

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No. 2424/2010

STATE OF HARYANA

Appellant(s)

VERSUS

SEHRUDEEN @ SEHRU ETC

Respondent(s)

O R D E R

1. The State of Haryana has laid challenge to the judgment and order dated 01.07.2005 passed by a Division Bench of the High Court of Punjab and Haryana, whereby the Criminal Appeal filed by Respondent Nos.1 and 2 was allowed and, consequently they have been acquitted from the charges under Sections 302, 394 read with 34 of the Indian Penal Code, 1860 (for short "the IPC"). It may be mentioned that the learned Additional Sessions Judge, Gurgaon vide judgment and order dated 27.11.2001 had found Respondent Nos.1 & 2 guilty of committing the murder of Abdul Rahim and committing robbery of Rs.62,056/- which was the amount of salary of the School Teachers where the deceased himself was working as a History Lecturer.

2. The Prosecution case was that on 01.09.1997, Abdul Rahim who was employed as History Lecturer in Government Senior Secondary School, Sirholi, District - Gurgaon along with Sagir Ahmad (PW-13), who was Incharge of the aforesaid school, had gone to Syndicate Bank, Punhana for drawing the salary of the school staff amounting

to Rs. 62,056/-. After withdrawal of the amount, at about 11.00 a.m., they were coming back to the school on Scooter bearing Registration No.HR 30-1629, which was being driven by the complainant, while Abdul Rahim was on the pillion seat. The cash of Rs. 62,056/- placed in a black polythene bag along with authority letter Ex. PQ/1 were lying in the open basket of the scooter. When they had covered a distance of about 1 km from village Guralta towards Punhana side, a red colored Yamaha Motor Cycle bearing Registration No.HR-29-1059 which had three young persons on it came from behind and struck their scooter. As a result of the impact, Sagir Ahmad and Abdul Rahim fell down on the ground. The motor cycle stopped in front of the scooter, and the persons, identified later on during the investigation, as Nanha (who was driving the motor cycle), Sehrudeen @ Seheru (Respondent No.1) and Har Prashad @ Bhagwan Singh (Respondent No.2), who were armed with country made pistols, came down from the motor cycle. Sehrudeen @ Sheru (Respondent No.1) picked up the polythene bag with currency notes and written authority from the basket of the scooter and when Abdul Rahim resisted this act, Har Prasad @ Bhagwan Singh (Respondent No.2) fired a shot on Abdul Rahim, as a result of which he died instantaneously. The three accused persons ran away on the motor cycle carrying the black polythene bag containing the currency notes.

3. The incident was per chance witnessed by Sardar Khan @ Sardari

(PW-4), who was a member of the Panchayat of village Sirholi and was at the relevant time coming towards the place of incident in a jeep. Sardar Khan unsuccessfully tried to chase the motor cycle. The injured Sagir Ahmad was brought to the Primary Health Centre, Punhana where Dr. D.V. Sehrawan (PW-8) medico legally examined him and sent an intimation Ex.PN in writing to S.H.O, Police Station-Punhana. On receipt of the information, Inspector Naveen Kumar (PW-21) reached the hospital and recorded the statement of Sagir Ahmad (PW-13). The F.I.R. Ex.PU/2 under Sections 394, 302 read with Section 34 IPC and under Section 25 of the Arms Act was accordingly registered.

4. It may be mentioned here that one of the accused Nanha remained absconded and was declared proclaimed offender. Sehrudeen @ Sheru-Respondent No. 1 was arrested on 13.10.1997 whereas Harprasad- Respondent No.2 surrendered on 10.09.1997 before the Vrindavan Police (Uttar Pradesh) in F.I.R. No.280/97 dated 10.09.1997 registered under Section 25 of the Arms Act at the Police Station Vrindavan (Uttar Pradesh).

5. The trial court, upon consideration of the entirety of the evidence, held that the Prosecution has successfully brought the guilt home and consequently Respondent Nos.1 and 2 were convicted under Sections 394 and 302 read with Section 34 IPC and sentenced accordingly.

6. The High Court, however, allowed the Appeals of Respondent Nos.1 and 2 and has acquitted them on re-appreciation of the

evidence and having found several material deficiencies in the Prosecution's case.

7. We have heard learned counsel for the parties at a considerable length and gone through the entire record, especially the record of the trial court. There is no gain said and is hardly disputed that no question of law arises for consideration in this appeal as the case revolves around appreciation and reappraisal of the evidence comprising statements of some of the material witnesses and certain recoveries relied upon by the prosecution against Respondent Nos. 1 and 2. The High Court has, however, disbelieved the case of the prosecution and extended the benefit of doubt *inter alia* observing that:-

i) PWs- 13 and 17 had narrated the matter in which incident took place, but none of them were in a position to identify the assailants;

ii) The bullet recovered from the body of the deceased was not necessarily fired from the country-made pistol which was shown to have been recovered from Respondent No.2;

iii) The robbed amount said to have been recovered from Respondent No.1 was Rs.500/- only and there is no evidence that the notes recovered from Respondent No.1 were the same that were carried by Sagir Ahmad (PW-13);

iv) The notes were shown to have been recovered after about two weeks of the occurrence;

v) The evidence-on-record thus does not prove the guilt of Respondent Nos. 1 and 2 beyond reasonable doubt.

8. It appears to us that the conclusion drawn by the High Court is one of the possible views. The Appellant - State has not been able to make out either a case of misreading of evidence or where

the High Court escaped to take cognizance of any material piece of evidence. It is not, in fact, even an argument that the Judgment under challenge suffers from any perversity.

9. Taking into consideration the totality of the circumstances, we do not find any ground to interfere with the impugned Judgment passed by the High Court.

10. The Criminal Appeal is, accordingly, dismissed.

.....J.  
[SURYA KANT]

.....J.  
(VIKRAM NATH)

New Delhi.  
17<sup>th</sup> November, 2022;

ITEM NO.101

COURT NO.11

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

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VERSUS

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Date : 17-11-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE VIKRAM NATH

For Appellant(s)

Mr. Raj Singh Rana, Adv.  
Mr. Samar Vijay Singh, AOR

For Respondent(s)

Mrs. B. Sunita Rao, AOR  
  
Mr. Kedar Yadav, Adv.  
Mr. Rahul Yadav, Adv.  
Mr. Abhishth Kumar, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The Criminal Appeal is dismissed, in terms of the signed Order.

(VISHAL ANAND)  
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)  
COURT MASTER (NSH)

(Signed Order is placed on the file)