Supreme Court of India
Sunil And Others vs State Of Haryana on 27 April, 1993
Equivalent citations: AIR 1994 SC 1536, 1994 CriLJ 1381
Author: K J Reddy
Bench: K J Reddy, N Singh
JUDGMENT K. Jayachandra Reddy, J.

1. These two appeals arise out of the judgment of the Designated Court, Bhiwani in Terrorist Case No. 18 of 1989, Sunil S/o. Harish Chander (original accused No. 5) is the appellant in Crl. No. 786 of 1992 and Ajit S/o Dalip Singh (original accused No. 9) is the appellant in Crl. A. No. 254 of 1993. These two appellants along with seven others were tried for offences punishable under Sections 392, 394, 395, 109, 120-B I.P.C. and under Section 25 of the Arms Act. The trial Court acquitted seven of them but convicted each of the appellants under Section 394 I.P.C. read with Section 25 of the Arms Act and. sentenced them to undergo seven years' Rigorous Imprisonment and to pay a fine of Rs. 500/-, in default of payment of which to further undergo Rigorous Imprisonment for two months.

2. The case of the prosecution is as follows:

On 1-3-88 Chandgi Ram Dafedar the deceased in the case, Banwari Lal Barkandar (P.W. 3) and one Kedar Singh Barkandar along with Bakhtawar (P.W. 2) went to the State Bank of India, Dadri Branch to collect the cash of pay relating to the Canal Department's officials posted at Dadri. The deceased had a bag with him having Rs. 1,98,395.45 collected from the Bank. From another window Rupees 1,00,000/- were collected which were with Banwari Lal, P.W. 3. After collecting the cash they started for their office. At about 3.45 P.M. near the boundary wall of the Canal Rest House the two appellants pounced upon the deceased and snatched the bag. One of them was armed with a pistol and he fired in the air. When the accused were going away with the bag. P.Ws. tried to go after them and one of the two appellants who fired earlier was trying to load the pistol again and he fired there. The other assailant who snatched the bag pointed pistol towards them and the witnesses got frightened and they made good escape by going away on a motorcycle which was parked nearby. It is alleged that in the occurrence the deceased sustained some injuries. He was taken for his medical examination and P.W. 1, the doctor noticed a contused wound on the right temporal region and a lacerated wound on the right parietal region. At that stage the injuries were declared simple. Information reached the police and they arrived at the spot and recorded the statement of P.W. 2 and registered the crime. They seized the material objects from the scene of occurrence. On 22-3-88 the Inspector of Police P.W. 17 arrested one of the accused Siri Bhagwan and Rs. 500/-and a key was recovered from him. On interrogation he made certain disclosure statement. On 25-3-88 another accused was arrested and on interrogation disclosure statement was recorded. One of the accused Om Parkash surrendered. These arrested accused were produced before the Magistrate. Oh 3-4-88 P.W. 17, the Inspector of Police, on secret information was awaiting at a place when he saw the three accused coming on a bullet motorcycle being driven by Ajit, that is, one of the appellants herein. Accused Narender and Sunil were sitting on the pillion of the motorcycle. All the three accused were arrested. From Ajit a pistol and three cartridges were recovered. From Sunil a firearm was recovered. On interrogation the accused Ajit made disclosure statement and at his instance Rs. 50,000/- were recovered. Sunil, the appellant was interrogated on 5-4-88 and at his instance Rs.

2,000/- were recovered. At a later date the remaining accused were arrested. An arranged identification parade was conducted but these appellants refused to participate in the parade alleging that they were known to the witnesses. After completion of the investigation the charge-sheet was laid. In support of the prosecution case nineteen witnesses were examined. P.W. 1, the doctor, proved the injuries on the deceased were simple and it appears that due to old age subsequently he died natural death. Some of the witnesses are examined in respect of the recoveries effected and the rest are all official witnesses. So far as the occurrence is concerned the prosecution relied on the evidence of P.Ws. 2 and 3. P.W. 2 deposed that while coming from the Bank after collecting the money these two accused pounced upon them and they snatched the bag containing the money. To the same effect is the evidence of P.W. 3. Both the witnesses identified the two accused, that is the appellants, who snatched the bag from Chandgi Ram Dafedar. Relying on the evidence of these witnesses the trial Court convicted them as stated above.

3. The learned Counsel for the appellants submits that the prosecution case entirely rests on the evidence of P.Ws. 2 and 3 and to their identification at the belated stage the Court cannot give any weight and these two accused are also entitled to the benefit of doubt just like other acquitted accused. It is clear from the record that the two appellants did not participate in the identification parade with their own self-serving reasons. That does not in any manner detract the value of the evidence of P.Ws. 2 and 3 while there was an ample opportunity for them to identify those two assailants who participated in the occurrence. We have gone through their evidence and they are independent witnesses and there are no grounds worth mentioning on the basis of which their evidence can be doubted. Further the recoveries also corroborate their evidence. Therefore, we see no reasons to interfere with the findings of the trial Court.

4. Now coming to the sentence the learned trial Judge himself has noted that they were aged about 22 and 23 years at the time of occurrence and the circumstances also show that several persons along with them participated in the occurrence. No doubt it was a daring act on their part but they did not assault any one of the witnesses except the two simple injuries received by Chandgi Ram Dafedar. The learned Counsel, however, submits that since there are no antecedents and they are not hardened criminals they must be let out on probation of good conduct or at least sent to Borstal School. We cannot accede to this request at this distance of time. However, in view of the other circumstances mentioned while confirming the conviction of the appellants we reduce the sentence to four years Rigorous Imprisonment. The sentence of fine along with default clause is confirmed. Subject to the modification of the sentence, the appeals are dismissed.