

2025:PHHC:019148



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-595-2010(O&M)

Date of Decision:-10.02.2025

Rajju.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rajesh Lamba, Advocate for the Petitioner.

Mr. Dharam Pal, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been preferred against the judgment dated 18.01.2010 passed by Additional Sessions Judge, FTC, Nuh whereby the appeal filed against the judgment of conviction and order of sentence dated 11/17.11.2009 passed by Judicial Magistrate Ist Class, Nuh has been dismissed.

2. The FIR in the present case came to be registered on 20.06.2003. The judgment of conviction was passed on 11/17.11.2009 by the Judicial Magistrate Ist Class, Nuh. The Appeal filed against the order of conviction was dismissed on 18.01.2010 by the Additional Sessions Judge, FTC, Nuh. The instant revision petition was filed on 24.02.2010 and has come up for final hearing now i.e. after a period of 21 years from the date of registration of the FIR.

3. The case was registered on the basis of written information sent by HC Ram Kishan to the effect that on 20.6.2003, the complainant alongwith UGC Nand Lal no. 375, Bhupender Singh No. 36 were present at T-Point Palwal Road, Nuh for checking of crime and cow slaughtering and in the mean time secret information was received with regard to the fact that accused Rajju son of Rahim Khan was selling beef after slaughtering a cow in his house and if a raid was conducted, he could be apprehended red handed. Since the information was reliable, a raiding party was formed and a raid was conducted upon the house of accused Rajju and the secret informer was also accompanying the police party. Although, the complainant had tried to join independent witness but none had agreed to join the investigation. After arriving at the spot, the police party had seen that Rajju son of Rahim Khan was inviting the customers for purchasing the beef at the rate of Rs.10/- per kg. When the police party tried to arrest the accused after entering into the house, then he had succeeded in fleeing away after jumping from the roof of the house. On inquiry one skin of the cow, 85 kg beef, one mouth, one weighing scale, two weighing instruments of 1 kg and 2 kg, one knife, one axe and one wooden block were recovered from the spot, which were taken into possession by the police. The information was sent to the police station.

On the basis of this information, the formal FIR was registered with the police station, Nuh. Site plan of place of recovery was prepared. The beef was got examined from the Veterinary Surgeon, who submitted the report that the recovered meat belongs to the slaughtered cow. During investigation, the accused himself surrendered in the court on 13.12.2003 and was later released on bail. Statements of witnesses were recovered. After

completion of investigation and other formalities, challan was submitted before the court.

4. On finding a prime-facie case, the accused was charge sheeted u/s 8 of Punjab Prohibition of Cow Slaughter Act for contravention of provisions of sections 5 of the said Act. He pleaded not plead guilty and claimed trial.

5. In order to prove its case, the prosecution examined C. Bhupender as PW1, who has stated that on 20..2003 at about 1.15 p.m, he alongwith UGC Nand Lal and HC Ram Kishan were present at Palwal road for patrolling and in the meantime secret information was received with regard to the fact Rajju son of Rahim Khan resident of village Ferozepur Namak had slaughtered a cow in his residential house and was selling the beef and if a raid was conducted then he could be intercepted red handed. Since, the information was reliable, a raiding party was formed and went to the house of the accused. At that time, one person was seen jumping from the roof of his house and fled away from the spot. The police party immediately rushed into the house of the accused and found that Rajju was selling the beef at the spot. On checking, 85 kg beef alongwith one knife, one axe, one wooden block one weighing scale two weighing instruments of 01 kg and 2 kg were recovered from the spot which were taken into possession vide seizure memo Ex. PA and he alongwith Nand Lal had signed the seizure memo. When the raid was conducted, accused Rajju was loudly inviting the customers for purchasing the beef @ Rs. 10/- per kg.

6. PW2 UGC Nand Lal stated that on 20.6.2003, he alongwith HC Ram Kishan and constable Bhupender were present at Palwal road for patrolling and in the meantime secret information was received with regard to the fact Rajju had slaughtered a cow in his residential house and was

selling the beef @ Rs. 10-15/- per kg and if a raid was conducted then he could be intercepted at the spot. Although, HC Ram Kishan tried to join independent witnesses during the investigation but none agreed to associate with the police party and as such the police officials conducted the raid and accused Rajju was not found at the spot and he had fled away from there. On spot inspection one skin of cow, 85 kg of beef alongwith one knife, one axe, one wooden block, one weighing scale, two weighing instruments of 01 kg and 2 kg were recovered from the spot which were taken into possession vide seizure memo Ex. PA.

7. PW3 Sukhdev Photographer stated that on 20.6.2003, he had taken photographs Ex. PB to Ex. PD and negatives thereof were Ex. P1 to Ex. P3 and he had handed over the same to the police. Police had recorded his statement.

8. PW4, Dr. Om Parkash, Veterinary surgeon. Nuh has stated that on 20.6.2003, he had inspected approximately 85 kg of beef and submitted his report Ex. PW-4/A.

9. PW5 Ram Kishan ASI stated that on 20.6.2003 at about 1.15 p.m. he alongwith UGC Nand Lal and C. Bhupender were present at Palwal T-point for patrolling as well as for checking of cow slaughtering and in the meantime secret information was received with regard to the fact that Rajju son of Rahim khan resident of village Ferozepur Namak had slaughtered a cow in his house and was selling the beef and if a raid was conducted then he could be intercepted red handed. Since, the information was reliable, a raiding party was formed and the police officials arrived at the house of the accused alongwith the secret informer. Although, he had tried to associate the public witness but none agreed to join the investigation and when the police party arrived at the spot then the accused Rajju was inviting

customers in a loud voice to purchase beef @ Rs. 10/- per kg. When the police party tried to intercept the accused, he succeeded in running away from the spot. On checking, 85 kg beef alongwith one knife, one axe, one wooden block, one weighing scale two weighing instruments of 01 kg and 2 kg were recovered from the spot which were taken into possession vide seizure memo Ex. PA and he alongwith Nand Lal had signed the seizure memo which was signed by C. Bhupender and UGC Nand Lal. After effecting the recovery, information Ex. PW1/A was sent to the police station for lodging FIR. Site plan of the place of incident, Ex. PW5/B was prepared. Photographs of the place of incident were taken. During investigation, an application Ex. PW5/C was moved by him before the Veterinary Surgeon for checking of the beef. He also moved an application Ex. PW5/D before the court seeking permission to destroy the beef. This witness was not cross examined by the defence counsel despite availing the required opportunity in this regard.

10. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the Court of Judicial Magistrate Ist Class, Nuh vide judgment and order of sentence dated 11/17.11.2009 as under:-

| Offence under Section | Sentence RI/SI | Fine | RI/SI in default of payment of fine |
|--|-----------------|-----------|-------------------------------------|
| 8 of Punjab Prohibition of Cow Slaughter Act | RI for 04 Years | Rs.5000/- | RI for 06 Months |

11. The accused/petitioner preferred an appeal which was dismissed by the court of Additional Sessions Judge, FTC, Nuh vide judgment dated 18.01.2010.

12. The accused/petitioner has filed the instant revision petition impugning the aforementioned judgments.

13. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated

12.07.2011.

14. The Counsel for the accused/petitioner contends that the IO has not been examined in the present case which is fatal to the prosecution case. No test identification parade was conducted so as to establish the identity of the accused. No independent prosecution witness was joined. There were various discrepancies in the statements of prosecution witnesses which creates a doubt in the case of the prosecution. No Chemical/Forensic analysis has taken place regarding the meat in question. Therefore, it cannot be said the same was beef. He thus contends that the judgments of conviction were liable to be set aside and the accused ought to be acquitted of the charges framed against him. He has placed reliance upon judgments of this Court in *Ibbar @ Ibrahim Vs. State of Haryana 2011(3) RCR (Criminal) 134 and Ashu & Anr. Vs. State of Haryana Crl. Rev. No.837 of 2012 Decided on 30.07.2012.*

15. The Counsel for the State on the other hand has filed custody certificate dated 07.02.2025 in the court today which is taken on record as per which the petitioner has undergone a custody period of 01 year 08 months and 25 days. He contends that the police party at the spot has duly identified the accused. The photographer has taken the photographs showing the carcass and head of the cow. PW-4 Om Parkash the Veterinary Surgeon has stated in his report that the recovered meet was beef. Even the recovery memo shows the recovery of beef, one knife, one cow skin, one iron weighing machine, one wooden box and axe along with one mouth. Therefore, it stands established beyond doubt that the petitioner had committed the offence in question. Additionally it is his contention that the petitioner is a habitual offender with multiple other cases of a similar nature pending against him. He therefore contends that the petition is liable to be

dismissed.

16. I have heard Counsel for the parties.

17. The prosecution has examined three members of the police party, who had conducted the raid i.e. PW1, C. Bhupender, PW2, UGC Nand Lal and PW5, ASI Ram Kishan and all these witnesses have categorically stated that at the time of conducting raid, the accused was selling the beef inside his house. However, PW1, C. Bhupender has stated that the accused Rajju was arrested at the spot whereas the remaining two witnesses have categorically stated that on seeing the police party the accused had succeeded in running away from the spot. The statement of PW2 and PW5 are consistent with the prosecution version that at the time of conducting the raid the accused had fled away from the spot. The entire prosecution version cannot be disbelieved only on account of the statement of PW1, who has maintained that the accused facing trial was arrested at the spot because according to the prosecution version, the accused had succeeded in running away from the spot and similar statements have been made by PW2 as well as PW5. Apparently, this is a minor discrepancy. The accused has been identified at the spot and the recovery effected from his house.

18. Mere non examination of the Investigating officer is not fatal to the case of prosecution as has been argued. The Investigating Officer ASI Ram Kishan has appeared as PW5 and has made his detailed statement while supporting the prosecution version and it has been categorically stated by him that the accused was selling beef inside his house and on seeing the police party he had fled away from the spot and on spot inspection approximately 85 kg beef alongwith one knife, one axe, one wooden block, one weighing scale two weighing instruments of 01 kg and 2 kg were

recovered from his residence and Investigating Officer was not cross examined at all by defence counsel despite getting an proper opportunity for the same.

19. Not holding of a test identification parade of the accused is also not fatal to the prosecution case. In the written information Ex. PW5/A itself, it has been mentioned that the secret Informer, who was accompanying the police party had Identified the accused by name and as such members of the raiding party had also identified the accused at the instance of the informer. If the accused was not identified at the spot then his name would not have figured in the written information Ex. PW5/A and since he was identified at the spot and information was sent to the police station very promptly, therefore, it is absolutely clear that he was identified at the spot and as such there was no requirement of conducting identification parade of the accused.

20. Non examination of any independent witness is also not fatal to the prosecution case because official witnesses are also reliable witnesses and conviction can be sustained on their testimony alone. The statements made by the official witnesses in this case are quite categoric and reliable and their testimony could not be shaken at all despite the fact that they were cross examined at length.

21. The argument of the counsel for the petitioner that no chemical test/forensic examination of the meat took place to establish the fact that the recovered meat was beef cannot be accepted. Firstly, the recovery memo is categoric to the effect that along with the other articles including meat, one mouth was recovered. Photographs taken at the spot also show a carcass along with a head of a cow. Therefore, merely because no chemical examination of the recovered meat took place would not create a doubt in

the prosecution case as is sought to be suggested.

22. In view of the aforementioned discussion I find no infirmity in the impugned judgments and therefore the present petition stands dismissed.

23. As regards the imposition of sentence, admittedly, the occurrence pertains to the year 2003 and as many as 21 years have passed ever since then. Therefore, while maintaining the conviction I deem it appropriate to modify the sentence as under:-

| Offence under Section | Sentence RI/SI | Fine | RI/SI in default of payment of fine |
|--|-----------------------|-------------|--|
| 8 of Punjab Prohibition of Cow Slaughter Act | RI for 03 Years | Rs.5000/- | RI for 06 Months |

23. The present revision petition stands disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

February 10, 2025

Vinay

| | |
|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i> | <i>Yes/No</i> |