

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 1667 OF 2007

STATE OF PUNJAB

.....

APPELLANT

VERSUS

HANS RAJ

.....

RESPONDENT

O R D E R

1. This appeal is directed against the judgment of the High Court for the States of Punjab and Haryana at Chandigarh dated 5th April, 2007 whereby the respondent's conviction by the Sessions Judge, Ludhiana has been set aside and he has been acquitted for offences punishable under Sections 302, 392 and 460 of the Indian Penal Code and Section 25 of the Arms Act.

2.1 As per the prosecution story on 22nd January, 1996 at about 30 minutes past mid night, Paramjit Singh, Conductor

No. 45 was on night duty at the Bus Stand Muktsar. He called Shri Jagdip Singh, General Manager, Punjab Roadways, Muktsar and informed him that some noise was coming out of the office and that Hans Raj, a Gun Man, employed for security purposes, was lying in the office in an injured condition whereas Sukchain Singh, Conductor No. 24 was lying dead. This information was conveyed to the police on telephone by Shri Jagdip Singh on which the police came to the Depot and found the dead body of Sukchain Singh lying in the office and Hans Raj respondent lying seriously injured. It was also noticed that the locks of the cash box had been broken and the safe was also in a damaged condition. An inventory revealed that an amount of Rs. 5,61,704/- had been stolen from the cash room. On enquiry, the respondent informed the police that some unknown persons had fired at him and Sukchain Singh. A First Information Report against unknown persons was, accordingly, recorded. The inspection of the murder site also led to the recovery of one fired cartridge case of 12 bore shot gun and two live cartridges. The respondent, was interrogated on 29.2.1996 as he was under suspicion by Inspector Ashwani Kumar on which he made an disclosure statement which led to the recovery of Rs. 4,42,730/- and on a further interrogation on 2nd March, 1996 another sum of Rs. 1,14,800/- was also recovered. He was, accordingly,

arrested and ultimately brought to trial for the offences aforementioned.

2.2 The prosecution relied primarily on the statement of P.W. 6, Conductor Paramjit Singh, who claimed to have been an eye witness to the incident and also sought corroboration from the fact that a sum of more than Rs.5,50,000/- had been recovered at the instance of the accused respondent and that the cartridge recovered from the spot had been matched with the murder weapon, i.e. the gun given to the respondent in his capacity as a guard in the office. The Sessions Judge, accordingly, convicted him accused as already indicated above.

2.3 An appeal was, thereafter taken to the High Court and the High Court has, by impugned judgment, allowed the appeal and acquitted the respondent. Several points have been noted by the High Court, they being:

- (i) that the conduct of Paramjit Singh, P.W. 6 in keeping quiet about the incident for about 10 or 12 days after 22nd February, 1996 belied his presence at the spot;
- (ii) that the disclosure statement had been recorded on 29th February, 1996 and 2nd March, 1996 whereas

the FIR had been recorded on 3rd March, 1996 which indicated that no recovery had in fact been made pursuant to the statements and could not be taken into account in any case;

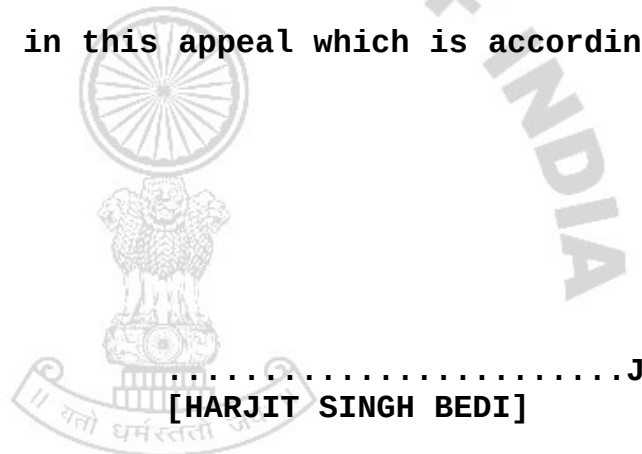
(iii) the prosecution story that the respondent had shot himself in order to create an alibi was also not borne out by the medical evidence as the shot had been fired from a distance of more than 5-6 feet which could not have been possible in the case of a self inflicted injury.

For these reasons, the High Court found that the story did not inspire confidence.

3. We have heard Mr. Jayant K. Sud, learned Additional Advocate for the State of Punjab and Mrs. K. Sarada Devi learned counsel for the respondent, appointed through the Legal Services Committee. We find that the view taken by the High Court was possible on the evidence. There seems to be no plausible explanation as to why P.W. - Paramjit Singh, who claimed to have been an eye witness, had kept quiet for ten days as his statement that he had kept quiet on account of fear is not borne out by the evidence as admittedly, the respondent had been arrested on the 29th

February, 1996. Likewise, the prosecution story with regard to the manner in which Hans Raj suffered the injury on his hand appears to be unfounded as the said injury could not be self-suffered.

4. We are, therefore, of the opinion that merely because the recovery of cash had been made allegedly at the instance of the respondent is itself in doubt for the additional reason that the FIR had been recorded long after the date of the disclosure statements. We thus find that there is no merit in this appeal which is accordingly, dismissed.



.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
SEPTEMBER 08, 2010.