SUPREME COURT OF INDIA

State of Haryana

Vs.

Krishan

Crl.A.No.847 of 2006

(A.K.Sikri and Ashok Bhushan,JJ.,)

09.06.2017

JUDGMENT

A.K. Sikri,J.,

1. In December, 1980, a very brazen, bizarre and outlandish incident took place, commonly known as 'hooch tragedy'. The deleterious consequence was that 36 persons who had purchased liquor from a licensed vend in Village Kalanwali, District Sirsa, Haryana lost their lives after consuming the same. Another 44 persons who too had purchased the liquor from the same shop and consumed that liquor lost their eye-sight permanently. Numbers of FIRs were registered in which the investigation was carried out by the police. All these cases were clubbed together for the purpose of trial. Orders of consolidation of trials of these FIRs were passed by the Session Judge resulting into a joint trial in which 48 persons were arrayed as accused. This joint trial culminated into passing of judgment by the Session Judge dated August 18, 2000. It resulted into conviction of only two accused persons, namely, Krishan and Som Nath, for the offences under Section 302 IPC read with Section 120B IPC who were directed to undergo imprisonment for life and also to pay fine of Rs.10,000/- each. They were also convicted for offence under Section 328 IPC read with Section 120B IPC for which they were to suffer imprisonment for a term of 5 years with fine of Rs.5,000/- each. Conviction against these two persons were also recorded under Section 61(1)(a) of the Punjab Excise Act, 1914 for which sentence of six months rigorous imprisonment and fine of Rs.1,000/- was imposed on the two convicts. All the sentences were to run concurrently. It appears that case against two persons had abated because of their demise during trial. Apart from these accused persons, all other accused persons were acquitted.

2. The two convicts (respondents herein) challenged the order of their conviction by filing appeal in the High Court. This appeal has been allowed by the High Court vide judgment dated May 09, 2006. The High Court has also indicted the appellant/State of Haryana for its negligence which led to the said tragedy and has directed the State to pay compensation of Rs.2,00,000/- each to the heirs of 36 persons who died after consuming the liquor and pay a compensation of Rs.1,50,000/- to those persons who are rendered blind by consuming a spurious liquor. State of Haryana is in appeal questioning the aforesaid outcome of the

appeals which were filed by the respondents herein. Before coming to the reasons which weighed with the High Court acquitting the respondents, certain developments which took place during the pendency of the appeal filed by the respondents in the High Court need a mention at this stage.

3. As pointed out above, only two persons were convicted and others acquitted. Neither State nor any of the aggrieved persons challenged the acquittal of those accused. Appeal was only filed by the respondents challenging their conviction. With this, appeal came up for admission before the Division Bench of the High Court. It passed the order dated May 9, 2001 making prima facie observation to the effect that acquittal of other persons was not called for and the matter required reconsideration by the High Court. Accordingly, the Advocate General, Haryana was directed to file an application for leave to appeal against the acquittal of those persons. That order was challenged by filing special leave petition in this Court in which initially the notice was issued and stay was granted in respect of the aforesaid order of the High Court. Ultimately, the order dated May 9, 2001 passed by the High Court directing the State to file application for leave to appeal against the acquittal of persons was set aside by this Court on November 13, 2002. In the meantime, the State Government had filed application for leave to defend in the High Court in which leave had been granted and the case was assigned Criminal Appeal No. 348-DBA of 2001. Following the aforesaid order dated November 13, 2002 of this Court, said appeal was dismissed by the High Court on February 17, 2003. In these circumstances, the High Court was left with the Criminal Appeal filed by respondents herein which was to be dealt with by the Court. This appeal took yet another turn. On February 23, 2005, when it came up before the Division Bench of the High Court, it took note of observations made by the trial court in its judgment wherein trial court had castigated the State instrumentality as well and observed that its negligence had also contributed to the unfortunate incident. Taking note thereof, the Division Bench vide its order dated February 23, 2005 framed the following questions for decision by a Larger Bench.

> "(1) How the investigation is to be conducted in such like cases where number of persons die and become disabled?
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> (2) Whether the State is liable to pay compensation to the families of the victims, if the accused are acquitted on account of faulty investigation and intricacies of law?"

4. The matter was referred to the Full Bench. However, while dealing with the aforesaid reference, the Full Bench felt that for giving effective answer to the aforesaid questions, main appeal needed to be heard in the first instance and this necessity was reflected in the order passed by it. Having regard to that order of the Full Bench, the Chief Justice of the High Court directed that criminal appeal be also listed before the Full Bench so that the appeal itself along with the aforesaid two questions referred to the Full Bench is decided by it. That is how the Full Bench of the High Court while deciding the appeal of the respondents herein also dealt with the aforesaid two issues and awarded the compensation to the families of the victims.

5. Insofar as order of the High Court directing payment of compensation is concerned, when this matter came up on July 13, 2012, a statement was made by the learned counsel appearing for the appellant State that the said amount had already been deposited by the Deputy Commissioner, Sirsa on October 23, 2011 as per the directions of the High Court. After recording the aforesaid statement, this Court directed that the aforesaid amount be released in favour of the victims or legal heirs of the victims after due verification.

6. When the present appeal came up for hearing before us, we were informed that the said amount already stands disbursed. Because of this development, when the amount is already paid to the victims or their families, this Court expressed that there was no question of recovering the said amount now, more particularly, when the victims or their family members who have been paid compensation have not been impleaded as parties before this Court. Learned counsel for the State could not dispute the aforesaid position. As a result, this Court is not interfering with the directions pertaining to payment of compensation contained in the impugned judgment. In this conspectus, both the parties argued the case limited to the acquittal of respondents by the High Court.

7. The case of the prosecution, as noted by the High Court, can be recapitulated at this stage, as there was no dispute that there is no error in recording the prosecution case. On December 02, 1980, Om Prakash son of Puran Chand resident of Mandi Kalanwali had while, reporting about the death of his father Puran Chand, informed the police that in deference to the wishes of his father, he had purchased a pint of country liquor from the local liquor vend on December 1, 1980. The pint had been sold to him by Surender Pal for Rs.6.50. Om Prakash had then handed over the liquor to his father Puran Chand, who had consumed it in his presence and retired for the night in the Chaubara of his house. In the morning, at about 7.00 a.m. Puran Chand had complained of some restlessness, which was accompanied by a continuous and irresistible desire to vomit. Om Prakash had consequently sought the services of Dr. Vijay Kumar PW3, who had prescribed and administered the medicine but without much relief. When the condition of Puran Chand deteriorated, he was shifted to Civil Dispensary at Kalanwali but the efforts made by the Medical Officer to save him failed and he died at 2.30 p.m. on December 2, 1980. According to Om Prakash, the death of his father was definitely as a result of consumption of spurious liquor sold by the local liquor contractor and consequently FIR No. 211 dated December 2, 1980 was registered at Police Station Kalanwali. ASI Umed Singh initiated the inquest proceedings and forwarded the dead body to the Civil Hospital, Sirsa for autopsy. He also took into possession the pint which still contained a few drops of liquor. In the meantime, the police received information about Moola Ram and Rura Ram having been admitted in Civil Dispensary, Kalanwali in a precarious condition. According to the inputs, these two persons had also purchased liquor from the same vend on December 1, 1980. During the investigation, the police collected information that Som Nath son of Lachhu Ram, Krishan son of Ram Chander, Dwarka Dass son of Lal Chand, Gajjan Singh son of Dalip Singh, Jagdish son of Kaur Chand, Ram Bhaj son of Hari Ram, Jagdish alias D.C. son of Brij Lal, Surenderpal son of Desh Raj, Moti son of Brij Lal and Desh Raj son of Duli Chand had in conspiracy with each other prepared spurious liquor as per the directions of Lal Chand son of Brahma Mal and Lachhu son of Lal Chand from spirit which was labelled as poison and unfit for human consumption. This was

put into bottles and thereafter put up for public sale. In all, the spurious liquor supplied by the liquor vend at Kalanwali was stated to have led to the deaths of 36 persons, namely, Puran Singh, Amarjit Singh, Madan Lal, Baja Ram, Budh Ram, Ved Prakash son of Mulakh Raj, Madan Lal, Jagwant Singh, Net Ram, Panna Lal, Darshan Singh, Nathu Ram, Labh Singh, Gurdial Singh, Mulla Ram, Rura Ram, Tara Chand, Hardatt Singh, Pirthvi Chand, Sahab Singh, Mohan Lal, Hanuman, Darbara Singh, Darshan Singh, Sukhdev Singh son of Hazur Singh, Sukhdev Singh son of Hari Singh, Mita Singh, Balwant Singh, Naib Singh, Bachitar Singh, Ved Prakash son of Mam Chand, Major Singh, Niranjan Singh, Bhola Singh, Kartar Singh, Ved Prakash son of Madan Lal, Nand Singh son of Kunda Singh and Balbir Singh son of Gurdial Singh had between December 1, 1980 and December 4, 1980 suffered from the ill effects of poisonous liquor and had lost their lives. It also transpired that owing to the poison contained in the liquor that was sold from the liquor vends of the respondents, namely, Krishan son of Ram Chander and Som Nath son of Lachhu Ram, who were admittedly licensed holders of the vend, 43 persons, namely, Sampuran Singh son of Harnam Singh, Kartar Singh, Sahab Ram, Hans Raj, Tek Chand, Naib Singh, Sampuran Singh son of Dal Singh, Waryam Singh, Gurdev Singh, Boota Singh, Jaswant Singh, Surjit Singh, Darshan Singh, Khem Chand, Gurtej Singh, Babu Ram, Mithu Singh, Babu Ram son of Jug Lal, Gian Chand, Kaur Singh, Lila Ram, Sher Singh, Jorr Singh, Gurnam Singh, Pyare Lal, Harphul, Harnek Singh, Surjit Singh son of Buggar, Gurcharan Singh, Harnek son of Jang Singh, Shyam Singh, Mukhtiar Singh son of Chanan, Mukhtiar Singh son of Jagir Singh, Mohinder Singh, Om Prakash, Hari Singh, Gurcharan alias Guddu, Banta Singh, Makhan Lal, Kartar Singh, Buggar Singh, Charan Dass, Sham sunder and Lila Singh son of Pritam Singh had lost their vision. Apart from FIR No.211, which was registered in Police Station Baragudha and upon completion of the investigations 48 persons were sent up to stand their trial and proceeded against as indicated hereinbefore. After commitment, the charges were framed against them as indicated hereinbefore to which the accused pleaded not guilty whereupon the prosecution was called to lead evidence in support of this case. In all prosecution examined 291 witnesses. Out of them, 28 were doctors, who had either performed post mortem on the dead bodies or medico legally examined the persons. Majority of the remaining witnesses examined were the relations of the victims while some of these were the police officials, who were at various stages associated with the investigation of the case. On the closure of the prosecution evidence, only the statements of Som Nath, Dwarka Dass, Gajjan Singh, Jagdish son of Brij Lal, Moti Ram, Mukhtiar Singh, Sewa Singh, Krishan, Jagdish Rai son of Kaur Chand and Labha Chand were recorded in order to obtain their explanation regarding the incriminating circumstances appearing in evidence against them. All of them pleaded innocence and asserted that they had been falsely implicated in the case. The Additional Sessions Judge, Sirsa did not record the statements of the remaining accused as according to him no incriminating fact had appeared in the prosecution evidence about their involvement. In defence, 14 witnesses were examined by the accused. The trial court after hearing arguments had come to the conclusion that the prosecution has been able to prove its case only against Krishan and Som Nath and convicted and sentenced them as indicated hereinbefore whereas the remaining accused were acquitted of the charge framed against them.

8. As is already observed, both the respondents were convicted by the trial court for offences under Sections 302 IPC as well as 328 IPC with the aid of Section 120B IPC as well. Questioning this basis of conviction, counsel for the respondents had argued before the High Court that there was no evidence of conspiracy on the basis whereof the respondents could be convicted under Section 120B IPC. It was further argued that once it is found that conviction under Section 120B IPC is unsustainable, necessary consequences thereof would be that there was no substantive charge under Section 302 IPC framed against the convicted persons nor there was any evidence of their complicity in relation to this. According to the counsel for the respondents, further consequence was that charge as framed against the respondents were not sustainable inasmuch as the trial court was required to frame separate charges in each of the murders that are stated to have been committed by the respondents in view of the provisions of Sections 218 and 226 of the Code of Criminal Procedure (Cr.P.C.). It was also argued that even on merits, the conviction against the respondents could not be sustained in the absence of any material on record depicting their culpability in law as no material was proved to show that respondents were in any way connected with the preparation and sale of spurious liquor. Likewise, there was no evidence to prove that these two respondents had any knowledge about liquor being spurious or that they were responsible for preparing the spurious liquor for sale. It was also argued that there is no material on record to show that methanol which was used to adulterate the liquor had been provided to the persons working at the liquor vend by or with the consent of the respondents and there is no evidence available on the file from which the complicity of the respondents could be inferred in the preparation and sale of spurious liquor. It was also submitted that in the case of none of the victims had, the investigating agency, collected evidence to prove that that the respondents had directed their Karindas to adulterate the liquor and in the absence of this no tacit or implied consent for the sale of liquor can be attributed to them and, therefore, the charge under Section 302 IPC cannot be sustained. Even otherwise, there is no proof of the fact that any of the deceased or the persons who lost their vision had actually consumed liquor sold to them from any of the liquor vends that belonged to the respondents and, therefore, the findings of the trial court cannot be sustained.

9. The High Court while allowing the appeal of the respondents herein accepted most of the aforesaid submissions of their counsel. It found that the trial court had convicted the respondents as they were the contractors who had been given the licence to run country liquor vend at Kalanwali for the year 1980-1981. The accusation of the prosecution was that they had sold adulterated alcohol containing methanol poison and, thus, they committed an act so imminently dangerous that it must in all probability cause death or such bodily injury as was likely to cause death and, in fact, it did result in the death of so many persons. The trial court had also observed that the respondents were in the field of sale of alcohol since long and they definitely had the knowledge of toxicity of methanol poison. They also had a definite knowledge that sale of such liquor would cause methanol poisoning to the consumers and the possible result would be death or bodily injury. On this basis, invoking the provisions of Section 300 ‘fourthly’ of IPC and the ratio of this Court in *Joseph Kurian Philip Jose v. State of Kerala*[1], the respondents were convicted. According to the High Court, this was hardly any justifiable reason for convicting the respondents. The High Court discarded the aforesaid conclusion of the trial court as according to it, no evidence was

produced to show that the victims died after consuming liquor from the bottles that have been purchased by the deceased, even though it was proved on record that cause of death was the consumption of methyl alcohol which was present in the viscera taken from the bodies of the deceased.

10. To put it succinctly, as per the High Court, though the cause of death was established, namely, consumption of methyl alcohol, but no connection was established by the prosecution of consuming the said alcohol by the deceased and other victims from the bottles that had been purchased by the victims from the vends of the respondents. Relevant portion of the discussion contained in the judgment of the High Court, highlighting the aforesaid aspect is reproduced below:

> "The reasoning put forth by the trial Court cannot be faulted with if there is material on the record in support of the same. The prosecution, in our opinion, was duty bound to prove:-
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> (a) that the deaths/loss of vision was due to the presence of methyl alcohol in the bodies of the victims;
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> (b) that this methyl alcohol was traceable to the contents of a bottle of liquor bought from the liquor vend of the appellants; and
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> (c) that the deleterious ingredient was introduced in the bottle by the employees of the appellants on their instructions. While there is oral and expert evidence available to prove that methyl alcohol was present in the viscera taken from the bodies of the deceased during the post mortem yet there is no material on the record to prove that the methyl alcohol which was found in the viscera was consumed from the bottles that had been purchased by the deceased or some one known to them from the liquor vends of the appellants. In an answer to a categorical question put up by us, the learned Advocate General, has not been able to pin point any evidence to prove that a sample from the container in which the liquor was purchased from the vend of the two appellants was also sent to the Forensic Expert to prove that methyl alcohol found in the body of any one of the deceased was possibly ingested on account of the same having been consumed from the aforesaid bottle. Even in relation to the cases where the victims have lost their vision, there is no evidence to connect the methyl alcohol that is stated to be responsible for the blindings with the bottles which have been purchased from the liquor vends of the appellants. While there is no doubt that the investigating agency had recovered a large number of bottles which had been put in the canal by the employees of the appellants to cover up their default of selling liquor from the vend other than country made liquor i.e. Santra, Kesar Kasturi, Jagadhari No. 1 prepared by the distilleries in contravention of the terms of the licence yet the contents of none of these bottles were got sampled for proving that they contained methyl alcohol which was ultimately found to be injurious to the health of the consumers. We are afraid that the Investigating Officer in this case was so overwhelmed by the magnitude of the tragedy that he forgot to collect the basic

evidence which would be required to bring home the charge against the culprits who were responsible for the tragedy. It is unfortunate that at no level of the State administration any one deemed it appropriate to have even an enquiry conducted into the circumstances which led to the tragedy for pin-pointing the short comings in the system which permitted sale of spurious liquor from licensed liquor vend. No effort was made to find out how and why such a lapse could occur in relation to a subject which provides at least 1000 crores of revenue annually by way of excise tax to the State Government. Although it might not have occurred to an Assistant Sub Inspector that the case would also involve the violation of the provisions of the 1954 Act inasmuch as according to the 1954 Act the liquor would fall within the term "food" and the sale of spurious liquor would be punishable for imprisonment for life yet even the supervisory officers dealing with the incident seem to be blissful ignorant of their obligations to ensure that all loop holes are identified so as to plug the same in order to prevent the recurrence of a tragedy of this magnitude. The political masters as well as the civil servants responsible for running the administration were satisfied with doing what appears to be a cover up job and this approach of theirs stood in the way of collection of adequate evidence required to prove the case against the persons responsible for the perpetration of the crime. In view of the fact that the learned counsel for the State has not been able to pin point the evidence which would fasten to the appellants the knowledge of the fact that the liquor which was being sold out at their licensed vend contained methyl alcohol as also on account of the fact that there is no evidence to prove that the remanents of the bottled which are alleged to have been brought from the liquor vend contained traces of methyl alcohol and in the absence of any proof to show that the appellants shared with their employees the intention to prepare spurious liquor with the help of methyl alcohol it would not be possible for us to uphold the conviction of the appellants."

11. In fact, in the process, the High Court indicted the State authorities in not discharging their duties properly and made the adverse comments qua the State administration.

12. Another reason given by the High Court is that except the two respondents, all other accused persons were acquitted by the trial court under Section 120B of IPC and no appeal was filed by the State to challenge this acquittal. It had inevitable consequence of upsetting the conviction of the respondents as well upon whom criminal liability was sought to be fastened with the help of Section 120B of IPC. To put it otherwise, the High Court concluded that there cannot be charge of criminal conspiracy under Section 120B of IPC in respect of two persons qua the respondents when others stood acquitted meaning thereby charge of conspiracy of the respondents along with other accused persons was not proved. High Court referred to the judgment of this Court in *Fakhruddin v. State of M.P*[2]*.,* in support of this conclusion.

13. It is clear from the above that though there is no dispute that hundreds of the people had consumed the poisonous liquor and scores of them had died and many more were rendered permanently blind, the factor which has weighed in acquitting the respondents is that there is no evidence to connect the consumption of methyl alcohol by the victims with the

respondents. Therefore, it is required to be seen as to whether this finding of the High Court of lack of evidence connecting the accused persons with the tragedy is correct or not.

14. In the first instance, we would like to reiterate the evidence about the cause of death, on which there is no dispute. The unfortunate tragedy, which came to be known as 'Kalanwali Hooch Tragedy', saw the messenger of death taking away the lives of as many as 44 unfortunate persons who fell prey to it by consuming poisonous liquor. 36 persons, though were spared the extreme consequence of death, were still inflicted with a very serious consequence, as losing the eye-sight permanently for the rest of the life makes the life difficult and challenging in many ways. This gruesome occurrence, where so many persons became the victims, happened was proximate to the place where vends of respondents are situate. Post mortem of the deceased persons were conducted which led to a common finding, namely, methyl was found in the viscera of the dead bodies and the cause of death was consumption of alcohol containing methyl. Likewise, those who lost their vision were also medically examined. All the Doctors who examined these persons arrived express opinion, namely, the damage to the vision of their eyes was the direct result of intake of methyl alcohol. These Doctors were more than 25 in number who deposed in the Court and their conclusion was identical, which cannot be a mere coincidence. It can be, therefore, unhesitatingly concluded that cause of death or loss of eye-sight is the result of consuming spurious liquor. There is also sufficient evidence on record to believe that many people had been rushed to the different hospitals with symptoms of alcoholic poisoning out of whom 36 persons had lost their lives and 44 others had rendered permanently blind. The report of the Chemical Examiner submitted in each case of death was the direct result of consumption of methyl alcohol which had caused methanol poison. There is impeccable and unshaking evidence in the form of depositions of all those doctors who had conducted autopsy on the bodies of the deceased and who had examined those who lost their eye-sight. They have appeared in the witness box and testified to the aforesaid effect which is supported by medical records. This was a kind of maelstrom, a whirlpool, wherein 36 persons drowned in spurious liquor. Other 44 persons, though could be rescued from fatality, but lost their most vital limbs i.e. the eye-sight.

15. With this, we come to the core issue, which is the bone of contention, as to whether the respondents were responsible for the same?

16. As pointed out above, in the opinion of the High Court, no evidence is led to connect the respondents with the sale of spurious liquor. We do not agree with the said observation and the conclusion of the High Court on that basis. It has come on record, and is duly recorded by the trial court in the impugned judgment, that with the spread of news that so many persons were losing their lives or eye-sight after consuming the poisonous liquor adulterated with methyl alcohol containing methanol poison, ASI Umed Singh landed at the Civil Dispensary of Kalanwali on December 2, 1980 and recorded the statement of Om Prakash, who had lost his father Puran Chand just then as a result of the consumption of adulterated liquor purchased by him from the liquor vend of Krishan and Som Nath located in the area of Kalanwali. ASI Umed Singh had barely put his pen down after recording the statement of Om Prakash that more and more patients with identical symptoms started reporting in

different hospitals of the town. All these persons had, immediately after suffering the aforesaid consequence of consuming liquor, made a specific and categorical statement that they had purchased the liquor from the vends of the respondents. Even those who lost lives, their immediate near relations had informed to the same effect. Such contemporary statements of those very persons who suffered loss of eye-sight immediately after the incident cannot be ignored and there is no reason to disbelieve them. Such statements also become relevant under Section 7 of the Indian Evidence Act, 1872.

17. That apart, the prosecution also led the evidence to the effect that two respondents herein were given the license for running liquor vends in Kalanwali town at the relevant time. This fact is not disputed by the respondents. Another shocking fact which was brought on record, and which is taken very lightly by the High Court, is that when this tragedy struck and was given wide coverage by the Media, the respondents and their staff tried to destroy the evidence in the form of other bottles which were lying in the stock/vends by throwing them away in the river/canal. Though the High Court has accepted this fact, but same is brushed aside with the observation that no attempt was made to get the same tested. Even if this is a lapse on the part of the prosecution, this very conduct of the respondents in throwing away remaining stock becomes a supporting piece of evidence along with other evidence brought on record.

18. Evidence is also produced to the effect that 2560 pints of liquor were seized by the police from the liquor vends between 3rd and 5th of December, 1980. A bottle containing 50 mls of liquor and a bottle containing 100 mls of liquor were produced by Dharam Pal and Harphool Singh respectively before ASI Umed Singh on December 2, 1980 which were seized by him and were sealed. Similarly, another bottle containing 100 mls of liquor was produced by one Jaswant Singh on December 6, 1980 which was also seized and sealed. One Ganga Singh produced another bottle containing spurious liquor which was seized and sealed. The accused were consequently interrogated which led to the recovery of empty bottles and corks for preparing and storing the spurious liquor. 22 bottles of spurious liquor were recovered from the Bhakra canal on the identification of the accused which were sealed and sent to the Forensic Science Laboratory, Madhuban for chemical analysis. The sprit was procured in the fictitious and imaginary name of ‘Ram Lal’. The entire record maintained at the liquor vend Kalanwali was seized and it was found that the entire record had been forged by the contractors. The interrogation of the accused further led to the information that the corks and labels for the bottles were supplied by one Ram Prakash Gupta, a resident of Sri Nagar, Delhi who was arrested on December 30, 1980. The labels were printed in the name of Haryana Distillery and other distilleries by Gurbachan Singh alias Pappa and were supplied to Dwarka Dass. Sufficient evidence is led by the prosecution to prove that the entire liquor had been supplied from the local country liquor vend situated at the town of Kalanwali. The contractors of the licensed vend were identified as Krishan son of Ram Chand and Som Nath son of Lachhu Ram. They had adulterated the liquor with methyl alcohol which contained methanol poison and had sold it through their agents to the customers. The contractors were always aware that the sale of alcohol containing methanol poison could cause hurt to the customers but they were perhaps more interested in making easy money. That is how the planned sale of methyl alcohol caused havoc in the area of Kalanwali and Baragudha of

District Sirsa. In addition, direct evidence was produced showing the involvement of the respondents herein in the commission of the ghastly crime. The trial court specifically discussed the evidence of some of the witnesses who had deposed that the spurious liquor was purchased from the shops of respondents herein. It is more than apparent that the respondents took advantage of these gullible villagers getting transient and falling to their prey. It is this greed and philistinism of the respondents to make quick money which has led to this sordid episode.

19.To recapitulate, it has come on record that Inder Singh (PW-43) testified that his son Darshan Singh had died by consuming liquor purchased by him from the liquor vend at Kalanwali. He was working at local Petrol Pump and had consumed the liquor there. Gurdev Singh (PW-44) testified that Darshan Singh son of Inder Singh was his maternal nephew who was employed at the Petrol Pump at Kalanwali. He had gone to purchase the diesel at the filling station about seven years ago. Darshan Singh was lying on a bed in delivered state. He informed his maternal uncle that he had taken liquor which was purchased from the liquor vend at Kalanwali. He had fallen ill after consuming the liquor and his vision was gradually falling. Gurdev Singh had immediately taken Darshan Singh to Dr. Vijay for instant medical aid but Darshan Singh died at Sirsa on the next morning. Gurtej Singh (PW-81) testified that his cousin Sukhdev Singh had lost his life by consuming poisonous liquor purchased from the liquor vend at Kalanwali. He was cremated at 3.30 pm on December 2, 1980. Similarly, Niranjan Singh, brother of Suranjan Singh, and Tara Chand had reportedly lost their lives after consuming the poisonous liquor which they purchased from the liquor vend at Kalanwali. Harphool Singh (PW-225) testified that he had gone to the market at Kalanwali on a tractor to sell his cotton crop on December 2, 1980 along with Harnek Singh and Surjit Singh. They purchased a bottle of liquor from the vend of Som Nath. All three of them consumed the liquor and fell seriously ill. They had produced one half of the bottle before the doctor. Surjit Singh had lost the vision in the eyes permanently. Hari Singh (PW-220) testified to the same effect. He had purchased one bottle of liquor from the liquor vend of Som Nath son of Lachhu Ram. He knew the vendor personally. He consumed half of the bottle along with Jarnail Singh. Jarnail Singh expired after consuming the liquor whereas he became blind. Charanjit Singh, DSP (PW-288) was working as SI/SHO at Police Station Kalanwali on December 3, 1980. He had received information about the death
of Panna Lal, Budh Ram and Baja Ram after consuming the spurious liquor and had investigated the matter. He had arrested the accused and had made recovery of articles at their instance. These events, pellucid as crystal, point towards the culpability of the respondents.

20. It is evident from the statements of Inder Singh (PW-43), Gurdev Singh (PW-44), Gurtej Singh (PW-81), Hari Singh (PW-220) and Harphool Singh (PW-225) that the spurious liquor had been sold by the respondents herein and their agents at the liquor vend at Kalanwali. The trial court while convicting the respondents relied upon the evidence discussed by us above, to pin down the respondents.

21. The High Court is, thus, totally wrong in upsetting the findings of the trial court based on the aforesaid evidence and allowing the respondents to go scot free. Strangely, there is no

discussion on the abovementioned evidence which appeared on record and the High Court has blissfully observed that no evidence is produced to connect or to fasten the responsibility upon the respondents. Interestingly, the High Court took note of the reasoning given by the trial court and summarized the same in the following manner:

> "The present case against the appellants is built on the premise that they being licensees of the liquor vend from which spurious liquor, responsible for causing deaths of 36 persons and blindings of 44 persons, was purchased. In view of this, according to the State, there is no legal infirmity in the conviction and sentence awarded to the appellants. The fact that Krishan and Som Nath were holders of licence to sell liquor at the liquor vend catering to the needs of Kalanwali and Baragudha is not even disputed by the appellants. On the record, we have documents Ex.PW108/A which evidences the acceptance accorded by the Excise and Taxation Department to the bids offered by the appellants. Shri Rajinder Singh, Assistant Excise and Taxation Officer, Hisar has gone on the record to assert that there is only one liquor vend in village Kalanwali and a host of witnesses have deposed to the effect that various persons, who had purchased liquor from the vend of the two appellants and thereafter consumed the same on the fateful day, had either lost their lives or vision and this can only be due to the presence of methyl alcohol that was found in the viscera sent to the Forensic Scientist for examination. It is on the basis of this presence of methyl alcohol in the viscera that the trial court has inferred that the liquor purchased was spurious as it contained un-permissible methyl alcohol. It being common knowledge that methyl alcohol has deleterious/fatal effect on the human body as also the fact that the employees of the liquor vend could not have prepared spurious alcohol without requisite instructions from the liquor licenses i.e. the appellants that the trial court has come to the conclusion that the charges framed against the appellants had been proved."

22. Immediately thereafter, following remarks are made by the High Court:

> "The reasoning put forth by the trial court cannot be faulted with if there is material on the record in support of the same."

23. The High Court committed manifest error in observing that evidence was not produced to connect the respondents with the tragedy. No doubt, there have been some lapses on the part of the police authorities in not investigating the case with the vigour that was necessitated. The High Court may also be right in finding fault with the State administration for not conducting an inquiry into the circumstances which led to the tragedy for pin-pointing the shortcomings in the system which permitted sale of spurious liquor from licenced liquor vend. At the same time, insofar as culpability of the respondents is concerned, the same was proved beyond doubt by producing plethora of evidence. This Court is of the opinion that trial court had rightly come to the conclusion holding respondents to be the guilty of crime.

24. Insofar as argument predicated on Section 120B of IPC is concerned, even if we proceed on the basis that charge of conspiracy is not proved, it would be suffice to observe that

adequate evidence is produced showing the culpability of the respondents, individually. Once it is shown that the spurious liquor was sold from the local vends belonging to the respondents coupled with the fact that after this tragedy struck, the respondents even tried to destroy remaining bottles clearly establishes that the respondents had full knowledge of the fact that the bottles contain substance methyl and also had full knowledge about the disastrous consequences thereof which would bring their case within the four corners of Section 300 fourthly. The respondents cannot be treated as mere cat's paw and naive. They have exploited the resilience nature of bucolic and rustic villagers.

25. Accordingly, this appeal is partly allowed and judgment of the High Court acquitting the respondents is hereby set aside and that of the trial court convicting the respondents is restored. The respondents shall surrender to undergo the sentence inflicted by the trial court.

Judgment Referred.

1(1994) 6 SCC 535
[2]AIR 1967 SC 1326