

PETITIONER:
PREM PAL SINGH

Vs.

RESPONDENT:
STATE OF PUNJAB

DATE OF JUDGMENT: 03/09/1996

BENCH:
KURDUKAR S.P. (J)
BENCH:
KURDUKAR S.P. (J)
MUKHERJEE M.K. (J)

CITATION:
JT 1996 (7) 647 1996 SCALE (6)318

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

S.P.KURDUKAR. J.

The appellant accused was employed as a driver in the Pepsu Roadways Transport Corporation. The appellant alongwith Jagdip Singh, Ranjit Singh, Daljit Singh, Sukhminder Singh and Anokh Singh conspired to cause the death of Sh. A.P.Pandey, the then Senior Superintendent of Police, Ludhiana. In pursuance of the said conspiracy on 9th July, 1985, at about 2.00 p.m., the appellant alongwith four others mentioned hereinabove attempted to commit the murder of Shri A.P.Pandey by driving and dashing Truck No. PNP-3477 against the staff car No. PAM-33.

2. It is allowed by the prosecution that Shri Pandey was sitting on the back seat of the staff car whereas his gunman Head Constable Bakshish Singh (PW 3) was sitting on the front side by the side driver Shri Hari Chand (PW 1). When the car of Shri Pandey, was about to cross Chowk Bharat Nagar, Ludhiana, the gunman noticed one person driving the Scooter and proceeding in front of the staff car. The scooterist took a turn towards Major Gurdial Singh Road after giving signal where a Fiat Car was parked stationary on the road facing towards Ghumar Mandi Road, Ludhiana. When the staff car proceeded towards Mall Road and reached Red Cross Bhawan, the driver Hari Chand (PW 1) noticed a Truck bearing No. PNP-3477 that was parked on one side of the Mall Road facing the opposite direction with its engine on (running). When the staff car was about to pass in front of the said truck, the appellant drove the Truck and intentionally dashed against the left side of the staff car as a result of which the left portion thereof was damaged. The impact of the truck was so powerful that the staff car struck against the concrete portion of the Mall Road and as a result thereof right side wheel of the staff car broke down and detached from the body of the car. As a result of this accident, Shri Pandey, his gunman and the driver sustained minor injuries and abrasions. The appellant

thereafter abandoned the truck and started running towards Major Gurdial Singh Road where the Scooter and Fiat Car were parked. However, the appellant was apprehended by the escort party of Mr.A.P.Pandey which was then following the staff car. The Scooter and Fiat Car however disappeared. In the meantime, wireless message was sent to the police station whereupon the inspector reached the place of accident and commenced the investigation. The statement of the driver Shri Hari Chand (PW 1) was recorded and on the basis thereof a formal FIR came to be registered. After completing the necessary investigation, a charge sheet against the appellant came to be filed in the Designated Court for offences punishable under Section 307, 427, 323/120B, 143 and 149 of the [PC and under Section 4(3) of the Terrorist and Disruptive Activities (Prevention) Act, 1985.

3. The accused denied the charge and claimed to be tried. According to the appellant, he is a resident of Bassi Pathana and on the date of occurrence, he had brought his ailing father to Ludhiana for medical care and left him in Gurdwara near Jagraon bridge. He further pleaded that he was a new comer to Ludhiana city. He admitted that he had parked his Truck towards the wrong side. After noticing a flag car coming at a high speed, he was frightened as he was on the wrong side of the road and became panicky. At the relevant time, a rickshaw carrying the women and children was proceeding on the said road and in order to avoid a collision with the said rickshaw, he took a turn and as a result thereof, his Truck dashed against the staff car of Shri A.P.Pandey. He had no intention whatsoever to dash against the staff car of Shri A.P.Pandey and it was an error of judgment while saving the occupants in the auto rickshaw. He was gainfully employed at the relevant time and he had no track record of any terrorist activities. He is neither a terrorist nor there was any conspiracy as alleged by the prosecution. The allegations levelled against him are false. He is innocent and be acquitted.

4. In support of its case, the prosecution mainly relied upon the evidence of the driver Hari Chand (PW 1), Shri A.P.Pandey, SSP (PW 2), Head Constable Ram Kishan (PW 3) and other formal witnesses including various panchnamas and the injury certificates issued by the Medical Officer.

5. The Designated Court, Ludhiana, on appraisal of oral and documentary evidence on record by its judgment and order dated December 1, 1986 convicted the appellant under Section 307 and 427 IPC and sentenced him to suffer RI for five years and one year respectively and to payment of fine, to undergo further RI for year. The appellant was also convicted under section 4(3) of the Terrorist and Disruptive Activities (Prevention) Act, 1985, and sentenced to suffer RI for five years and to pay a fine, to undergo RI for one year. It is this order of conviction and sentence passed by the Designated Court, Ludhiana which is sought to be challenged by the appellant in this appeal.

6. Ms. Madhu Moolchandani, the learned counsel appearing in support of this appeal urged that the prosecution must fail for want of evidence of independent witnesses. According to the learned counsel, Hari Chand (PW 1), Shri A.P.Pandey (PW 2), Head Constable Ram Kishan (PW 3) and Bakshish Singh (PW 4) were highly interested witnesses inasmuch as they were from the police constabulary which was under control of Shri A.P.Pandey (PW 5), the then Senior Superintendent of police, Ludhiana. The incident alleged to have taken place in the noon time on a busy road and many persons were said to have seen the accident in question. In this view of the matter, it was the duty of the prosecution

to examine some independent witnesses to corroborate the ocular evidence of the eye witnesses. She also urged that in order to save the lives of the occupants in the auto rickshaw, he was required to take suddenly a turn and as a result thereof, his Truck dashed against the staff car. If the appellant had a motive to commit the murder of Shri A.P.Pandey, it was very easy for him crush the staff car completely. The appellant applied the brakes of the Truck urgently but could not succeed in halting the Truck to save the accident. Learned Counsel further urged that the Designated Court has wrongly applied the provisions of Section 4(3) of the Terrorist and Disruptive Activities (Prevention) Act, 1985. There was no material before the Court to rope in the appellant under the said Act. She, urged that the appellant is innocent. It is pure and simple accident and the appellant be acquitted.

7. We have carefully gone through the oral and documentary evidence on record. We have also perused the impugned judgment. In our opinion, there is no substance in any of these contentions raised on behalf of the appellant.

8. The evidence of Hari Chand (PW 1), the driver of the staff car and the evidence of Bakshish Singh, the gunman (PW 3) unmistakably indicate that the appellant had purposed parked his Truck on the wrong side with the engine on and was waiting for the staff car of Shri A.P.Pandey to pass along the place of occurrence. Their evidence further shows that when the staff car was about to cross the Red Cross Bhawan, the appellant who was on wait in the Truck with the engine on suddenly moved in the direction of the staff car and dashed against the said car. The very impact itself would indicate that it was motivated one. The staff car was completely smashed on the left side. The wheel of the right side of the staff car was also broken down and detached from the body of the said vehicle. It was sheer providence that Shri A.P.Pandey sustained minor injuries only. The evidence of Ram Kishan, HC(PW 4) who was sitting in the escort vehicle also corroborates the evidence of the Hari Chand (PW 1), Bakshish Singh (PW 3) and Shri A.P.Pandey (PW 2). There is no substance in the contention that the prosecution ought to have examined an independent witness. The evidence of the above four eye witnesses suffers from no infirmity whatsoever and we do not see any reason to discard the same.

9. In addition to the above ocular evidence of the eye witnesses, we have also evidence of Pritam Singh (PW 5), the photographer who took photographs of the truck and the damaged car and his evidence also supports the manner in which the incident took place. Zulfi Ram (PW 6), the motor mechanic also deposed that the left side of the staff car was completely damaged.

The medical evidence on the record also indicates that Hari Chand (PW 1) and Bakshish Singh (PW 3) sustained injuries in the said accident. Shri A.P.Pandey (PW 2) also sustained injuries(abrasions).

10. After going through the evidence on record, we are satisfied that it was a planned action on the part of the appellant to commit the murder of Shri A.P.Pandey, the then Senior Superintendent of police, Ludhiana, with a view to create a terror in the public at large. The very accident speaks for itself. The impugned judgment in our considered view suffers from no illegality. The appeal, is therefore, devoid of any merit.

11. In the result, the appeal fails and the same is dismissed. The appellant, who is on bail, shall surrender to his bailbonds forthwith to serve out the remaining period of his sentence.

JUDIS