

Judgment reserved on: 29.08.2023
Judgment delivered on: 19.12.2023

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Criminal Appeal No.463 of 2013

Anup Chand and others Appellants

Versus

State of Uttarakhand Respondent

Present:-

Mrs. Pushpa Joshi, learned senior counsel assisted by Mrs. Chetna Latwal and Ms. Nipushmola Joshi, learned counsel for the appellants.

Mr. J.S. Virk, learned Deputy Advocate General with Mr. Rakesh Joshi, learned Brief Holder for the State.

JUDGMENT

Coram: Hon'ble Manoj Kumar Tiwari, A.C.J.
Hon'ble Pankaj Purohit, J.

Per: Hon'ble Pankaj Purohit, J.

In this appeal preferred under Section 374 read with Section 389 of the Code of Criminal Procedure, 1973 (hereinafter referred to be as the Cr.P.C.), appellants-Anup Chand, Suresh Chand and Manoj have challenged their conviction recorded under Section 302 IPC and sentence whereby each of them was directed to undergo rigorous imprisonment for life with fine of Rs.10,000/- each, in default of making payment of which, the defaulter was directed to undergo three months' additional imprisonment, which was recorded by learned Additional Sessions Judge, Kotdwar, Pauri Gahwal in Sessions Trial No. 37 of 2013.

2. Facts in a nutshell are that P.W.1-Kunwar Singh (informant) gave an application dated 20.06.2013 to the

Station Officer, Police Station Kotdwar to the effect that his son *namely* Kiran Singh had gone from house at about 06:00 PM for a walk. After sometime of his departure, P.W.1 and his wife P.W.2 also went to have a walk. When they reached near the house of one Chauhan, they saw at a distance of 70 metres that a Max vehicle was parked at the roadside and nearby which, three persons were belabouring a person with stones, sticks and hammer. After going near them when they raised alarm, all three began to run, all of who were my neighbours and were identified as Anup Chand, Suresh Chand and Manoj by both of them. The person lying on the road was soaked with blood and was wriggling out, was his son. On being taken to the hospital, the injured succumbed to his injuries. Seeing the said incident, the wife of the informant became extremely shocked who was taken to their house by the informant. Thereafter, the informant went to lodge the report. He further stated that earlier also *marpeet* was committed with my son, on instance of their brother-Narendra Singh, they committed this incident; Mohan Lal was also involved in this incident. With these averments, F.I.R. (Ext. Ka-1) was lodged.

3. On the basis of the said report, the case was registered at Police Station Kotdwar against the appellants *namely* Anup Chand, Suresh Chand, Manoj, Narendra Singh and Mohan Lal under Sections 302 and 120-B IPC. The *chik* FIR is on record as Ext.Ka-22. The matter was investigated by the Investigating Officer, who recorded the statements of witnesses; inspected the place of occurrence; prepared the site map; got recovered the murder weapons; sent the murder weapons for the purpose of chemical examination at Forensic Science Laboratory, Uttarakhand, Dehradun and after culmination of investigation submitted a charge-sheet against the appellants-Anup Chand, Suresh

Chand and Manoj under Section 302 IPC, whereas, as against appellant-accused Mohan Lal, a charge-sheet under Section 120-B IPC was submitted in the court. The said charge-sheet is Ext. Ka-21. Narendra Singh was not charge-sheeted.

4. Learned Additional Judicial Magistrate, Kotdwar finding the case to be triable by the court of Sessions, committed the case, on 17.07.2013, against the persons who were charge-sheeted.

5. Learned Sessions Judge, Pauri Garhwal vide order dated 24.07.2013 proceeded to frame the charge against the accused-appellants under Section 302 IPC, whereas on the same day, a charge against the co-accused Mohan Lal (acquitted by the trial court) was framed under Section 120-B IPC. All the accused persons denied the charges levelled against them and claimed to be tried.

6. The prosecution in order to prove its case produce as many as six witnesses, *namely*, P.W.1-Kunwar Singh, P.W.2-Smt. Pyari Devi, P.W.3-Dabbal Singh, P.W.4-S.I. Kunwar Singh Bist, P.W.5-Head Constable Raj Kumar and P.W.6-Dr. Arun Kumar Pandey.

7. On completion of prosecution evidence, the statements of accused under Section 313 Cr.P.C. were recorded, in which the accused persons stating the occurrence to be false, pleaded false implication on the pretext of their having land enmity with the father of deceased. They also produced certain documents in documentary evidence in their defence.

8. At the conclusion of trial, the trial court proceeded to convict and sentence the appellants-accused as mentioned in paragraph no.1 of this judgment. Though

Mohan Lal was acquitted of charge of 120-B of IPC. It would be appropriate at this stage to discuss the evidence led by the prosecution witnesses in brief.

9. P.W.1-Kunwar Singh is the informant of the case. He has corroborated the averments made in the FIR. He has stated that the occurrence is of 20.06.2013. On that day at about 06:00 P.M., his son Kiran had gone to have a walk. After 10-15 minutes, he (P.W.1) and his wife (P.W.2) also went to have a walk. In the road leading to forest, a Max vehicle was found parked and uproar was being heard nearby the said vehicle. He and his wife had gone there and saw that their son-Kiran Singh was being beaten up by the Anup Chand, Suresh Chand and Manoj with sticks, stones and hammer. Mohan Lal was also present there. Anup Chand was assaulting the deceased with stone, Suresh Chand by hammer and Manoj by a stick. Kiran Singh was smeared with blood. Mohan Lal was instigating the other appellants-accused to kill him. The appellants-accused ran away after committing the incident, but while running, they threw the stone and hammer in the bushes at the place of occurrence. Seeing the occurrence, the health of his wife-P.W.2 deteriorated, meanwhile, someone called 108 Ambulance and his son was taken to the hospital, but he succumbed to his injuries on the way. He left his wife at the house and directly came to the hospital where he was apprised that his son had passed away on the way. Thereafter, he went to lodge a report of this incident. He has further deposed that on the next day i.e. on 21.06.2013, Police brought accused appellants Anup Chand, Suresh Chand, Manoj and co-accused Mohan Lal at the spot. Mohan Lal was the instigator. The appellants-accused persons got recovered the weapons of assault i.e. Anup Chand got recovered stones stained with blood, Manoj got

recovered stick stained with blood, whereas the hammer was got recovered by the accused from the bushes. He has also deposed that previously on 15.06.2013 also, his son was beaten up by the accused persons for the reason that he and Mohan Lal were having a land dispute. He has lastly deposed that the accused persons have killed him due to land enmity.

10. P.W.2-Pyari Devi has stated that her son was killed on 20.06.2013. On the date of occurrence, firstly her son had gone for a walk and thereafter, she and her husband had also gone for the same purpose. They started their walk at about 05:30 PM and reached at the spot at about 06:00 PM. They heard the scream of their son near the house of one Chauhan. They saw that the accused present in the Court i.e. Manoj Chand, Anup Chand and Suresh were assaulting their son with sticks, stones and hammer. She has deposed that she and her husband saw the three appellants-accused assaulting their son, whereas Mohan Lal, father of appellants-accused, was also present on the spot who was instigating them to kill the deceased. She has stated that looking at the condition of her son, she got unconscious. On the alarm raised by them, the accused ran-away leaving aside the weapons used in murder i.e. stone, hammer and stick. She has also deposed that the accused persons had killed their son, since, they were having land enmity.

11. PW-3 Dabbal Singh is the witness of recovery. He has stated that on 21.06.2013, the inquest of deceased was prepared. He was also appointed a *Punch* in the inquest. He has identified his signature on the inquest report (Ext. Ka-3). He has also deposed that on the same day, the appellants-accused persons got recovered the weapons used

in the crime. Nearby the place of occurrence, accused Anup Chand got recovered 3 stones stained with blood and hair. Second accused-Suresh Chand got recovered a hammer stained with blood and soil. Accused-Manoj got recovered a wooden stick, which was also stained with blood. He has proved his signature on the recovery memo, which is Ext. Ka-2.

12. P.W.4-S.I. Kunwar Singh Bisht is the Investigating Officer of the case. He has stated that he conducted investigation in the matter, inspected the place of occurrence and prepared the site plan (Ext. Ka-4). He also prepared the inquest report (Ext. Ka-3). He also wrote certain letters for the purpose of conducting post-mortem examination, prepared the *challan laash* and photo of body. During investigation, the accused persons got recovered the weapons used in the crime, for which the recovery memo was also prepared. He also prepared site-plan and took bloodstained soil from the place of occurrence. During investigation, he also recorded the statements of witnesses; arrested the accused persons and on completion of investigation, he submitted charge-sheet (Ext. Ka-21) against the appellants-accused persons and accused Mohan Lal.

13. P.W.5-Head Constable Raj Kumar has stated that on the basis of written report (Ext. Ka-1), he had prepared the *chik* FIR (Ext. Ka-22) and also prepared the G.D. (Ext. Ka-23).

14. PW-6 Dr. Arun Kumar Pandey is the medical officer who conducted the post-mortem, on the body, of the deceased. Post-mortem Report is Ext. Ka-24. In the said report, the medical officer has observed as under:-

“Whole body pale. P.M. Lividity present. Multiple abrasion and lacerations of different depth on whole part of the body. Sign of profuse bleeding present from the skull wounds. A large reddish and wet wound (abrasion-size-2 palm full) present on the postero lateral surface of left thigh sign of complete fracture shaft left Femur bone present at the same site (rest details in respective column). ”

In the internal examination, the medical officer found multiple fragments of skull Bone present on the superior (voults) and posterior (occipital) surface of head. The medical officer opined that the primary cause of death was due to profuse blood loss, head injury and splenic injury. Duration was opined to be less than one day.

15. Thereafter, the statements of accused appellants were recorded under Section 313 Cr.P.C. As stated herein above, they have taken the plea of their false implication on the ground of having land enmity with the father of deceased.

16. We have heard learned counsel for the parties at length and also examined the entire oral and documentary evidence available on record with their help.

17. Learned senior counsel appearing for the appellants argued that it is a case wherein the prosecution has utterly failed to prove its case against the appellants beyond all reasonable doubt. The family of deceased due to enmity of land falsely booked the accused in the crime. It is also argued that there is a cutting in the F.I.R; according to her, the date was altered to ‘20’ instead of ‘21’ and similarly, the time have been altered to ‘19:30’ instead of ‘10:30’. The prosecution witnesses P.W.1 and P.W.2 were neither present on spot nor did any occurrence witness by them. On stretching her argument, it is also argued that the injured was sent in 108 Ambulance which was called by one

Shailesh Dhyani, present on spot and the proceedings regarding the deceased were conducted as 'unknown'. No independent witness was taken by the police party while recovering the murder weapons i.e. stone, hammer and stick. It is also argued that there are material contradiction in the evidence of P.W.1 and P.W.2. Hence, it is argued that the appellants deserve acquittal.

18. On the other hand, learned D.A.G. appearing for the State, strenuously, argued that the report was lodged in the matter promptly. The report is named. There was previous enmity between the accused and the informant regarding a land dispute. In the past also such occurrences were committed. P.W.1 and P.W.2 have been given complete eye-witness account of occurrence. The medical officer has also given his evidence, who has found several injuries on the body of deceased. The prosecution has fully proved its case against the appellants beyond all reasonable doubt. Accordingly, the appeal is required to be dismissed by affirming the judgment and order under challenge.

19. At this stage before proceeding any further, we would like to mention that the recovered items were sent for the purpose of F.S.L. Examination. The report given by the F.S.L., Dehradun, Uttarakhand is on record as Ext. Ka-25 and the conclusion of report, the Scientific Officer found as follows:-

- “1. Blood was found on objects 1 to 4 and 6 to 11.
2. No blood was found on object 5.
3. Human blood was found on objects 1 to 3, 7 to 9 and 11.
4. Blood was found disintegrated on objects 4, 6 and 10, hence the origin could not be determined.

5. The tests for the classification of blood on objects 1 to 3, 7 to 9 and 11 did not yield any definite results.”

20. Now we embark upon to appreciate the submissions of the rival parties on the basis of the record. The prosecution has produced as many as six witnesses in order to prove its case. P.W.1-Kunwar Singh is informant of the case. He has duly corroborated averments made in the F.I.R. According to him, the occurrence is of 20.06.2013. On that day at about 06:00 P.M., his son-Kiran had gone for evening walk. After 10-15 minutes thereafter, he (P.W.1) and his wife (P.W.2) also went for walk. In the road leading to forest, a Max vehicle was found parked and uproar was being heard nearby the said vehicle. He and his wife had gone there and saw that their son-Kiran Singh was being beaten up by the Anup Chand, Suresh Chand and Manoj with sticks, stones and hammer. Mohan Lal was also present there. Anup Chand was assaulting the deceased with stones, Suresh Chand by hammer and Manoj was assaulting him by stick. Kiran Singh was smeared with blood. Mohan Lal was instigating the other appellants-accused to kill him. The appellants-accused ran-away after committing the incident. While running, they threw the stone, hammer and stick in the bushes at the place of occurrence. Seeing the occurrence, the health of his wife deteriorated, meanwhile, someone called 108 Ambulance and his son was taken to the hospital, but he succumbed to his injuries on the way. P.W.2-Pyari Devi has also duly corroborated the evidence led by P.W.1 and P.W.3 has deposed about the recovery of weapon used, at the instance of accused in the crime. P.W.6-Dr. Arun Kumar Pandey is the Medical Officer, who conducted the post-mortem examination on the body of the deceased. According to him,

the primary cause of death was due to profused blood loss, head injury and splenic injury. Duration was opined to be less than one day. P.W.4-S.I. Kunwar Singh Bisht is the Investigating Officer of the case, whereas, P.W.5-Raj Kumar is the Head Constable. The chemical report given by the Forensic Science Laboratory (FSL), Dehradun (Ext. Ka-25) clearly states that human blood was found on objects 1 to 3, 7 to 9 and 11, which are murder weapons and clothes of deceased. This report also proves the involvement of accused in the crime. According to medical officer, the skull of deceased was found fractured. His left and right ribs were also found broken. All these facts cumulatively proved the involvement of the appellants in the crime.

21. The gravamen of the eye-witness account of P.W.1 and P.W.2 was assailed by learned senior counsel appearing on behalf of the appellants-accused. In order to bring them out of the charge of murdering the deceased-Kiran Singh, learned senior counsel has drawn the attention of this Court to the contradictions in the evidence of P.W.1 and P.W.2 emphasising that instead of accompanying the deceased in the Ambulance to hospital, P.W.1 took his wife-P.W.2 to his residence and it is only thereafter, he went to the hospital.

(i) It is submitted on behalf of learned senior counsel for the appellants that such conduct of P.W.1 was unnatural. From deeper scrutiny of evidence of P.W.1 and P.W.2, it transpires that on seeing her son badly injured and soaked in blood P.W.2 became unconscious. At this she was taken by P.W.1 to his residence and thereafter he straightway went to hospital leaving her wife at home, where at hospital he was told that his son-Kiran succumbed to his injuries.

We are not impressed by the said argument and we do not find it unnatural for the reason that for P.W.1 at that point of time, it was also necessary to take care of his wife-P.W.2.

(ii) It is contended by learned counsel for the appellants that P.W.1 and P.W.2 are not eye-witnesses of the incident as when Ambulance was called by one Shailesh Dhyani and injured was being taken to the hospital, P.W.1 did not go by the said Ambulance to the hospital with his injured son. Since the reason for not accompanying the Ambulance was the precarious health of his wife, which is already explained, this submission can be brushed aside. He first took his wife to home and it is only then, he went to the hospital. There is nothing strange about this conduct of P.W.1.

(iii) Learned senior counsel for the appellants further disputed the presence of P.W.1 and P.W.2 at the scene of occurrence while the incident happened, contending that as per the case of the prosecution the deceased-Kiran Singh left his house for evening walk on 20.06.2013 at around 06:00 P.M. According to P.W.1 after 10-15 minutes P.W.1 and P.W.2 also left their house for a walk and it was not possible for them to witness the occurrence.

On reading of the evidence of P.W.1 and P.W.2, both the witnesses narrated the same tale that they left their house just after their son went for evening walk and the difference of time is 10-15 minutes, according to P.W.1 at 06:00 P.M. approx and according to P.W.2 around 05:30 to 06:00 P.M.

In such a situation if somebody would assault their son, it would be quite natural for them to see the occurrence. According to P.W.1 and P.W.2, they heard

screams of their son near the house of one Chauhan; they saw a Max Vehicle parked; they reached there and saw that the appellants-Anup Chand, Suresh Chand and Manoj were belabouring his son with stick, stone and hammer. Mohan Lal-father of the appellants were exhorting them to kill Kiran Singh; after committing crime they fled from there and threw the stone, hammer and stick on the same spot.

On these material particulars, the evidence of P.W.1 and P.W.2 is exactly the same supporting each other, therefore it cannot be discredited.

(iv) It is also argued that the Max Vehicle parked at the place of occurrence was not examined by the Investigating Officer and no investigation was made by the Investigating Officer regarding the vehicle as to whom it belonged.

The argument can be brushed aside simply for the reason that the case of the prosecution is not that the assailants came in the said Max Vehicle or the deceased was brought there in the said vehicle by the assailants and was attacked inside the vehicle. It is apparent from the record that there was blood sprinkled on the said Max Vehicle.

Merely there was blood sprinkled on some part of the said vehicle would not require investigation regarding the said vehicle. If it is, at all, necessary even then at the most it may be a lacuna in the investigation, which did not go to rule-out the prosecution's case.

(v) It is also submitted by learned senior counsel for the appellants that no independent witness or the people nearby were examined by the Investigating Officer, which according to the learned senior counsel makes the incident doubtful.

Recovery of the weapon of the assault at the pointing out of the appellants was also not witnessed by the independent witnesses. Thus, the recovery of weapon of assault the blood stained stones, hammer and stick does not inspire any confidence.

We have seen the recovery memo of weapon of assault Ex. Ka-2. The said recovery was made on 21.06.2013 at the pointing out of the appellants which was witnessed by P.W.1 and P.W.3 and the recovery memo also contained the signature of the appellant-Anup Chand, Suresh Chand and Manoj.

In the present scenario people in general have a tendency of not associating them with any criminal investigation. Thus, it cannot be said that independent witnesses were not examined for throwing-away the case of prosecution, if on other counts it is trustworthy.

The recovery was witnessed by P.W.3, who is son-in-law of P.W.1, but only for this reason, it cannot be considered that he is not a trustworthy witness.

(vi) It is also, strenuously, argued that prosecution failed to examine the person who called the Ambulance and staff of the Ambulance for substantiating the version of the prosecution. It is further argued that P.W.1 and P.W.2 being parents, as to why, did not call the Ambulance.

In order to appreciate the submission made by learned senior counsel for the appellants, we have to visualize the scene again. P.W.1 and P.W.2 were on a walk, they heard screams of their son who was assaulted, they reached there and found their son badly beaten up and soaked in blood and the appellants running from the spot. If, instead of parents of the deceased-Kiran Singh, P.W.1 and P.W.2

one Shailesh Dhyani called the Ambulance, there is nothing strange about it. Naturally the parents were in a condition of shock and dismay and in such a situation others who were there on the scene of occurrence would usually call for help. So there is nothing unusual in it.

(vii) The next submission which has been made on behalf of the appellants is that the *chik* F.I.R. is anti dated as there is a cutting in the F.I.R., in the column of date and time when the report was made.

On the basis of this over-writing in *chik* F.I.R., it is submitted that the F.I.R. at 19:30 hours on 20.06.2013 was not promptly made, as suggested by the prosecution, but the F.I.R. was lodged on 21.06.2013 and for that reason there is over-writing in the *chik* F.I.R. It was for this reason, there was no mention of deceased in Police papers. It is for this reason that in the inquest there is no mention of title of the case, State Vs. Anup and others, Police was informed about an unknown person, who was brought dead at the hospital on 20.06.2013 at about 07:10 P.M. brought by 108 EMRI.

This discrepancy in the Police information would not come to the aid of the appellants for the reason that at the time when the deceased was entering into the emergency ward of the hospital, he was not accompanied by P.W.1 and therefore there is no mention of the name of the body and further the F.I.R. according to the prosecution was registered at 19:30 hours (07:30 P.M.) on 20.06.2013.

We have considered the submission made by learned senior counsel for the appellants and have perused the Police papers as well as F.I.R. which is available on record as Ex. Ka-1.

In the *chik* F.I.R. admittedly, there appears some over-writing on figure-20, but there is no over-writing in the body of the *chik* F.I.R. where the F.I.R. was reduced into writing as well as under the signature of the Head Constable, who registered the *chik* F.I.R. This discrepancy in the Police papers would not come to the aid of the appellants.

(viii) Finally it is argued that injuries found on the person of the deceased do not correspond with the ocular version of infliction of injuries by stone, stick and hammer.

So far as the argument regarding the defective the investigation, advanced by the learned senior counsel for the appellants, is concerned mere defect in the investigation which does not go to the root of the case of the prosecution would not enure to the appellant's benefit. The Hon'ble Apex Court has on many occasions dealt with as to what would be the fall out of a defective investigation. The Hon'ble Apex Court in no uncertain term held that accused persons would not get any benefit on account of defective investigation and if that is done, it would tantamount to playing into the hands of the Investigating Officer. In reference the case of **Dhanaj Singh @ Shera and others Vs. State of Punjab (2004) 3 SCC 654** is pressed into service. Para nos. 5, 6 and 7 of the *Dhanaj Singh @ Shera (supra)* are quoted hereinbelow:-

“5. In the case of a defective investigation the court has to be circumspect in evaluating the evidence. But it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective. (See Karnel Singh v. State of M.P. [(1995) 5 SCC 518 : 1995 SCC (Cri) 977].

6. In *Paras Yadav v. State of Bihar* [(1999) 2 SCC 126 : 1999 SCC (Cri) 104] it was held that if the lapse or omission is committed by the investigating agency or because of negligence the prosecution evidence is required to be examined *dehors* such omissions to find out whether the said evidence is reliable or not, the contaminated conduct of officials should not stand in the way of evaluating the evidence by the courts; otherwise the designed mischief would be perpetuated and justice would be denied to the complainant party.

7. As was observed in *Ram Bihari Yadav v. State of Bihar* [(1998) 4 SCC 517 : 1998 SCC (Cri) 1085] if primacy is given to such designed or negligent investigation, to the omission or lapses by perfunctory investigation or omissions, the faith and confidence of the people would be shaken not only in the law-enforcing agency but also in the administration of justice. The view was again reiterated in *Amar Singh v. Balwinder Singh* [(2003) 2 SCC 518 : 2003 SCC (Cri) 641]. As noted in *Amar Singh* case [(2003) 2 SCC 518 : 2003 SCC (Cri) 641] it would have been certainly better if the firearms were sent to the Forensic Test Laboratory for comparison. But the report of the ballistic expert would be in the nature of an expert opinion without any conclusiveness attached to it. When the direct testimony of the eyewitnesses corroborated by the medical evidence fully establishes the prosecution version, failure or omission or negligence on the part of the IO cannot affect the credibility of the prosecution version.”

(ix) It is suggested by learned senior counsel for the appellants that the nature of injuries suggests that they were caused in a motor vehicle incident.

In order to appreciate this submission we have gone through the post-mortem report and the evidence of the Doctor who conducted the post-mortem examination. The following anti-mortem injuries were found on the person of the deceased:-

“6. हड्डिया तथा जोड़: - multiple fracture on the skull bone, fracture, shaft left Femur bone.(details in respective columns below)

7. जनन (Genitalia) के बाह्यअंग:---- NA

8. अतिरिक्त विशेष विवरण: --Whole body pale P.M. Lividity present. Multiple abrasion and lacerations of different depth on whole part of the body. Sign of profuse bleeding present from the skull

wounds. A large reddish and wet wound (abrasion-size-2 palm full) present on the postero lateral surface of left thigh sign of complete fracture left Femur bone present at the same site”

Going through the nature of anti-mortem injuries found on the person of the deceased, it cannot be said that these injuries were resulted by any motor accident. Although P.W.6 in his cross-examination made a statement that dragging injuries on the person of the deceased can be caused by an unknown vehicle and could not be caused by stone, stick and hammer, but these suggestions related to the dragging injuries only. In the examination in-chief, he clearly stated that injuries can be caused when hit by a hard object. The hard objects, no doubt, in the case are stones, hammer and stick. This argument is of no help to the appellant.

It is, vehemently, argued on behalf of learned senior counsel for the appellants that there was enmity between the parties regarding some land dispute, which was admitted to both parties.

The prosecution also based the cause of killing on self-same land dispute. Enmity is a doubled edged weapon. The case of the prosecution is that the son of P.W.1 and P.W.2 was killed, due to enmity of land dispute and he was previously also attacked by the appellants.

22. Thus the prosecution was successful in proving its case beyond all reasonable doubt. The lacuna in the investigation is not such which goes to the root of the case of the prosecution. The eye-witness account is sufficient enough to bring home the charges against the appellants. No parent would implicate someone else, leaving the main culprit associated with the murder of their only son free.

23. In view of the reasons cited herein above, we are of the considered view that there is no reasonable ground to interfere with an elaborate and well reasoned judgment passed by the trial court. The findings recorded by the court below are based on the evidence led before it and there is no illegality or perversity found therein.

24. The appeal filed by the appellants is bereft of merits and is accordingly dismissed. The judgment and order under challenge is accordingly affirmed. The appellants are on bail. Their bail is accordingly cancelled and sureties discharged; they shall surrender immediately and be taken into custody to serve out the sentence imposed on them by the trial court.

25. Let a copy of this judgment and order alongwith LCR be transmitted to the Court concerned for compliance of the order forthwith.

(Pankaj Purohit, J.)

(Manoj Kumar Tiwari, A.C.J.)