



CRA-D-555-DB-2004 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(104)

CRA-D-555-DB-2004 (O&M)

Date of Decision :- 11.09.2025

Sant Kumar

... Appellant

Versus

State of Haryana

... Respondent

**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H.S. GREWAL**

Present:- Mr. Ashwani Bhardwaj, Advocate (Legal Aid Counsel)
for the appellant.

Mr. Rajat Gautam, Addl.A.G., Haryana.

H.S. Grewal, J.

1. The present appeal has been preferred against the judgment of conviction and order of sentence dated 08.01.2004 passed by the learned Sessions Judge, Sonipat in case FIR No.88 dated 25.05.2001, registered under Section 302 IPC and Sections 27/54/59 of Arms Act, at Police Station Murthal, whereby the appellant had been convicted and sentenced to undergo as under:-

Section(s)	Sentenced to undergo	Fine	In default of payment of fine
302 IPC	Life imprisonment	Rs.5,000/-	02 years RI
27 Arms Act	07 years RI	Rs.2,000/-	01 year RI
It was ordered that both the sentences shall run concurrently.			



2. The case of the prosecution is based upon the statement of the complainant-Hari Om, dated 25.05.2001, who approached ASI Dharampal, who was on patrolling duty along with Head Constable Balbir Singh and others. The complainant had stated that he is employed in Anand Electro Fab Cable Pvt. Ltd. factory located in the area of village Bhigan and his duty hours were 08:00 P.M. to 05:00 A.M. On 25.05.2001, at about 12:00 mid-night, Tejpal Singh and Sant Kumar, who were employees in the said factory, were on duty. It is alleged that Sant Kumar, Security Guard (appellant) was on duty with his licenced gun and Tejpal Singh (deceased) was the Machine Operator. Sant Kumar(appellant) and Tejpal Singh had an argument and were about to fight but the workers intervened and separated them, thereafter, they went back to their work. It is further alleged that after 45 minutes, the appellant had entered the main gate of the plant with his licenced gun and fired at Tejpal. Consequently, he fell down and the appellant absconded with his gun. The complainant-Hari Om and other workers rushed towards Tejpal who had fallen on the ground. There was bleeding from his head and he had already expired. The incident was informed to Sardar Jitender Preet Singh, proprietor of the factory at Delhi. It is alleged that Sant Kumar had shot Tejpal Singh with his licenced gun on account of the grudge of the quarrel.

3. ASI Dharampal had forwarded the aforesaid statement of the complainant to the Police Station after making endorsement, on the basis of which formal FIR was registered. He had also inspected the place of occurrence, collected the empty, blood stained earth etc. and had converted the same into sealed parcel. Inquest report was prepared and the dead-body was



sent for postmortem examination. All these articles in sealed condition were deposited with the MHC and were sent to the Director, FSL in sealed condition.

4. On 11.09.2001, the appellant was arrested on whose statement, the alleged gun got recovered from the house of his son in the area of Shadipur (Delhi). The gun was also sealed after preparing the sketch and was sent to the Director FSL for examination.

5. After completion of investigation, challan had been presented against the appellant, who was charged for offences punishable under Section 302 IPC and Section 27 of the Arms Act, to which he pleaded not guilty and claimed trial.

6. Learned counsel for the appellant submits that the trial Court had erred in convicting the appellant despite serious lacunae in the prosecution case. It is submitted that the star witnesses including the complainant were turned hostile. PW-8 Sukhvinder Singh had categorically stated that although there was an altercation between the appellant and the deceased but he did not witness the appellant firing upon Tejpal. PW-9 Hari Om (complainant), on whose statement the FIR was registered, had also not supported the prosecution version and resiled from his earlier statement. He further submits that no official from the office of the District Magistrate was examined to prove the sanction order under the Arms Act. In absence of such sanction, conviction under the Arms Act is wholly unsustainable under the law. The prosecution has also failed to produce any direct eye-witness of the alleged shooting and the entire case rests upon the circumstantial evidence. He also submits that the alleged recovery of the gun, in pursuance to the disclosure statement of the



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appellant himself, is doubtful and there are gaps in the link evidence. The disclosure statement and the recovery of the gun are fabricated. In fact, the gun had already been taken by the police from the factory premises and was later planted as recovery at the instance of the appellant. It is also submitted that the appellant has been falsely implicated in this case and was allegedly arrested from his home in Madhya Pradesh, nearly 500 kms away from the place of occurrence and the defence witnesses (DW-1 and DW-2), including the Sarpanch of the appellant's village, have testified to his good character and have corroborated the version of false implication. Learned counsel, therefore, prays for allowing the appeal, setting aside the impugned judgment and order of sentence and acquitting the appellant of all the charges.

7. On the other hand, learned State counsel, while supporting the judgment of the trial Court, submits that the conviction of the appellant is based upon a proper appreciation of evidence and calls for no interference. It is submitted that the presence of the appellant and the deceased at the spot was duly proved as it is an admitted fact that the appellant was on duty as a Security Guard at the factory with his licensed gun and the deceased Tejpal was also present on duty as a Mechanic on the same night. Both PW-8 and PW-9, though declared hostile, had admitted that an altercation had taken place between the appellant and the deceased shortly before the incident. Moreover, the ocular version has been duly corroborated by the medical and forensic evidence. The postmortem report clearly indicated that Tejpal died of a firearm injury to the head and metallic pellets were recovered from the wound. The



report of the Forensic Science Laboratory (Ex.PN) confirmed that the empty cartridge recovered from the spot had been fired from the very gun recovered at the instance of the appellant. He further submits that the licensed gun of the appellant was recovered in pursuance to his disclosure statement and the ballistic expert's opinion conclusively linked the recovered firearm to the cartridge case recovered from the scene of crime. A perusal of the FSL report (Ex.PN) also shows that the .12 bore SBBL Gun is a fire-arm and it was in working condition. It was also opined that the .12 bore fired cartridge, marked C/1 has been fired from .12 bore SBBL gun and not from any other fire arm and the lead chips contained in parcel No.III were found to be fired lead chips which could be parts of a .12 bore cartridge. Then a perusal of the report Ex.PN/1, shows that on the shirt, etc., human blood was found.

8. Learned State counsel also submits that the argument raised by the counsel for the appellant regarding want of sanction under the Arms Act is misconceived because the charge framed against the appellant is under Section 27 of the Arms Act, not Section 25 of the Arms Act. Since the appellant used his licensed firearm for an unlawful purpose, no prior sanction was necessary. Thus, the conviction under Section 27 of the Arms Act is legally sustainable. It is, therefore, submitted that the prosecution has fully established the guilt of the appellant beyond reasonable doubt and the appeal deserves to be dismissed.

9. We have heard learned counsel for the parties and have perused the material available on record.



10. In order to substantiate the charge against the appellant, the prosecution had examined as many as fifteen witnesses.

11. PW1 Inderpal draftsman had proved the scaled site plan Ex.PA prepared by him on 15.10.2001 at the instance of the complainant-Hari Om.

12. PW2 Constable Ishwar Singh had deposed that on 25.05.2001, he was posted in Police Station Murthal and on that day, MHC handed over three copies of special report, which he handed over to the Ilaqa Magistrate, Superintendent of Police and the Deputy Superintendent of Police without any delay.

13. PW3 Constable Krishanpal and PW-4 Head Constable Suraj Bhan were formal witnesses and they had produced their respective affidavits Ex.PB & Ex.PC.

14. PW5 Rajpal (father of the deceased) had deposed that on 25.05.2001, he was working in his field and got message that his son had been murdered by the appellant. On this information, he reached near Anand Cable Factory, G.T. Road in the area of Sonipat. Police was already there and in his presence, police lifted blood-stained earth and empty cartridge (Khol) from the spot which were taken into possession vide memo Ex.PD.

15. PW6 Head Constable Ramesh Chander had deposed that on 11.09.2001, Inspector Ram Kala had interrogated the appellant in his presence, who disclosed that he had kept concealed a gun in the house of his son Hari Singh in Shadipur (Delhi) and can get the same recovered. His disclosure statement Ex.PE was recorded, which was signed by the appellant and attested by him.



16. PW7 Dr. Varsha, Medical Officer, General Hospital, Sonipat, had deposed that on 25.05.2001, she had conducted the postmortem examination of the dead-body of Tejpal Singh along with Dr. R.N. Tehlan and had noticed the following injury:—

"There were multiple punctured lacerated wound of size 0.5 x 0.5 cm present on the back of the neck reaching upto the vertex and upto both ears and inter-scapular area. Clotted blood and blackening was present around the wounds. On exploration, the massive amount of altered blood was present in the subcutaneous tissues, muscles of the neck and in the layers of the scalp. On further exploration the cerebellum and both cerebral hemispheres were lacerated at places and massive haemorrhage were present in the cranial cavity."

She deposed that the cause of death was due to head injury including injury to the brain. The injuries were *antemortem* in nature and were sufficient to cause death. Ex.PF carbon copy of the postmortem report is also proved in her statement. She further deposed that Metallic chips Ex.P4 are the same which were removed from the body of the deceased.

17. PW8 Sukhvinder Singh had deposed that on the intervening night of 24/25.05.2001, he was working in Anand Cable Factory, G.T. Road, Bhagan. On that day, the appellant was present with his gun as he was posted as Security Guard. Tejpal (deceased) was a mechanic in that factory. On that night at about 12/01:00 A.M. (midnight), the appellant had an altercation with Tejpal. He separated them. After that, he went to his work and when he was working on his machine, he heard a sound. The sound was of gun fire or bursting of a



gas cylinder. Since many gas cylinders were lying at their work place, he thought that some gas cylinder might have busted. He followed the sound and found that Tejpal was lying dead. He was declared hostile as he had deposed that he had not seen the appellant firing from his gun at Tejpal.

18. PW9 Hari Om, who is the complainant in this case, had reiterated the version as mentioned in the FIR. He was later declared hostile as he had deposed that he had not seen the occurrence as mentioned in the FIR.

19. PW11 SI Satbir Singh had deposed that on 25.05.2001, on the statement of the complainant-Hari Om, he had recorded formal FIR Ex.PH/2.

20. PW12 Inspector Ram Kala had stated that on 11.09.2001, he had apprehended the appellant and interrogated him, who made a disclosure statement Ex.PE to the effect that he had kept concealed a gun in the house of his son Hari Singh at Shadipur Delhi. On 13.09.2001, in pursuance to the disclosure statement, the appellant had led the police party to Shadipur, Delhi and got recovered a gun from the disclosed place which is Ex.P6. Rough sketch Ex.PE/1 was prepared and it was converted into a sealed parcel and taken into possession vide memo Ex.PE/2. He had also prepared rough site plan Ex.PE/3 of the place of recovery.

21. PW13 Head Constable Jagdish Rai had deposed that on 11.09.2001, he had witnessed the interrogation of the appellant in the presence of Inspector Ram Kala. He had corroborated the link evidence.

22. PW14 Mahabir Singh, Administrative Officer of M/s Anand Electro-Fab Cables had deposed that as per the attendance register and copy of the same is Ex.PM and Ex.PM/1, Tejpal (deceased) was on duty on the night of



24/25.05.2001 in their factory. He had marked presence of Tejpal on that night. He expired on that day and could not attend the duty after that date. He further deposed that he could not tell the reason or cause of his death.

23. PW15 Vinod Kumar Srivastava had deposed that on 24.05.2001, he was posted as Manager in Anand Electro-Feb situated in village Bhigan. On the night of 24/25-5-2001, he had deputed Tej Pal, since deceased, for working on stranded machine. His duty hours were from 10:00 P.M. to 07:00 A.M. The duty of Sant Kumar(appellant) was not ordered by him. This witness was declared hostile as he had stated that he did not know the appellant.

24. In addition to the version of prosecution witnesses, the report of Forensic Science Laboratory Haryana, Madhuban (Karnal) had been proved on record as Ex.PN and the result thereof is as under:-

“The 12 bore SBBL gun marked W/1 is a firearm as defined in Arms Act 59 of 1959. Its firing mechanism was found in working order.

The 12 bore fired cartridge case marked C/1 has been fired from 12 bore SBBL gun W/1 and not from any other firearm even of the same make and bore because every firearm has got its own individual characteristic marks.

Lead chips contained in parcel No.III were found to be fired lead chips which could be parts of a 12 bore cartridge.

Report in original from Serology Division is enclosed herewith.”

25. After closing the prosecution evidence, the statement of the appellant under Section 313 Cr.P.C. was recorded. He had denied all the incriminating circumstances produced before him and had pleaded his false



implication and innocence in this case. He pleaded that he had not committed any offence as alleged by the prosecution and false allegations have been levelled against him. In fact, he was arrested from his house in M.P. about 500 KMs away from the place of occurrence. He was forcibly put in a vehicle in the presence of the respectables of his village i.e. Panches and Sarpanch. When the villagers objected to his arrest by the police, it was replied that they were just taking him for interrogation and would let him off soon after. He further pleaded that he had not made any disclosure statement to the police nor he got recovered any gun. The police had already taken his gun into possession from the cabin of the factory which was later on planted in this case. In his defence, he had produced DW1 Bal Gobind and DW2 Raghuraj Singh.

26. DW1 Bal Gobind had stated that he was Sarpanch of village Lehrauli and he knew the appellant, who was a resident to his village. He was a person of good habits and strong moral character. He further deposed that on 01.09.2001, the police of Umri Police Station along with two more persons came in the village in casual clothes and had inquired about the appellant. He (DW1) had taken them to the house of the appellant. When they reached the appellant's house, they overpowered Sant Kumar and tried to force him into the jeep. He (DW1) had resisted and other villagers also raised objections while the police officials had assured that they are taking him for interrogation in a case and would leave him after some time in Umri. He further deposed that later, he came to know that police took him to Sonipat and involved him in a false murder case.



27. DW2 Raghuraj Singh had deposed that he knew the appellant who had a good moral character. He was never convicted for any offence. He is not involved in any type of criminal activities. It further deposed that he is a gentleman and used to live peacefully in the village. He had also confirmed the version as presented by DW1.

28. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had convicted the appellant and sentenced him to undergo life imprisonment under Section 302 IPC and Section 27 of the Arms Act.

29. Having considered the rival submissions advanced by learned counsel for the parties and upon a careful re-appraisal of the entire evidence available on record, this Court is of the view that the judgment of conviction and order of sentence passed by the trial Court, do not call for interference.

30. It is not disputed that both the appellant-Sant Kumar and the deceased-Tejpal Singh, were employed in the same factory, namely Anand Electro-Fab Cables Pvt. Ltd. and both were on duty on the intervening night of 24/25.05.2001. The appellant was posted as a Security Guard and was carrying his licensed firearm, while the deceased was engaged as a Machine Operator/Mechanic. Their presence at the place of occurrence during the relevant night thus stands established.

31. From the testimonies of PW-8 Sukhvinder Singh and PW-9 Hari Om, the prosecution has proved that there was indeed an altercation between



the appellant and the deceased at about midnight. Though both witnesses were declared hostile but their admissions on material points cannot be ignored. The law is settled that the testimony of a hostile witness cannot be rejected in toto and the portion which supports the prosecution can certainly be relied upon. The admitted facts that a quarrel took place, the appellant was present with his firearm, and soon thereafter a shot was heard, are sufficient to establish the background of the crime.

32. The medical evidence further corroborates the prosecution case. PW-7 Dr. Varsha, who conducted the postmortem, categorically opined that the cause of death was firearm injury to the head, sufficient in the ordinary course of nature to cause death. Metallic pellets were extracted from the body of the deceased. This leaves no manner of doubt that Tejpal died as a result of a gunshot wound.

33. The recovery of the weapon at the instance of the appellant constitutes highly incriminating evidence and stands unrefuted. Admittedly, in pursuance to the disclosure statement of the appellant (Ex.PE), the gun was recovered from the house of his son in the area of Shadipur (Delhi). The same was seized, sealed and later subjected to examination by the Forensic Science Laboratory. The ballistic expert's report (Ex.PN) is definite with regard to the cartridge case recovered from the spot had been fired from none other than the appellant's licensed gun. It is well-settled that such expert opinion under Section 293 Cr.P.C. is admissible and carries great evidentiary value.



34. Moreover, the defence version, suggesting false implication and fabrication of recovery, does not inspire confidence. The testimonies of DW-1 and DW-2, who spoke of the good moral character of the appellant and alleged that he was picked up from his house, are general in nature and is insufficient to disbelieve the cogent and corroborated prosecution evidence.

35. The chain of circumstances, when taken together, clearly establishes the appellant's guilt. The appellant and the deceased were last seen on duty in the factory on the night of 24/25.05.2001. They had a quarrel shortly before the incident. The appellant had his licensed gun with him and soon after, Tejpal was found dead from a gunshot wound. The cartridge found at the scene was proven to have been fired from the appellant's gun. The appellant also ran away after the incident. These facts form a complete chain that leave no doubt and clearly prove his guilt.

36. The argument raised by the appellant regarding absence of sanction under the Arms Act is unsustainable inasmuch as the charge was under Section 27 of the Arms Act and not under Section 25 of the Arms Act. Since the licensed gun was used for unlawful purpose, no prior sanction was required and conviction under Section 27 of the Arms Act is fully sustainable.

37. In view of the above, we are of the considered view that the prosecution has succeeded in establishing the guilt of the appellant beyond reasonable doubt. The findings recorded by the learned trial Court are well



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reasoned and based on sound appreciation of evidence and do not suffer from any perversity or illegality warranting interference by this Court.

38. Consequently, the appeal is, hereby, dismissed and the judgment of conviction and order of sentence dated 08.01.2004 passed by the learned Sessions Judge, Sonipat are upheld.

39. The Chief Judicial Magistrate, Sonipat is directed to take necessary steps to ensure that the appellant is taken into custody and made to undergo the remaining sentence.

40. Pending application, if any, shall stand disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

(H.S.GREWAL)
JUDGE

11.09.2025

A.Kaundal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No