
(2006) 05 P&H CK 0229

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal No. 984-DB of 2004

Raghvinder

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: May 31, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 149, 302

Hon'ble Judges: Tej Pratap Singh Mann, J; Mehtab S. Gill, J

Bench: Division Bench

Advocate: Narender Hooda, in Criminal Appeal No. 8-DB of 2005 Mr. N.K. Sanghi, in Criminal Appeal No. 168-DB of 2005, Mrs. Archana Sharma, in Criminal Appeal No. 323-DB of 2005 and Mr. B.S. Solanki, for the Appellant; Ravi Dutt Sharma, DAG, for the Respondent

Judgement

T.P.S. Mann, J.

By this common judgment, we are disposing of Crl. Appeal No. 984-DB of 2004 filed by Raghvinder-appellant, Crl. Appeal No. 8-DB of 2005 filed by Sombir-appellant, Crl. Appeal No. 168-DB of 2005 filed by Dinesh and Krishan-appellants and Crl. Appeal No. 323-DB of 2005 filed by Sultan Singh- appellant, whereby they have challenged the judgment and order passed by Additional Sessions Judge, Sonapat dated 9/12.10.2004. Vide the said judgment and order, all the five appellants were sentenced to undergo imprisonment for life and to pay fine of Rs. 5000/- each u/s 302/149 IPC. In default of payment of fine, each one of them was directed to undergo RI for six months. They were also sentenced to undergo RI for two years and to pay fine of Rs. 1000/- each u/s 452/149 IPC. In default of payment of fine each of the appellants was sentenced to undergo RI for one month. The appellants were also sentenced to undergo RI for one year each u/s 148 IPC. Krishan-appellant was further sentenced to undergo RI for one year and to pay fine of Rs. 1000/- u/s 25 of the Arms Act. In default of payment of fine, he was directed to undergo further RI for one month. All the substantive sentences were ordered to run concurrently.

2. The facts giving rise to the present case are that deceased Sonia daughter of Bir Singh used to reside with her maternal uncle Ram Phal in village Bidhal. Dinesh-appellant who was resident of village Bidhal abducted Sonia. In this connection FIR No.336/1999 under Sections 363/366 IPC was registered in Police Station, Gohana. The trial of the case was pending in the Court at Sonapat at the time of the present occurrence. In the meantime, on 5.3.2000, complainant-Rohtas solemnized marriage with Sonia after performing Chunni Ceremony. About 15/20 days earlier to the occurrence, Dinesh-appellant came to Ganaur, where the complainant and his wife Sonia were residing. He gave threats to Sonia and then went away. The complainant was informed of this incident by Sonia in the evening. However, he did not take it seriously.

3. On 22.10.2001 at about 9.15 AM, complainant-Rohtas and his brother Sunil @ Sonu were tethering the buffaloes in a vacant plot in front of their house in Hari Nagar Colony, Ganaur. In the meantime, a Maruti car bearing No.DL-2C-1198 came there and stopped near their house. Five young persons were sitting in the said car. Dinesh whom the complainant knew earlier and three other boys alighted from the car, while their fifth companion remained sitting at the driver seat and kept the ignition of the car on. Dinesh and three boys entered the house of the complainant. They reached the courtyard, where the complainant's wife Sonia and his mother Chhano were sitting. Dinesh fired two shots from his pistol, hitting Sonia, while the second boy fired on her right knee. At this Chhano ran into the veranda in order to save herself. The other two boys fired three shots at Chhano. Two of the shots hit Chhano while the third struck against the door and pierced the shutter. As a result of the firing the complainant's wife Sonia and his mother Chhano died at the spot. Complainant and his brother Sunil @ Sonu could not intervene as they feared danger to their lives at the hands of Dinesh and others. Thereafter, all the accused left the spot after boarding the Maruti car, in which they had come. According to complainant-Rohtas, the four boys, who were accompanying Dinesh were having beard and he and his brother could identify them in case they were brought before them.

4. On getting a VT message from Police Station, Ganaur that firing had taken place in Hari Nagar Colony, Ganaur and two women had died at the spot, Inspector Randhir Singh, SHO PS, Ganaur who was present at Namaste Chowk in connection with patrolling reached the spot and met complainant-Rohtas, who made statement Ex. PL before him. The said statement disclosed commission of offences u/s 302/34 IPC and Section 25 of the Arms Act. Accordingly, Inspector Randhir Singh made an endorsement at 11.15 AM on 22. 10.2001 on the aforementioned statement Ex. PL and sent it to Police Station, Ganaur for registration of case. FIR Ex. PA was, thus, registered in Police Station, Ganaur at 11.40 AM by MHC Balbir Singh. Special report was sent through C. Krishan Chand, which was received by JMJC, Ganaur on the same day at 1.00 PM. Investigation was started immediately after the police was informed about the incident. After recording statement Ex.PL of Rohtas and making

endorsement on the same, Inspector Randhir Singh prepared rough site plan Ex. PR of the place of occurrence. The place where the dead bodies were lying was inspected. Two empty cartridges and one live cartridge were lifted from there and taken into possession vide memo Ex.PN. Blood stained earth was also taken into possession vide memo Ex.PO, where the dead body of Sonia was lying and vide memo Ex.PM, where the dead body of Chhano was lying. Inquest proceedings EX PE/2 in respect of Sonia and Ex.PQ/1 in respect of Chhano were also conducted. The dead bodies were, thereafter, sent for post mortem examination. The statements of the witnesses were recorded u/s 161 Cr.P.C. Thereafter, Inspector Randhir Singh proceeded in search of the accused. When he reached Sanpera turn, he found a Maruti car No.DL-2C-1198 parked there, near the metalled road, which led towards GT road. It was taken into possession vide memo EX.PB. Rough site plan Ex.PR/1 was prepared of the place of recovery of the car.

5. On 24.10.2001, Inspector Randhir Singh received a telephonic message from Incharge Police Post, Budh Vihar, Delhi to the effect that Dinesh, Sultan, Sombir, Raghvinder and Krishan had been arrested in some other case and they had disclosed their involvement in the present case. On this, Inspector Randhir Singh along with other police officials went to Police Post, Budh Vihar, Delhi where SI Avnish Tyagi (PW17) handed over photostat copies of the disclosure statements to him, which were taken into possession vide memo Ex.PS. The Delhi Police had arrested Dinesh, Sultan, Sombir and Raghvinder u/s 25 of the Arms Act, while accused Dinesh and Krishan u/s 109 Cr.P.C. The accused were produced before SDM, Delhi. Inspector Randhir Singh then arrested accused-Krishan in the present case, whereas he obtained production warrants against the remaining accused from the Delhi Court, who had been remanded to judicial custody, in the meantime, by the Delhi Court u/s 25 of the Arms Act.

6. SI Bijender Singh PW15 interrogated Krishan-accused on 28.10.2001, who suffered a disclosure statement Ex.PP, in pursuancq to which he gut recovered 7 (seven) cartridges of 315 bore, which Dinesh had handed over to him, from a room in Amar Jyoti Colony, Sector 16, Rohini, Delhi. The same were taken into possession vide memo Ex.PP/1. On 5.11.2001, accused Dinesh, Sultan, Sombir and Raghvinder were produced by the Delhi Police before Ilaqa Magistrate, Ganaur on the basis of production warrants. Inspector Randhir Singh obtained custody of the said four accused and arrested them in the present case. On the same day, HC Satbir after bringing the pistols so recovered from the possession of the accused, which were already in sealed parcels, produced them before Inspector Randhir Singh, who took the same into possession vide memo Ex.PJ.

7. On 7.11.2001, accused Dinesh suffered a disclosure statement Ex.PF, in pursuance to which he got recovered one knife from Sanpera turn on GT Road, which was taken into possession vide memo Ex.PF/2.

8. After completion of the case, Inspector Randhir Singh prepared the challan and presented it in the Court against all the accused. The case as, thereafter, committed to the Court of Sessions, from where it was entrusted to Additional Sessions Judge, Sonapat for trial.

9. After hearing the counsel for the accused and the State and perusing the record available on the file, Additional Sessions Judge, Sonapat found a prima facie case against the accused under Sections 148, 302/149 and 452 IPC and Section 25 of the Arms Act and charged them accordingly. The accused pleaded not guilty and claimed trial.

10. In support of its case, the prosecution examined the following witnesses.

11. C. Krishan Kumar PW1 proved the delivery of the special report to the Illaqa Magistrate. SI Dhanpat Rai PW2 deposed about recovery of the car by the police on 22.10.2001, which had been used by the accused in the occurrence.

12. Dr Rajiv Seth PW3 deposed about the post-mortem examination conducted by him along with Dr. V.K. Gupta and Dr A.K.Garg on the dead body of Sonia found the following injuries :

1. An oval shaped wound of entry was present on the medial side of upper part of rt. knee joint, with blackened inverted margins measuring 2 cm x 1 cm. On exploration track of the wound was going down ward backwards and laterally up to the muscles of posterior side of upper part of right leg, where a bullet was found lodged. Blood was present all along the track. Bullet was removed and sealed (No. 1).

2. A big irregular wound with blackened margins present just above the anus posteriorly on the back in between the natal clefts. On exploration the track was going upwards and anteriorly towards the rt side of the abdomen, injuring the intestines and mesentery. Blood was present in the peritoneal cavity. A bullet was found lodged between folds of small intestine in rt. side of abdomen. Bullet was removed and sealed as No. 2. The bullet had clotted blood on it.

3. An oval shaped wound of entry 2 cm x 1.5 cm. 4 cm above the xiphisternum in front of chest margins blackened and inverted. On exploration the wound track was going backward, downward and laterally towards left side after piercing the sternum, Sub cutaneous tissue, heart and left lung. Pericardial cavity and left pleural cavity full of blood. The track was ending at the site of the injury No. 4.

4. An oval shaped wound of exit with everted margins present on the left side of lower part of chest on the back 8 cm below inferior angle of scapula. The wound was continuous with track of injury No. 3.

5. There was stab wound with clean cut margins size 2.5 cm x 1.0 cm present on the rt. side of chest in posterior axillary line on seventh inter costal space. On exploration the wound was going directly into the liver (Rt. lobe upper part). The

blood was present in rt, pleural cavity and around the liver.

6. A stab wound with clean cut margins measuring 2 cm x 1 cm present on the back of left shoulder near posterior fold of axilla. Clotted blood was present.

7. An incised wound 1 cm x .5 cm present 5 cm below injury No. 6. On exploration the injury Nos. 6 and 7 were muscle deep and continuous with each other through the muscles.

13. The cause of death was shock and haemorrhage, as a result of multiple injuries to the vital organs i.e. heart, lung and liver. Injuries Nos. 1 to 4 were caused by firearms, while injuries Nos. 5 to 7 by sharp edged weapons. All the injuries were ante-mortem in nature and sufficient to cause death in the ordinary course of nature. During the post-mortem, one bullet was recovered from injury No. 1 and another bullet from injury No. 2. These were put in glass vials and duly sealed by the doctors.

14. Dr Adarsh Sharma PW4 proved the post-mortem report Ex. PQ in respect of the dead body of Smt. Chhano. As per the same, the following injuries were noticed on the dead body :

1. Oval shaped punctured wound 1.5 x 1 cms with inverted margins on the right side of chest wall near the posterior axillary line 6 cms below right axilla. On exploration the track was going medially upward and forward up to the 2nd right inter costa space 2 cms away from mid line. Sub cutaneous tissues and muscles of chest wall were lacerated. Clotted blood was present along the track, entry wound.

2. Exit wound was present in oval shape of size 2.5. x 2 cms with everted ragged margins in the right 2nd inter costal space 2 cms from the sternum.

3. Second wound of entry. Oval shaped punctured wound of size 2x1 cms was present on the right side of chest wall in the mid axillary line, 15 cms below right nipple. Margins were inverted. Multiple tiny dot like purpuric spots were present in a radius of 6 cms around the wound. On exploration the track was going medially and upward up to the left axilla, through the chest wall, Right pleural cavity, lower part of right lung, media sternum, piercing the heart and upper part of left lung, left pleura and left side of chest wall in axillary area. Bilateral haemothorax was present. Clotted blood was present around the track.

4. Wound of exit. Oval shaped wound of size 4x2 cms with ragged and everted margins was present in the left axilla in the anterior axillary line 4 cm below left axilla.

15. In the opinion of the doctor, the cause of death was shock and haemorrhage, as a result of injuries, which were caused by fire-arms. These were ante-mortem in nature and sufficient to cause death in the ordinary course of nature.

16. C. Jagbir Singh Draftsman while appearing as PW5 proved the scaled site plan Ex.PR prepared by him, at the instance of complainant Rohtas. Satbir Singh, Reader to District Magistrate, Sonapat PW6 proved the sanction Ex. PS for prosecution of the accused u/s 25 of the Arms Act. HC Raj Kumar PW7, who was posted in Police Station Sultanpuri, Delhi on 24.10.2001, deposed about the arrest of Sultan accused and recovery of country made pistol from his possession, which was taken into possession vide memo Ex.PG. HC Satbir Singh PW8 proved memo Ex. PJ, prepared by Inspector Randhir Singh on 5.11.2001, vide which he took into possession the pistols, which he had collected from Police Station Sultanpuri, Delhi. ASI Ram Kumar PW9 stated that accused-Krishan suffered a disclosure statement, in pursuance to which he got recovered a white polythene bag, containing seven live cartridges from his residential house at Rohini. EHC Jai Pal PW 10 deposed about taking the dead bodies for post-mortem examination.

17. Complainant-Rohtas appeared as PW11, who deposed about the back ground of the case as well as the main incident in which his wife Sonia and Chhano were done to death by the five accused.

ASI Ishwar Singh PW12 of Police Station Sultanpuri, Delhi proved FIR Ex. PQ registered in the said Police Station against Sultan u/s 25 of the Arms Act and FIR Ex.PQ/1 against Sombir for similar offence.

18. Inspector Randhir Singh PW13 proved the statement EX.PL made by complainant-Rohtas before him. He further stated about the recoveries effected by him at the spot. He mentioned about the arrest of the accused after he received an information from Incharge Police Post, Budh Vihar about the apprehension of the accused there. After completion of the investigation, he prepared final report u/s 173 Cr.P.C.

19. Complainant's brother Sushil alias Sunil alias Sonu, who had also witnessed the occurrence was also examined as PW14. He deposed about the occurrence in which his sister-in-law Sonia and his mother Chhano were done to death by the accused. He corroborated the testimony of his brother Rohtas PW10. SI Bijender Singh PW15 proved the recovery of seven cartridges, at the instance of Krishan-accused and a knife at the instance of Dinesh-accused. EHC. Ranbir Singh PW16 proved his affidavit Ex.PX, which he tendered in evidence. SI Avinish Tyagi PW17 was posted as Incharge of Police Post, Budh Vihar under Police Station Sultanpuri, Delhi. He deposed about the arrest of the accused Raghvinder, Sombir, and Sultan at a nakabandi held in Sector 23, Rohini and also about the arrest of Dinesh and Krishan-accused u/s 41 Cr.P.C. by HC Ravi Karan. Further country made pistols were recovered at the instance of Raghvinder, Sombir, Sultan and Dinesh-accused.

20. After tendering reports Ex.PU and Ex.PV issued by the Forensic Science Laboratory, the prosecution closed its evidence.

21. The case of the prosecution was, thereafter, put to the accused, when they were examined u/s 313 Cr.P.C. All of them pleaded that they had been falsely implicate in the case. Accused Dinesh stated, that he had been falsely implicated by the witnesses, who were inimical towards him because of the abduction case of Sonia, in which he was later on acquitted. However, the accused did not produce any witness in support of their pleas.

22. The trial Court relied upon the testimonies of Rohtas PW11 and Sushil @ Sunil @ Sonu PW14 in respect of the ocular account and on the testimonies of Inspector Randhir Singh PW13 and SI Bijender Singh PW15 in respect of the investigation conducted by them. Finding that the medical evidence was in consonance with the ocular account given by the two witnesses and that the recoveries of the firearms, at the instance of the accused, connected them with the commission of crime, the trial Court convicted and sentenced the appellants, as mentioned above.

23. We have heard the learned counsel for the parties and perused record minutely with their assistance.

24. It has been argued on behalf of the appellants that there was no motive for the accused to participate in the present occurrence and cause the death of Sonia and Chhano. The earlier case in which Dinesh was tried u/s 363/366 IPC ended in his acquittal as per judgment Ex.DA/1 passed by Additional Sessions Judge, Sonapat on 25.3.2003. Even if it was taken that Dinesh accused had the motive, there was no material on the record that the other four accused had any link or relationship with him which could impel them to participate in the occurrence.

25. Though it is a fact that Dinesh was acquitted of the charges under Sections 363/366 IPC as well as u/s 376 IPC vide judgment Ex.DA/I, yet on the date of occurrence in the present case i.e. on 22.10.2001, Dinesh stood charged for those offences. He was being tried by the, Court of Additional Sessions Judge, Sonapat. The case against him stood committed by Sub Divisional Judicial Magistrate, Gohana vide order dated 11.5.2000. Sonia had already appeared against him as PW2 and she had supported the case of the prosecution. So much so that 15/20 days earlier to the present occurrence, Dinesh had come to the house of Sonia and extended a threat to her. After threatening her, he had left the house of Sonia. This information was conveyed by Sonia to her husband Rohtas, when he returned to the house in the evening. It is an another matter that Rohtas did not take the threat of Dinesh seriously. Regarding the other accused, the prosecution has not brought any evidence on the record, which could establish that they were linked or related with Dinesh-accused. Sushil @ Sunil @ Sonu brother of complainant Rohtas did state in his cross-examination that they used to accompany Dinesh to the Court, where he was facing trial in the abduction case. At least this establishes that (sic), Sombir, Krishan and Sultan Singh were supporters /sympathizers of Dinesh and they were attending the Court, where the trial of Dinesh was proceeding under Sections 363/366 IPC. Although they had no personal reasons or motive to kill Sonia and

Chhano deceased, but they appeared to have been associated by Dinesh in going to the house of the complainant and that too while armed with firearms and after going there resorted to firing, as a result of which Sonia and Chhano were killed. For the sake of arguments, even if it is taken that the accused other than Dinesh had no motive, the case of the prosecution cannot be thrown out. The motive remains imbedded deep in the mind of the accused and at times, it may not be possible to pin-point the specific reason, which could have impelled an accused to commit the murder.

26. It has then been contended by the defence that neither Rohtas PW11 nor Sushil @ Sunil @ Sonu PW14 were present at the time of the incident. In case they were present and were seeing the accused, they would not have been spared by the accused.

27. A perusal of the case shows that both Rohtas and Sushil @ Sunil @ Sonu were present in front of their house, where they were tethering buffaloes. Their presence was shown at point 'D' in the site plan Ex.PR prepared by Draftsman Jagbir Singh PW5. Point 'D' is situated in the area opposite to the house of the complainant. Only a street intervenes between point 'D' and the house. Sushil @ Sunil @ Sonu PW14 deposed that the veranda and courtyard of the house was very much visible from the spot, where he along his brother Rohtas was tethering the cattle. When the accused came to the house of the complainant and parked the car in the street just opposite the house, their attention was concentrated towards the house and not towards the place where Rohtas and Sushil @ Sunil @ Sonu were tethering the cattle. Their main target was Sonia. She had already appeared as PW in the abduction case against Dinesh. 15/20 days earlier, Dinesh had also come to the house of the complainant and extended threats to Sonia. Rohtas further explained in his examination as to how they hid themselves behind the buffaloes. According to him he and his brother got nervous after hearing the shots and took shelter behind the buffaloes from where they kept on watching the occurrence. After the occurrence was over, the four accused who were armed with firearms came out. Both Rohtas and Sushil @ Sunil @ Sonu had already seen the accused committing the murders of Sonia and Chhano. In case they had made any attempt to overpower the accused, they would not have been spared by them. They would have also lost their lives, if they had done so. For these reasons both the PWs hid themselves behind the buffaloes in such a way that they could not be seen by the accused. However, they were able to see the entire occurrence. There is, thus, nothing improbable or unnatural when the witnesses say that they saw the occurrence from a place in front of their house. Their presence at the place of occurrence at the time when the accused came in a Maruti car, thus, stands fully established.

28. Coming to the argument of the defence regarding the identity of the four accused, who were not named in the FIR, Rohtas stated that he knew only Dinesh by

name, whereas the rest of the accused were familiar to him, but he did not know their names. Sushil @ Sunil @ Sonu PW14 stated that he knew the names of four co-accused of Dinesh, as they used to come to the Court where Dinesh was facing trial. Further he came to know about their names in routine when he would visit the Court and none had introduced them to him. Sushil @ Sunil @ Sonu PW14 clearly stated in his examination-in-chief about the accused who had fired at Sonia and Chhano deceased. He stated that accused Dinesh fired two shots while Sultan accused fired one shot which hit Sonia. His mother was shot at by Sombir and Raghvinder-accused hitting her on her chest. Due to those injuries his mother fell down. One shot, however, did not hit his mother as it went through her axillary portion and hit the shutter. When the accused were known to Sushil @ Sunil @ Sonu PW 14 and he had named them as such while making statement u/s 161 Cr.P.C soon after the occurrence, there was no need for the prosecution to hold any test identification parade in case the names of the accused had not figured in the FIR.

29. The prosecution story has also been challenged by the defence on the ground that the medical evidence did not corroborate the ocular account in so much as no explanation had been given by Rohtas and Sushil @ Sunil @ Sonu regarding the presence of sharp edged weapon injuries on the dead body of Sonia.

30. As per the post-mortem examination of Sonia-deceased, injury Nos. 5, 6 and 7 were the result of sharp edged weapon. Though the two eye witnesses have not stated anything about any accused being armed with sharp edged weapon or any injury being given with the same to Sonia deceased, yet there is recovery of knife Ex.P1, at the instance of Dinesh accused. Moreover, after Sonia was fired at by Dinesh and Sultan, the other two accused Sombir and Raghvinder went after Chhano, who in the meantime ran into the veranda. When Chhano was attacked by the said two the attention of Rohtas and Sushil @ Sunil @ Sonu was concentrated towards that side. At that point of time, they were not focussed Dinesh and Sultan. There is every likelihood that with a view vent to his ire, Dinesh caused some knife blows to Sonia, which hit her on the right side of her chest and on the back of her left shoulder.

31. From the spot two fired cartridges and two misfired cartridges were recovered. The fired cartridges were examined by Forensic Science Laboratory, Haryana and they matched with country made pistols W-1, recovered from Raghvinder and W-4 from Dinesh. Similarly, mis-fired cartridges matched with country made pistols W-2 recovered from Sultan and W-3 from Sombir. The two fired bullets which were recovered from the dead body of Sonia matched with country made pistols W-2 and W-3, which were recovered from Sultan and Sombir respectively. The holes found in shirt and salwar belonging to Sonia-deceased as well as in the shirt of Chhano-deceased were opined to be caused by the bullet projectiles. The acquittal of accused in the Arms Act cases by the Delhi Court, would not detract anything from the veracity of the prosecution case. The acquittal in those cases was based on

absence of sanction, absence of any eye-witness and non-production of original report of Forensic Science Laboratory. None of the accused can draw any advantage from the fact that they had been acquitted in the Arms Act cases.

32. Coming to the case of appellant-Krishan, it may be seen that he was not named as an accused by complainant-Rohtas in the FIR and also in his statement as PW 11. Complainant's brother Sushil @ Sunil @ Sonu, who was the second eye-witness of the occurrence and examined by the PW 14, while deposing before the Court, did not mention the appellant- Krishan. He specifically mentioned the names of other co-accused of Dinesh-accused, namely, Raghvinder, Sombir and but he did not state at all that the fourth, coaccused of Dinesh was appellant-Krishan. The testimonies of Rohtas PW 11 and Sushil @ Sunil @ Sonu PW 14 do not fix the identity of appellant Krishan, as one of the accused. Those two witnesses are consistent in so far as Dinesh, Raghvinder, Sultan and Sombir were concerned, but there is no sufficient evidence on the file to fix the identity of appellant- Krishan as one of the accused. Mere fact that after being detained, he suffered a disclosure statement Ex.PP, in pursuance to which he got recovered seven cartridges of .315 bore from a room in Amar Jyoti Colony, Sector 16, Rohini, Delhi was no ground to hold him liable for the offence u/s 302 IPC, the recovery of the cartridges at the instance of appellant Krishan was also doubtful as SI Bijender Singh PW15 could not say about the name of the Police Station within the jurisdiction of which he recovered the cartridges. Said SI (PW15) also did not remember as to whether he got his presence entered in the Police Station. No public person was associated while effecting the recovery, although the same was done at 2.30/3.00 PM. It is quite possible that the car in question was driven by someone else who kept ignition of the car on, but the prosecution has miserably failed to establish the identity of that person.

33. As a result of the above discussion, we find that the conviction and sentence of appellant-Krishan, as recorded by the trial Court, are unsustainable. Accordingly, he is acquitted of all the charges and be released from jail forthwith, if not wanted in any other case.

34. Conviction and sentences of the other appellants, namely, Raghvinder, Sombir, Dinesh and Sultan Singh, as recorded by the trial Court are affirmed and maintained.

35. All the appeals are, accordingly disposed of.