

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 13th May, 2010*

+ **CRL.APPEAL No.1028/2008**

RAKESH KUMAR Appellant
Through: Mr.Rajesh Mahajan, Advocate

versus

STATE Respondent
Through: Ms.Richa Kapoor, Advocate

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J.(Oral)

1. Vide impugned judgment and order dated 17.11.2006, appellant Rakesh has been convicted for the offences punishable under Section 302/201/34 IPC.

2. Trial of juvenile co-accused Sant Ram was referred before the Juvenile Board and hence we shall be concerned with the evidence against appellant Rakesh Kumar, which has been held sufficient wherefrom his guilt can be inferred, as held by the learned Trial Judge.

3. Vide order on sentence dated 20.11.2006, Rakesh Kumar has been sentenced to undergo imprisonment for life

pertaining to the offence of murder and to undergo RI for a period of 7 years pertaining to the offence punishable under Section 201 IPC.

4. As per the charge framed on 22.11.2001, Rakesh was charged that on 11.3.2001 at around noon time at Building No.151, Jheel Khurenja, in furtherance of a common intention with Sant Ram, they murdered Kishan Master and on said date, around same time and at the same place, with the intention to screen themselves from legal punishment, dismembered the body of Kishan Master and stuffed the same in two gunny bags and threw one bag near Raghunath Mandir, Krishna Nagar.

5. As it would be evident from a perusal of the impugned decision, finding returned is that the crime was committed on 10.3.2001 and not on 11.3.2001.

6. The first and the foremost question which we need to decide is, whether the error in the charge has caused prejudice to the accused and has occasioned a failure of justice for the reason, if we find that the accused has been prejudiced at the trial on account of the mis-description of the date in the charge, the corollary thereto, has to be a finding that the trial has been vitiated to the disadvantage of the accused.

7. The witnesses of the prosecution who have referred to the presence of the appellant as also juvenile co-accused Sant Ram and the deceased Kishan Master at Building No.151, Jheel Khurenja, being Anwar Ali PW-2 and Sarvesh PW-4 have consistently referred to the date being 10.3.2001 when the festival of colours i.e. Holi was celebrated. The cross-examination of the two witnesses evidences that the counsel for the accused cross-examined the two witnesses clearly understanding that the act attributed to the accused was of having committed the offence on 10.3.2001. After evidence was led, the incriminating circumstances were put to the appellant and with respect to his being last seen in the company of the deceased at the place of the crime, the date referred to is 10.3.2001. Clearly understanding that the indictment pertained to 10.3.2001 and not 11.3.2001, the appellant has furnished his answers. Most important is the fact that to the last question, being question No.61 where the appellant was asked whether he had anything else to say, he responded: *'I am innocent and have not committed the alleged incident. It was committed by Sant Ram (juvenile) who had also threatened me. Sarvesh had falsely implicated me as Rs.3,000/- were due upon him which he was not paying to me and in order to avoid payment to me, he falsely named me in this case'.*

8. Section 215 of the Code of Criminal Procedure reads as under:-

“215. Effects of errors – No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.”

9. It is apparent that an error in stating either the offence or the particulars required to be stated in the charge, unless it stands established that the accused was misled by such error or omission which has occasioned a failure of justice, have to be ignored. Illustration (d) to Section 215 of the Code is apposite and needs to be noted. As per said illustration it has been highlighted that where date of offence of murder as per the charge was stated to be 21.1.1882 but the crime actually took place on 20.1.1882, it can be inferred that the accused was not misled and that the error in the charge was immaterial.

10. A Division Bench of this Court, in the decision reported as 2003 VII AD (Delhi) 1 State Vs. Afzal & Ors. had noted the case law on the point. We may simply refer to the said decision and leave it to the enterprising reader of our decision to access the relevant journal and further enlighten themselves on the law. Suffice would it be to state that the

unanimous view taken by all Courts on the point is, as highlighted by Illustration (d) to Section 215 Cr.P.C. that errors of the kind which do not mislead the accused cannot ever occasion a failure of justice, and have to be ignored.

11. Holding that the error in the date recorded as the date of the offence in the charge is an error of the kind which has not prejudiced the accused, much less has occasioned a failure of justice, we proceed to note the evidence which has surfaced at the trial.

12. DD No.22A, Ex.PW-5/A, stands recorded at PS Krishna Nagar by HC Beg Raj Singh PW-5, who, as deposed to by him, was working as the duty officer from 4:00 PM to 12:00 midnight on 11.3.2001 and he received information of a dead body lying at 151, Jheel Khurenja near Samudai Bhawan. As deposed to by him and as reconfirmed in his deposition by Inspector M.A.Khan PW-19, who by the time he deposed rose to the rank of an inspector, left for inquiry accompanied by Const.Jasbir and took along a copy of DD No.22A.

13. As deposed to by Insp.M.A.Khan PW-19 and reconfirmed as deposed to by Insp.Ashok Kumar PW-20, who was then posted as the SHO at PS Krishna Nagar, the two police officers reached near simultaneously at 151, Jheel Khurenja and they found, on the loft/mezzanine/parchatti of

the factory, a gunny bag containing dismembered parts of the body of a human which were seized at the spot. Insp.M.A.Khan PW-19, as written by him in the endorsement Ex.PW-19/A, made beneath copy of DD Entry 22A could meet no eye witnesses and hence the tehrir was dispatched from the spot pen profiling the scene of the crime and recording that the crime team be sent. As recorded on the endorsement Ex.PW-19/A it was dispatched from the spot at 21:45 hours and the FIR Ex.PW-25/B was registered at 22:00 hours as recorded vide DD No.24A.

14. Though recorded on the endorsement Ex.PW-19/A that no eye witness was present at the spot, but as stands deposed to by Shardool Singh PW-7 as also Insp.M.A.Khan and Insp.Ashok Kumar, Shardool Singh had reached the place of the crime, being the owner of the building and the proprietor of the factory operating from the building. The only light which he could throw upon the issue was that two factory workers namely Ram Swaroop and Sant Ram used to work in the factory and that Sant Ram used to sleep in the factory whereas Ram Swaroop used to reside somewhere at Kundli.

15. Leads had to be broken through only through Sant Ram. Relevant would it be to note that the dead body could not be identified on 11.3.2001 for the reason what was

recovered from the gunny bag in the factory was the headless trunk cut into 3 parts.

16. The next day, as recorded vide DD No.7A, another gunny bag containing the head and the remaining parts of the body were reported as lying in a gunny bag near Raghunath Mandir. It later on transpired that the parts of the dead body which were recovered on 12.3.2001 pertained to the same person whose dismembered body parts were recovered a day prior.

17. The lead which the police had was of knowledge of the village where Sant Ram resided. This led the police to village Digia Dist.Sitapur in the State of Uttar Pradesh where a rumour had already spread that Kishan Master had been murdered. Sarvesh PW-4 met the police in the village on 12.3.2004 and stated that the appellant and Sant Ram had murdered Kishan Master and that the dead body recovered by the police was that of Kishan Master. He was brought to Delhi and as recorded in the memo Ex.PW-4/A identified the dead body of Kishan Master.

18. Needless to state, if what was stated to the investigating officer by Sarvesh was correct, the offenders had to be the appellant and juvenile co-accused Sant Ram. Both of them happened to be residents of the same village in which

Sarvesh resided. Incidentally, Kishan Master also turned out to be a resident of the same village. The appellant was apprehended, and as is usual in every case of the kind brought before us, the investigating officer claims that appellant made two confessional-cum-disclosure statements, Ex.PW-19/E and Ex.PW-19/G and got recovered a knife sketch whereof Ex.PW-19/H was drawn. Certain other articles were also got recovered in respect whereof we may note that nothing of incriminating character has emerged and hence we do not note the same. Even the knife did not assume any incriminating character, for the reason it was never sent to the doctor for opinion who conducted the post-mortem of the deceased nor was any blood detected on the knife.

19. Statements of Shardool Singh PW-7, Dinesh PW-1, Anwar Ali PW-2 and Amarjeet Singh PW-6 were recorded during investigation.

20. Relevant would it be to note that on 15.3.2001 Sarvesh PW-4 was produced before the concerned Metropolitan Magistrate, Sh.Manu Rai Sethi PW-15, who recorded the statement Ex.PW-15/B made by Sarvesh under Section 164 Cr.P.C.

21. In the statement Ex.PW-15/B Sarvesh stated that at 12:00 noon on 11.3.2001 he was at the lock factory in which

there was a wooden platform on which he was cooking food. He i.e. Sarvesh as also Sant Ram and Rakesh (appellant) used to reside in the factory and Sant Ram and Rakesh were good friends and often used to threaten him that if he told about their activities to anybody they would kill him. On 11.3.2001 in the afternoon Sant Ram, Rakesh and Kishan drank liquor in the factory. He fried snacks and served them. A day prior, Rakesh and Kishan had received wages from the glass factory. In his presence on 11.3.2001, Rakesh asked Kishan to give him money and Kishan refused. As he looked down from the wooden platform he saw that neck of Kishan was cut. Sant Ram and Rakesh took the body upstairs to the loft and he saw that Kishan had died by then. He does not remember as to in how many pieces they cut the body of Kishan but they did so. Around 3:00 PM a person named Aman came to the factory. Sant Ram and Rakesh threatened him by showing a knife telling him to keep quiet otherwise they would cut his body into pieces. He begged of them to allow him to go. They threatened him to keep quiet. He got scared and kept on sitting. Rakesh left for his village at 4:00 PM. In the night Sant Ram got a cycle rickshaw on hire and gave Rs.200/- to the person who was plying the rickshaw and put one gunny bag on the rickshaw. He begged of Sant Ram to let him go to his village. Next day being 12.3.2001, at around 2:30 PM Sant

Ram took him to Old Delhi Railway Station and when a train arrived at 4:30 PM he purchased a ticket for Bareilly and not Sitapur, his village, and told him to go to Bareilly. On 13.3.2001 in the afternoon at around 11:00-12:00 he reached his village where Delhi Police personnel came to his house at 7:00 PM and brought him to Delhi. They reached Delhi on 14.3.2001.

22. Dinesh Kumar Shukla PW-1 deposed that he knew Kishan Master as he was a resident of his village Digia in District U.P. On 11.3.2001 at around 2:00 PM he received information from one Anwar Ali who also was a resident of the same village and was a co-worker with Kishan Master that Kishan Master was missing since 8:00 AM on 10.3.2001. Around 4:30 PM on 11.3.2001 he received telephonic information from his brother Vipin Kumar and Jangli that there was a rumour in the village that Kishan had been murdered at a lock factory at Jheel Khurenja and that he should verify this fact. He went to a glass factory bearing No.435 where Amarjeet the owner and one Anwar met him. He informed said fact to them. All of them went to the lock factory where Kishan was working and found the factory open and work was in progress but the owner of the factory Shardool Singh requested them to stay on as police had been informed that a body was in the factory. He remained for about 1 hour. Police came. A jute bag was recovered in which 3 pieces of human

trunk were found. They were pieces of the dead body below the waist. Police took the body to the police station and he was asked to identify the body. He identified the body as that of Kishan Master and could do so with reference to a wound mark on the right side of the thigh. That Sant Ram, Rakesh Kumar and Sarvesh were villagers from his village and were working in the lock factory where Kishan Master was working.

23. Anwar Ali PW-2 deposed that Holi was celebrated on 10.3.2001 and between 11:00 to 12:00 noon Kishan Master along with Rakesh and Sant Ram came to the factory where they were residing. Rakesh used to work in the same factory but Sant Ram used to work in a factory manufacturing locks situated at Jheel Khuranja where he used to reside. Even Rakesh used to reside with Sant Ram. So did Sarvesh. Kishan Master had given him Rs.50/- for cooking meat and left with Rakesh and Sant Ram around 12:00 noon. Since Kishan Master did not return till 12:30 PM he went to the lock factory and found the door closed. He knocked. From inside Rakesh told him that Kishan Master was not there. Thereafter Rakesh left from another door and he saw him at the shop of a beetle seller and accordingly he went up to him. He requested him to take meals. Rakesh told him that they will after some time. He left with his friends Gyani and Mukesh to see a movie and returned to his house at 7:00 PM. Kishan Master had not

returned even till then. He went to the factory where locks were manufactured where Sarvesh and Sant Ram met him and he inquired about Kishan Master to which Sant Ram replied that Kishan Master had not come. Next day on 11.3.2001 he informed his owner that Kishan Master's whereabouts were not known. He searched for Kishan Master and at 5:00 PM the police called him at the lock factory where he identified the body of Kishan Master.

24. Sarvesh PW-4 deposed facts as disclosed by him in his statement Ex.PW-15/B recorded under Section 164 Cr.P.C. save and except he referred to the date of the crime as 10.3.2001 and not 11.3.2001. Additionally he stated that when he reached his village Rakesh was already there but returned the next day and in the village the rumour had already spread that Kishan Master had been murdered.

25. Amarjeet Singh PW-6 deposed that he had a mirror factory at 435/2C Jheel Khuranja and Kishan Master was his employee. Anwar was a co-worker in his factory.

26. Shardool Singh PW-7 deposed that Ram Swaroop and Sant Ram were his employees at a factory at 151, Jheel Khuranja where cycle locks were manufactured. Since Sant Ram used to reside in the factory a key thereof used to be with him. Even Sarvesh, who used to work elsewhere, used to

reside in the factory. On 11.3.2001 he received a message that there was a dead body in his factory. Sant Ram had gone to the railway station to see off Sarvesh. He informed Ram Swaroop to reach the factory. They saw a heavy gunny bag in the loft. He informed the police who came and recovered the lower part of a dead body which he learnt was that of Master Ji.

27. This then is the evidence which we need to discuss for the reason the various police officers have simply deposed to such facts which establish the crime being committed in the factory of PW-7 and the dead body of Kishan Master being recovered in parts as afore-noted. The only thing relevant to be noted, in the context of the submissions which have been made, is that Insp.M.A.Khan PW-19 and Insp.Ashok Kumar PW-20, in their deposition stated that at the factory of Shardool Singh, he was present at the time they conducted the spot proceedings.

28. It is apparent that the first and the foremost incriminating evidence would be that the appellant and his juvenile co-accused were in the company of Kishan Master and were present at the factory of Shardool Singh in the afternoon of 10.3.2001. The witnesses to prove the said fact are Sarvesh PW-4 who has deposed that all three were present in the factory. The other relevant witness would be Anwar Ali PW-2

as per whom the appellant, juvenile co-accused Sant Ram and Kishan Master left the glass factory of PW-6 where he i.e. Anwar Ali and Kishan Master resided, the time being around 12:00 noon on 10.3.2001. This was Kishan Master being last seen alive.

29. It is firstly urged that Sarvesh is not a truthful witness for the reason in his statement Ex.PW-15/B recorded before the learned Metropolitan Magistrate on 15.3.2001 he has referred to the date as 11.3.2001 and while deposing in Court he has referred to the date as 10.3.2001. Submission made is that 10.3.2001 was no ordinary date. It was the festival of colours i.e. Holi. It was too proximate to the date 15.3.2001 for anyone to be committing a mistake. The tail end of the submission was that if the crime was committed on 11.3.2001, the testimony of Anwar Ali PW-2 was in conflict with the date and hence Anwar Ali can also not be believed.

30. It is apparent that the submission dovetails the credibility of Sarvesh and Anwar Ali to the date 11.3.2001 referred to by Sarvesh in his statement Ex.PW-15/B.

31. It is true that 15.3.2001 is not too far removed from 10.3.2001 and 10.3.2001 was no ordinary day being Holi and thus under normal circumstances a normal person would presumably not commit a mistake of referring to an event

which took place on 10.3.2001 as being an event of 11.3.2001. But, it cannot be lost sight of that Sarvesh was aged 14 years on 15.3.2001 evidenced by the fact that when he deposed in Court on 16.5.2002 he disclosed his age as 15 years which has not been challenged. If what Sarvesh claims to have seen is correct, it is apparent that he was under great awe and fear. Further, people of humble background to which Sarvesh belongs do get overawed in Court rooms and when produced before Judges. In this scenario a mistake being committed by Sarvesh with respect to the date is not something of a kind which discredits Sarvesh. That apart, while deposing in Court and as also in his statement Ex.PW-15/B Sarvesh has consistently stated that only after the day of the murder was he allowed to leave for his village at around 4:30 PM and that he reached the village the next day on which day the police met him at 7:00 PM and brought him to Delhi where he identified the body of Kishan Master. Thus, the police would be back at Delhi with Sarvesh the day next of Sarvesh being in his village and this would mean that police and Sarvesh would be back at Delhi on the second day after Sarvesh left Delhi. If the date of the crime is 11.3.2001 then Sarvesh would have left Delhi on 12.3.2001 and reached his village on 13.3.2001 and returned to Delhi with the police on 14.3.2001, indeed he had so said in his statement Ex.PW-15/B. But then he could

not have been the witness to the identification of the dead body of Kishan Master on 13.3.2001 as recorded in the memo Ex.PW-4/A. The contemporaneous written record Ex.PW-4/A is in conformity with the testimony of Insp.M.A.Khan and Insp.Ashok Kumar. For the twin reasons afore-noted, we conclude that the dates referred to by Sarvesh in his statement Ex.PW-15/B are delayed by one day. Thus, Sarvesh, subject to the correction of the date being a mistake, has deposed in sync with his statement Ex.PW-15/B.

32. Thus, the challenge to the credibility of Anwar Ali as projected and as noted above must also fail.

33. Anwar Ali PW-2 has claimed to be a witness present when the police came and that with reference to a wound mark on the right thigh of the dismembered legs he identified the body as that of Kishan Master but Insp.M.A.Khan and Insp.Ashok Kumar have deposed that no eye-witnesses were present and the body was not identified till 13.3.2001 when Sarvesh was brought to Delhi. Picking on the same, it is urged that Anwar Ali is a liar.

34. It is not unknown for witnesses to mix up facts which have subsequently come to their knowledge as a result of they hearing the same with facts which they have seen.

Anwar Ali's claim of having identified the dead body on 11.3.2001 is obviously the result of his fantasy.

35. As per Dinesh PW-1 he and Anwar Ali were present in the factory of Shardool Singh when the police came. Shardool Singh has deposed that he had called Ram Swaroop to his factory as he was perplexed. Neither Dinesh nor Anwar Ali are witnesses to any memo.

36. Anything unnatural becomes an event in India and people gather by the dozens to satisfy their curiosity. Have we not seen people stop by to have deep look at may be nothing if somebody happens to be inquisitively looking at nothing. It is a pass time in India to hang around a scene of a crime and also to spin stories of what may have happened. Not only those, quite a few gullible digest the gossips and vomit them out as self proclaimed truths. So cleverly do they intervene the mass of their imagination with what they have actually seen that it results in a lot of impure things intermingling with pure things. Indeed, one of the biggest nightmare faced by a trier of facts in India is when confronted with a nugget of truth hidden in a web of myth and imagination, with the duty to extract the nugget of truth.

37. It is apparent that Dinesh and Anwar Ali who were bystanders in action, watching police investigation from a

distance have attempted to assume a larger than life role for themselves and hence the blemish resulting from the over exaggeration by the two. It is the duty of the Court to separate the grain from the chaff and doing so we discount their versions of participating in the investigation at the spot and identifying the dead body as that of Kishan Master but retaining the remaining testimony which stands the test of credibility, untainted by the remainder which is clearly severable.

38. Now, Anwar Ali has proved Kishan Master leaving the glass factory where Kishan Master and Anwar Ali resided being the factory of Amarjeet Singh PW-6. He left in the company of the appellant and Sant Ram. The time was around 12:00 noon. The date was 10.3.2001. This was Kishan Master last seen alive. Presence of Rakesh and Sant Ram in the factory of Shardool Singh PW-7 at around 2:30 PM has been deposed to by Anwar Ali. This is the factory where admittedly the crime was committed, a fact conceded to by Shri Rajesh Mahajan, learned Amicus Curiae for the appellant.

39. As a matter of fact, the afore-noted controversy, really speaking, need not have been even decided by us in view of the stand taken by the appellant when incriminating circumstances were put to him, being the response to question

No.61, answer whereof has been noted by us in para 7 above. As per appellant Sant Ram had committed the murder and Sarvesh had falsely implicated him as well as Sarvesh owned Rs.3,000/- to him.

40. To make it consistent with this defence, Shri Rajesh Mahajan, learned counsel for the appellant concedes to the point that there is tell tale evidence that Sarvesh, Kishan Master, the appellant and Sant Ram were present in the factory of Shardool Singh when Kishan Master was murdered and indeed this has to be so conceded in view of the explanation/defence of the appellant. But, learned counsel urges that there is every possibility that Sarvesh himself murdered the deceased and very cleverly shifted the burden on the appellant and Sant Ram.

41. It may firstly be noted that no suggestion has been given to Sarvesh that only Sant Ram murdered Kishan Master. This shows that the defence is an afterthought. Secondly, it would be difficult to believe and accept that Sant Ram, a juvenile could have lifted a dead body and carted it up a wooden monkey ladder from the ground floor of the factory to the mezzanine loft where it was dismembered. It had to be the work of more than one person.

42. It is then urged that the conduct of Sarvesh is most unnatural inasmuch as he claims that Sant Ram who kept on threatening him till the next day put him on a train at 4:30 PM to go to his village. Why did Sarvesh not report to the police in his village that he was witness to a crime and was threatened urges the learned counsel?

43. Well, we put a reverse question. Consistent with his defence, why did the appellant not do so? From this source we find an answer to the question raised by the learned counsel and as noted in para 42 above. Sarvesh was aged only 14 years when unexpected events overtook him. The city of Delhi hardly gives warmth to those who migrate to the city, and why only the city of Delhi should be labelled as a cold city, when every Metropolis evinces coldness to not only its natural born resident but even the migrants. His tender age made him a person who could be overawed and we find nothing unexceptional in his being overawed, a claim which he has made consistently, firstly on 15.3.2001 and then in May 2002 when he deposed in Court.

44. Save and except the blemish in the date of the crime being 11.3.2001 stated by him in his statement Ex.PW-15/B and the unnaturalness of his conduct, no other blemish

has been shown to us and hence, having dealt with the two issues qua him, we need to note no further.

45. The place of the crime being the factory of Shardool Singh is not in dispute. The date of the crime has to be 10.3.2001, not only as deposed to by the witnesses, but even as per the post-mortem report Ex.PW-14/A. The appellant, juvenile co-accused Sant Ram, deceased Kishan Master and Sarvesh have been proved to be in the factory in the afternoon of 10.3.2001 and in view of the testimony of Sarvesh we see no escape from not returning a verdict of guilt against the appellant.

46. But, we would be failing if we were not to note a feeble attempt made to urge that there is no motive for the crime for the appellant to commit such a brutal murder by dismembering the body of his friend Kishan Master. To this was sought to be added the alleged innocent conduct of the appellant returning to Delhi from his village the very day Sarvesh reached the village. Submission made was that why would Rakesh i.e. the appellant come to Delhi, a place where he was wanted if indeed he was the co-author of the crime.

47. We have been a privy to various decisions where diabolical crimes have been committed for no apparent reasons. In slum colonies in Delhi murders have been

committed on the most trivial and frivolous causes such as not sharing a bidi (worth 10 paisa) or not lending a match stick (worth less than 1 paisa) for burning a bidi. For not giving way on a street, murders have been committed. So charged up are people that it becomes most difficult to fathom a motive for their action. Though Sarvesh has not so deposed in Court but a motive has been disclosed by him in his statement Ex.PW-15/B i.e. a money dispute between the appellant and the deceased. But, we ignore the same in view of Sarvesh not having so deposed in Court, with further holding that absence of proof of motive, though desirable in a case of circumstantial evidence, is not fatal in every case. Appellant returning from his village is not consistent with his innocence and unnatural with the guilt for the reason when Sarvesh reached the village, the appellant may have thought that Sarvesh may spill the beans and hence making sense for the appellant to leave the village. The submission that why would be appellant come to Delhi, a place where the police would be looking for him, is answerable by stating that the appellant is no millionaire and cannot hide himself. He needs to work and may have thought that the city of Delhi teeming with hundreds of thousands people may screen him from detection and at the same time feed him. Be that as it may, these are trivial issues hovering at the fringe of virtually every criminal offence and cannot be

looked at and considered so as to marginalize the real issues which stand projected and answered against the accused.

48. Finding no merit in the appeal we dismiss the same.

49. Since the appellant is still in jail we direct that a copy of this decision be sent to the Superintendent, Central Jail Tihar to be supplied to the appellant.

(PRADEEP NANDRAJOG)
JUDGE

(SURESH KAIT)
JUDGE

MAY 13, 2010
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