 08.03.2022 to which they pleaded not guilty and claimed trial.

5. Thereafter, the evidence of the prosecution has been recorded wherein the prosecution got examined PW1 ASI Kamal Singh, PW2 EHC Mahipal, PW3 SI Bhagwat Prashad, PW4 Dr. Mohd. Irfan Khan, Veterinary Surgeon.

Ld. APP for the State has given up Pws EASI Subash Chander, SHO Ashok Kumar, SI/SHO Vijender Kumar and SPO Baljeet being unnecessary and SI Rajbir and Baldev Raj being dead vide his separately recorded statement and thereafter, evidence of the prosecution was closed by Ld. APP on 21.07.2026.

6. Statements of accused under Section 313 Cr.P.C. have been recorded wherein they have denied all the allegations leveled against them and claimed to lead evidence in their defence.

7. Initiating the arguments, it is argued by Ld. APP that vide evidence on record, the prosecution has proved its case beyond shadow of reasonable doubts. All the witnesses of the prosecution are supporting the story of prosecution. No defence has been taken by the accused to assail the version of the prosecution. Therefore, it is prayed that accused be convicted and maximum sentence be awarded to them as prescribed under the law.

Per contra, it is argued by Ld. counsel for the accused that no iota of evidence is available against the accused persons in this case. No recovery has been effected from them. The entire version of the prosecution is nothing but a concocted story and the prosecution has

miserably failed to prove the guilt of the accused persons beyond shadow of reasonable doubt. Therefore, it is prayed that accused be acquitted by giving them benefit of doubt.

8. *After hearing Ld. APP as well as Ld. Counsel for the accused, I have also gone through evidence adduced by them and a brief substances of the same is as follows:-*

PW1 ASI Kamal Singh on oath narrated the incident dated 01.03.2016 and proved recovery memo Ex.PW1/A whereby three cows were recovered by him. He further proved tehrir Ex.PW1/B sent through EHC Mahipal for registration of the FIR. During his cross-examination, it has come on record that he did not know the accused earlier. He does not know that when did the accused were arrested. The IO did not conduct the test identification parade of the accused in his presence. During suggestions, he denied that he is deposing falsely.

PW2 EHC Mahipal on oath narrated the incident dated 01.03.2016 and proved the recovery memo Ex.PW1/A whereby three cows were taken into police possession. He further proved tehrir Ex.PW1/B. During his cross-examination, he admitted that at the time of receiving the secret information the public witnesses were present there.

No test identification parade of the accused was conducted in his presence. He did not know the accused personally. No public witness was joined. During suggestions, he denied that he is deposing falsely.

PW3 SI Bhagwat Prashad proved the formal FIR and endorsement Ex.PW3/A and Ex.PW3/B. During his cross-examination, he denied that he registered the FIR ante-dated and ante time.

PW4 Dr. Mohd. Irfan Khan, Veterinary Surgeon proved the physical examination report of the alleged three cows Ex.PW4/A. During his cross-examination, it has come on record that he did the medical of the cows in the Sanghail Gaushala and at that time, many cows were present there but no FIR no. or serial number was mentioned on the cows examined by him.

9. Thus, it is clear from the above facts that the accused were not arrested from the spot rather the above named accused had fled away from the spot and while they were running from the place of occurrence then they were identified by the secret informer. On the identification of the secret informer, the names of the accused were mentioned in the Tehrir but, the alleged secret informer was neither joined into investigation nor produced as a prosecution witness despite of the fact

that he was the one who identified the accused while accused were running from the spot. No test identification parade of the accused was conducted at the time of the arrest of the accused despite of the fact that arresting officer was not part of the raiding team. Therefore, the identity of the accused is highly doubtful especially when no independent witness was joined by the IO at the time of the alleged barricading which was done to arrest the accused.

10. Further, no independent witness has been joined by the IO at the time of the alleged recovery to prove the authenticity of the alleged recovery so the alleged recovery is highly doubtful because all the other witnesses present at the time of the alleged recovery were the police officials and in view of the circumstances, it is not safe to rely upon the sole testimony of the police officials. In this regard, reliance can be placed upon the judgment of the Hon'ble Punjab and Haryana High Court in case titled as **Bhuptej Pal Singh Versus State of Punjab 2014 (1) RCR (Criminal) 24** wherein it is held that *“In spite of the availability, no independent witness was joined. Therefore, accused deserves to be acquitted.*

11. Further, from the evidence of the above prosecution

witnesses, it has also come on record that no knife, batt, weighting scale etc. was recovered from the place of occurrence and therefore, the prosecution remained failed in proving the intention of the accused that actually they were about to transport the above cows for the purpose of slaughtering.

Mere fact that accused belongs to the Muslim community is not sufficient to raise the presumption that they were transporting the cows for the purpose of slaughtering. In ***Sadru Vs. State of Haryana 1999(1) RCR (Crl.) 450*** it is categorically held by the Hon'ble High Court in para no. 6 and 7 as follows:

In this case, there is absolutely no evidence to suggest that the cows were being taken for being slaughtered. In this case, since the accused happened to be a Muslim, the Courts appear to have presumed that he was taking the cows for being slaughtered. In my opinion, no such presumption could be raised against the accused though he is a Muslim. It could not be presumed that as the accused was a Muslim, he was necessarily taking the cows for being slaughtered. It was a matter of proof for the prosecution that the accused was taking the cows for being slaughtered. Use of words "for the purpose of slaughter" is

significant. These words suggest that it should be proved by the prosecution that the cows were being exported for being slaughtered. Law does not allow the raising of such presumption. Further, no Veterinary doctor was produced to show that the cows were really weak and could only be slaughtered and then their hide etc. used.

12. It is a settled law that prosecution has to prove its case beyond shadow of reasonable doubt and an iota of doubt can be fatal to the version of the prosecution. However, in the present case the prosecution has miserably failed to prove its case. Therefore, the accused are hereby acquitted from the charges leveled against them in the present case. Their Bail bonds shall be discharged. Case property if any, be released as per rules.

Pronounced in open Court.
22.07.2026

(Sonia Sheokand)
Addl. Chief Judicial Magistrate,
Nuh, (UID No. HR-0364)

Note : All the pages of this judgment have been checked and signed by the undersigned.

(Sonia Sheokand)
Addl. Chief Judicial Magistrate,
Nuh, (UID No. HR-0364)

Pooja Singhal
Stenographer.

Sonia Sheokand,
ACJM, Nuh.
(UID No. HR-0364)