In the Court of Nitin Raj, HCS (Judicial), Special Railway Magistrate, Ambala Cantt (Haryana). UID No. HR 0287.

Filing No.	:-	CHA/02/2018.
CRN No.	:-	HRAMB10009242018.
Registration No.	:-	CHA/02/2018.
Crl. Case No.	:-	429-2.
Date of Instt:-	:-	08.02.2018/21.02.2009.
Date of Decision	:-	20.02.2018.

State of Haryana

Versus

1. Matlub S/o Mohd. Yasu, R/o Mohalla Majjer Hussain, PS: Chiklana, Distt: Saharanpur, (UP).
2. Sonu S/o Sh. Dalmira, R/o Village: Dumkhera, PS: Chilkana, Distt: Saharanpur (UP).

----Accused

FIR No.	:-	05.
Dated	:-	17.01.2008.
Under Section	:-	Section 3 punishable under Section 8 of Prohibition of Cow Slaughter Act,1955 & Section 4 (B) & Prohibition of Cow Slaughter Act,1955. and 8 of Prohibition of Cow Slaughter Act,1955
Police Station	:-	Saha.

Present:- Shri Karmesh Bhardwaj, APP for State.
Accused Matlub on bail represented by
Sh. Manoj Malik, Adv.
Accused Sonu in custody represented by Sh. Vikas Sahu, Legal Aid Counsel.

Judgment:-

The above named accused has been sent up by Incharge, PS: Saha, Ambala, to face trial for the commission of offence punishable under Section 3 punishable under Section 8 of Prohibition of Cow Slaughter Act,1955 & Section 4 (B) & Prohibition of Cow Slaughter Act,1955. and 8 of Prohibition of Cow Slaughter Act,1955 with the allegations in brief

that on 17.01.2008, within the area of PS: Saha, Ambala above said accused persons were caught. While transporting 16 cows and 02 oxes towards U.P. in truck bearing registration no. HR-58-4715 in order to slaughter them. The cattles were tied up with a rope and were stuffed in the truck in cruel manner. Thereby committed the above said offence. Accordingly, accused were formally arrested. Statements of witnesses were recorded. On completion of usual formalities of investigation, complaint was presented in the court for trial of accused for the commission of offence punishable under Section 3 punishable under Section 8 of Prohibition of Cow Slaughter Act,1955 & Section 4 (B) & Prohibition of Cow Slaughter Act,1955. and 8 of Prohibition of Cow Slaughter Act,1955

2. After the presentation of the challan, the copies of the documents relied upon by the prosecution were supplied to the accused free of costs vide a separate statement.

3. A prima facie case was made out against the accused persons for having committed the offence punishable under Section 3 punishable under Section 8 of Prohibition of Cow Slaughter Act,1955 & Section 4 (B) & Prohibition of Cow Slaughter Act,1955. and 8 of Prohibition of Cow Slaughter Act,1955. Accordingly, the charge was framed on 01.08.2017 to which the accused persons pleaded not guilty and claimed trial.

4. In order to support its case, the prosecution examined (Retd.) SI Prithi Singh as **PW1**, (Retd.) ESI Rajender Singh is **PW2** as wrongly stated as PW3, Photographer (Surinder Singh) is **PW3** as wrongly stated as PW4, (Retd.) DSP Tara Chand is **PW4** wrongly stated as PW2, EASI Sultan Singh is **PW5** wrongly stated as PW3 and Dr. Devki Nandan

is **PW6** wrongly stated as PW5. The ld. APP for State given up Kulwant Singh being dead and closed the prosecution evidence as witness list has been exhausted.

5. SI Prithi Singh while appearing as PW1 deposed on oath that on 17.01.2008 he was posted as ASI and received Tehrir through HC Rajender Singh and filed an FIR Ex.PW1/A vide endorsement Ex.PW1/B.

During cross-examination by Sh. Manoj Malik, Ld. Defence Counsel stated that he was not involved in the investigation except filing FIR.

6. (Retd.) ESI Rajender Singh while appearing as PW2 deposed on oath that on 17.01.2008 he alongwith ASI Kulwant Singh and ESHC Sultan Singh was present at State Highway on police vehicle bearing registration no. HR-37B-7665 and were on patrolling duty. He further deposed that on secret information they put barriers on road for checking vehicles. At around 5:15 am one truck bearing registration no. HR-58-4715 stopped before the barriers and on suspicion accused persons Matlub and Sonu were apprehended. They were transporting 16 cows and 02 oxes towards U.P. in truck in order to slaughter them. The cattle were tied up with a rope and were stuffed in the truck in cruel manner. He further stated that photographer was called at the spot photographs were clicked Ex.P1 to Ex.P12. Afterwards witness went to police station Saha with Tehrir Ex.PW3/A and FIR was registered. He further stated that cattle were taken in possession vide fard Ex.PW3/B. Site plan was prepared Ex.PW3/C and doctor was also called at the spot who made his report Ex.PW1/A.

During cross-examination by Sh. Manoj Malik, Ld. Defence Counsel stated that he alongwith other police officials were on patrolling

duty on State Highway. On secret information they put barriers for checking and checked five to six trucks and when they inspected impugned truck accused tried to escape but were apprehended. He further stated that whole investigation took around 5 – 6 hrs and no public/private person was made independent witness as they expressed their unwillingness to be the part of the investigation. The witness further deposed that all documents were prepared by the IO and they just pust their signatures on documents. He denied that he was not involved in the investigation and deposing falsely being police official.

8. Photographer Surinder Singh while appearing as PW3 deposed that he has a Digital Photo Studio at Saha. He further deposed that on 17.01.2008 he clicked photographs of cattle carried in truck bearing registration no. HR-58-4715 exhibited as Ex.P1 -Ex.P12.

During cross-examination by Sh. Manoj Malik, Ld. Defence Counsel stated that he do not remember when he was called by the police and further does not remember whether there was day or night while he clicked the photographs. He further stated that he handed over the photographs at police station and tendered his statement there. He denied that he was deposing falsely.

7. (Retd.) DSP Tara Chand while appearing as PW4 deposed on oath that on 31.08.2008 he was posted as Inspector/SHO at Saha, Police Station and after completion of investigation he prepared challan which bears his signature and verified the same.

During cross-examination by Sh. Manoj Malik, Ld. Defence Counsel stated that he was not involved in the investigation and had only

prepared the challan.

7. EASI Sultan Singh while appearing as PW5 deposed on oath that he was posted as Driver at Saha police station. On 17.01.2008 he was on patrolling duty at State Highway alongwith ASI Kulwant and HC Rajender in government vehicle bearing registration no. HR-37B-7665. He further deposed that on secret information they erected checking barriers where a truck bearing registration no. HR-58-4715 was stopped, however, accused tried to escape but they were apprehended by the police party. On checking vehicle 16 cows and 2 oxes were found stuffed in abrupt manner. He further deposed that IO sent Tehrir to police station, Saha. IO prepared Site plan Ex.PW2/E and photographs were clicked which were exhibited as Ex.P1 to Ex.P12. He further deposed that cattle were handed over to Gauri Shankar Gaushala vide superdari Ex.PW2/F. The witness further identified the accused persons present before the court.

During cross-examination by Sh. Manoj Malik, Ld. Defence Counsel stated that he alongwith other police officials was on patrolling duty at State Highway. He further stated that on secret information they put checking barriers. He further stated that they have not checked any vehicle and after sometime one vehicle was stopped before the barriers where accused tried to escape who were apprehended by police party. The witness admitted that no public/private person was made an independent witness. He further stated that whole investigation took around 1.5 hrs. The witness stated that the whole inquiry was conducted by IO and put signatures where IO instructed to sign. He further stated that photographer was called at police station and photographs were clicked at police station. He denied that he was not involved in the investigation and deposing

falsely being police official.

9. Dr. Devki Nandan Arya while appearing as PW6 deposed on oath that on 18.01.2008 he posted as Veterinary Doctor and on the request of police he conducted medical examination of cattle. He further stated that cattle were not injured and gave Veterinary Health Certificate Ex.PW5/A. The witness further stated that copy of Veterinary Health Certificate is exhibited as Ex.PW1/A.

During cross-examination by Sh. Manoj Malik, Ld. Defence Counsel stated that he examined the cattle and they were not injured. He further stated that all cattle were found fit in Veterinary Report. The witness further stated that he do not remember when they were caught.

10. After the closure of the prosecution evidence, in order to enable the accused to explain the circumstances appearing in evidence against him, the statement of accused under section 313 of Cr.P.C., was recorded during which he claimed innocence and pleaded false implication while denying the circumstances appearing against him as incorrect.

11. Learned APP for State vehemently argued that the fact that accused on the fateful day were caught red handed while transporting cows and oxes in truck has been aptly shown on the file. It has also been shown that cows and oxes were meant to be illegally slaughtered. The deposition of PW3 and PW6 clearly corroborates the same and goes on the strengthening the prosecution story. All the more, the rest of the prosecution witnesses also duly proved the prosecution story, therefore, the accused be convicted.

12. Per Contra, learned counsel for accused vehemently argued that the prosecution has failed to establish its case as there are several

loopholes and contradictions in the deposition of prosecution witnesses. He further argued that prosecution has failed to establish its case as the identity of the accused. Moreover, the impugned cows were in healthy condition and were not meant to be slaughtered. All the more, no independent witness was examined. Hence, accused be acquitted.

13. I have heard the learned APP for the State, learned defence counsel and have also gone through the entire case file with due care and circumspection.

14. It is settled principle of criminal jurisprudence that the prosecution has to prove the guilty of the accused beyond shadow of reasonable doubt to the satisfaction of the court. Keeping in view the above stated cannon of law close to the heart, I am of the considered opinion that the prosecution has failed to establish its case for not one reason but many.

15. The doctor who appeared in the witness box as PW6 has categorically stated vide report Ex.PW1/H that the alleged cattle viz cows and oxes were in healthy condition and did not have any marks of injury on their body creating shadow of suspicion over the prosecution story that accused were involved in slaughtering of cows as averred in the arguments.

16. Moreover the prosecution has also failed to establish the modus operandi of the accused that whether they were carrying any knife, weighing scales, hammer etc so as to slaughter the above stated animals which negated the mens rea on the part of accused to slaughter the cattle.

17. Further no independent witness has been joined by the prosecution. All the officials are police officials. Some explanation must be

forthwith coming from the prosecution that Investigating Officer or any other police officials have made any effort for including any person as witness. If the prosecution has joined the independent witness then the position would have been different. In the present case it has also not come that any effort was made by the police to join independent witness. In this regard, reliance can be placed on **State of Punjab Vs. Gurdial Singh 1992(1) C.L.RR. 603** and **State of Punjab Vs. Sukhdev Singh 1992(1) C.L.R.600.**

18. For the above said reasons, it is held that the prosecution has not been able to prove the case against the accused beyond any reasonable doubt. Accordingly, the accused is hereby acquitted of the charge levelled against him. His bail bonds and surety bonds stand discharged. The case property if any, be dealt with as per rules after the result of appeal if any or after the expiry of the period of appeal, as the case may be. The file be consigned to record room after due compliance.

Dated:- 20.02.2018

(Nitin Raj),
Special Railway Magistrate,
Ambala Cantt (Haryana),
UID HR 0287.

Note:- Certified that this judgment contains eight pages and each page has been duly checked and signed by me.

(Nitin Raj),
Special Railway Magistrate,
Ambala Cantt (Haryana),
UID HR 0287.
Dated:- 20.02.2018

Gaurav
Steno-typist, Gr.III

Present:- Shri Karmesh Bhardwaj, APP for State.
Accused Matlub on bail represented by
Sh. Manoj Malik, Adv.
Accused Sonu in custody represented by Sh. Vikas Sahu, Legal Aid Counsel.

No PW is present. Ld. APP for state closed the prosecution evidence vide his separate statement as the witness list has been exhausted. Statement of accused under section 313 Cr.P.C. has been recorded in which he pleaded his false implication in the present case. The defence did not intend to lead any evidence in defence. Therefore, the same stands closed. Now the file be put up for arguments. Arguments heard. Order announced. Vide my separate judgment of even date, accused persons has been **acquitted** of the charges leveled against them under Section 3 punishable under Section 8 of Prohibition of Cow Slaughter Act,1955 & Section 4 (B) & Prohibition of Cow Slaughter Act,1955 and 8 of Prohibition of Cow Slaughter Act,1955. Their bail bonds and surety bonds stands discharged. The case property if any, be dealt with as per rules after the result of appeal if any or after the expiry of the period of appeal, as the case may be. File be consigned to record room after due compliance.

(Nitin Raj),
Special Railway Magistrate,
Ambala Cantt, Haryana.
Date: 20.02.2018.

Gaurav
Steno-typist, Gr.III

Present:- Shri Lakshmikant, APP for State.
Accused Mohd. Buran in custody represented by
Sh. Vikas Sahu, LAC.
Accused Mohd. Kurban is declared Proclaimed Person v.o.d. 28.02.2017.
Accused Mohd. Gaffur is declared Proclaimed Person v.o.d. 13.09.2017.

No PW is present. Accused has expressed his desire to confess the guilt. Accused was served with notice of accusation to which he pleaded guilty and did not claim trial. His confessional statement has been recorded separately. Vide my separate judgment of today, the accused is hereby sentenced to undergo imprisonment for the period i.e. from **29.07.2015 to 23.08.2015, 07.10.2015 to 07.11.2015 and 08.08.2017 to 08.11.2017 (i.e. the period already undergone)** for offence under Section 4 (B) & Section 8 of Prohibition of Cow Slaughter Act,1955 and the accused is sentenced to pay a fine of Rs. 50/- for the offence under Section 11 of Prevention of Animal from Cruelty Act, 1960. In default of payment of fine, accused shall to undergo simple imprisonment for two days. **Fine paid**. The convict Mohd. Gaffur be released forthwith, if not required in any other case. Hence, the **accused Mohd. Kurban is declared Proclaimed Person v.o.d. 28.02.2017 and accused Mohd. Gaffur is declared Proclaimed Person v.o.d. 13.09.2017. SHO be informed accordingly. File be consigned to record room with a red ink note that the file be not destroyed as the same shall be restored as and when proclaimed person appears or is brought before the Court.** File be consigned to record room after due compliance.

(Nitin Raj),
Special Railway Magistrate,
Ambala Cantt, Haryana.
Dated:- 28.11.2017
UID No. HR 0287

gaurav

In the Court of Nitin Raj, HCS (Judicial), Special Railway Magistrate, Ambala Cantt

State of Haryana

Versus

1. Mangal Sen S/o Sh. Nirmal Singh, R/o Village: Klanaur, PS: Sadar, Distt: Yamuna Nagar, Haryana..
2. Pankaj S/o Satpal, R/o Village: Klanaur, PS: Sadar, Distt: Yamuna Nagar, Haryana.

Accused

Notice of Accusation:-

I, Nitin Raj, Special Railway Magistrate, Ambala Cantt (Haryana), do hereby serve you with following charge-sheet:-

That on 12.04.2017, within the area of Railway Station Yamunagar- Jagadhari, RPF. Out Post: Yamunagar- Jagadhari you obstructed running of trains by your rash and negligent act as you cut the Location Box wires and thereby committed an offence punishable under Section 174 of Railways Act and within my cognizance.

And, I hereby direct that you be tried by this Court on the said notice of accusation.

S.R.M./Ambala Cantt.

Certified that the contents of the above said notice of accusation have been read over and explained to accused in simple Hindi.

S.R.M./Ambala Cantt.

Statement of accused:- Mangal Sen S/o Sh. Nirmal Singh.

Q: Have you heard and understood the contents of the above said notice of accusation?
Ans: Yes, Sir.
Q: Do you plead guilty or claim trial?
Ans:

RO&AC. S.R.M./Ambala Cantt.

Statement of accused:- Pankaj S/o Satpal.

Q: Have you heard and understood the contents of the above said notice of accusation?
Ans: Yes, Sir.
Q: Do you plead guilty or claim trial?
Ans:

RO&AC. S.R.M./Ambala Cantt.