



In the High Court of Punjab and Haryana at Chandigarh

1. CRA-D-1142-DB-2013 (O&M)  
Reserved on: 03.12.2024  
Date of Decision: 16.12.2024

Bhupender @ Bhuppi .....Appellant

Versus

State of Haryana .....Respondent

2. CRA-D-1135-DB-2013 (O&M)

Jogender @ Kalu .....Appellant

Versus

State of Haryana .....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. K.D.S.Hooda, Advocate (Legal Aid Counsel)  
for the appellant(s)

Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.

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SURESHWAR THAKUR, J.

1. Since both the appeals (supra) arise from a common verdict, made by the learned trial Judge concerned, hence the appeals (supra) are amenable for a common verdict being made thereons.

2. Both the appeals (supra) are directed against the impugned verdict, as made on 21.8.2013, upon case Sessions case bearing No. 71 of 2009/2013, by the learned Additional Sessions Judge (Exclusive Court), Jhajjar, wherethrough in respect of charges respectively drawn against the accused qua offences punishable under Sections 120-B, 302, 149, 148 IPC, and, under Sections 25 and 30 of the Arms Act, thus the learned trial Judge concerned, proceeded to record a finding of conviction against accused



Rajeev, Bhupender and Jogender under Sections 302 read with Section 34 IPC and under Sections 25 and 30 of the Arms Act.

3. Moreover, through a separate sentencing order dated 24.8.2013, the learned trial Judge concerned, imposed upon, the convicts both sentence(s) of imprisonment as well as sentence(s) of fine, but in the hereinafter extracted manner:-

- (1) *To undergo rigorous imprisonment for life and to pay a fine of Rs. 10,000/- each, for the commission of offence under Section 302 read with Section 34 IPC and in default of payment of fine to undergo rigorous imprisonment for one year.*
- (2) *To undergo rigorous imprisonment for three years and to pay a fine of Rs. 1000/- for the commission of offence under Section 25 of the Arms Act against accused Jogender and in default of payment of fine to undergo simple imprisonment for six months.*
- (3) *To undergo simple imprisonment for six months and to pay a fine of Rs. 500/- each against accused Jogender and Rajeev for the commission of offence under Section 30 of the Arms Act and in default of payment of fine to undergo simple imprisonment for 15 days.*

4. All the above imposed sentences of imprisonment were ordered to run concurrently. However, the period of detention undergone by the convicts, during the investigations, and, trial of the case, was, in terms of Section 428 of the Cr.P.C., rather ordered to be set off from the above imposed sentence(s) of imprisonment.

#### **Factual Background**

5. The genesis of the prosecution case, becomes embodied in the appeal FIR, to which Ex. P-11/A is assigned. As per the prosecution case, on 3.9.2009, on receiving a V.T message from Police-Post, PGIMS, Rohtak regarding death of Naresh son of Satbir and Parveen @ Ballu, both residents of Asaudha, Ram Phal, SI along with Balraj, ASI, Raj Kumar, HC and Soni,



Post, Asaudha met him. He was joined in the police party and after collecting ruqa from the Police Post, PGIMS, Rohtak, SI Ram Phal and his associates went to Emergency Ward where Harsawroop son of Chanderbhan, Caste Jat, resident of Asaudha was found with the dead bodies of Naresh and Parveen. He made a statement to the that he was an agriculturist and had two sons, namely, Jasbir (elder) and Jaibir (younger). Jaibir and his wife Anita had died in an accident with Tata Sumo of their village on 28.08.2009 in the area of village Rohad bye-pass on account of on going grudge. On that day, i.e., 3.9.2009, it was the *Tehravi* of Jaibir and Anita. His buffalo had also gone missing on that day. Therefore, on the said day, at about 2.00 P.M., he was searching his buffalo in his fields on the bicycle.

6. He has further stated therein, that Naresh son of his brother Satbir and his friend Parveen @ Babloo son of Prem Singh, resident of Kheri Sadh were coming on the motorcycle bearing No. HR-12M-2157 from village Kanonda to village Asaudha. In the meanwhile, one Verna car of white colour having red flags on the front and rear and without having any number plate came from the side of village Asaudha. When Naresh and Parveen were at a distance of one kilometer from village Kanonda towards Asaudha, the driver of Verna Car hit the said motorcycle. As a result thereof, Naresh and Babloo fell down on the road. The car, which had black windowpanes, stopped there and three young boys in muffled faces alighted from it. They were carrying pistols in their hands and they fired at Naresh and Parveen from a close range. Thereafter, they fled away from there in the said car with their respective weapons. The complainant) went near Naresh and Parveen and found them in an injured condition. He saw that Naresh had



been hit on his head by the fire-arm, whereas, Parveen had sustained fire-arm injury on his head, hand and neck. He took both of them to PGIMS, Rohtak after arranging a vehicle where they were declared dead by the attending medical officer. The motive behind the attack was that his nephew Naresh and his son Jaibir had caused the death of Jaibir @ Tagar, resident of Asaudha on 5.8.2009. He suspected that Naresh and Jaibir had been got killed, out of revenge for his son, by Om Parkash Pandit, resident of Asaudha Todran through some one else. On the basis of the said statement, the appeal FIR became registered.

**Investigation proceedings**

7. During the course of investigations, inquest proceedings were conclude. Post-mortem examinations of the dead body of both the deceased became conducted. The further investigation was taken over by Sat Narain, SI/SHO during the intervening night of 3/4.9.2009. After giving necessary directions to Ram Phal, SI, he alongwith Harsawroop complainant and Balraj, ASI reached at the place of occurrence. He inspected the place of occurrence and rough site plan was prepared. Scene of the crime was got photographed. Motorcycle bearing registration No. HR-12M-2157, which became found lying there, was taken into possession vide recovery memo Ex.P-20. A blood-stained parna was lifted from the spot, and, became converted into a parcel and sealed by the investigating officer concerned with his seal impressions 'SN', which was taken into possession vide recovery memo Ex.P-16. Blood-stained earth was also lifted from the place of occurrence, and, became converted into a parcel and sealed by the investigating officer concerned with his seal impressions 'SN', which was taken into possession vide recovery memo Ex.P-17. Four empty cartridges



of 7.65 mm bore were lifted from the spot, converted into a parcel by putting the same into the plastic box, which became sealed with seal 'SN' and became taken into possession vide recovery memo Ex.P-18. Receipt of driving licence Ex.P19-A regarding accused Bhupender and income tax card regarding accused Rajeev and PAN Card were also recovered and were also taken into possession vide recovery memo Ex.P-19.

8. On 4.9.2009, supplementary statement of complainant Harsawroop and statement of the eye witness Satbir son of Chanderbhan were recorded to the effect that about a week ago, Rajeev @ Kala, resident of Asaudha had hatched a criminal conspiracy along with Bhupender @ Bhuppi son of Ram Kumar, resident of Kheri Jassaur; Ajay son of Ram Niwas, resident of Asaudha, Jogender son of Hawa Singh, resident of Chhara, Naveen @ Titi son of Dilbag Singh, resident of Brahi, Ram Phal son of Dhani Ram, resident of Asaudha and Albel son of Bhagwan Singh in his house to commit the murder of Naresh. Rajeev in his Verna Car bearing registration No.DL-10-CA-0161 had gone with Bhupender, Jogender and Ram Phal from Asaudha to Delhi on 3.9.2009 at about 9.00 A.M. and at about 2.00 P.M., on that day, they had hit the motorcycle of Naresh and his friend Babloo, as a result, they both fell down in the pit. At that time, Bhupender was driving the car. Subsequently, Rajeev and Jogender fired at both of them with their respective weapons. Naresh sustained firearm injury on his head and Babloo sustained fire-arm injury on his head, neck and arms/legs.

9. All the accused except accused Sanju were arrested. After conclusion of investigations, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned



committal Court concerned. Subsequently, on 13.1.2010, accused Sanju was arrested under Section 30 of the Arms and supplementary challan under Section 173 Cr.P.C. was filed by the investigating officer concerned, before the learned Court concerned.

**Committal Proceedings**

10. Since the offence under Section 302 of the IPC was exclusively triable by the Court of Session, thus, the learned committal Court concerned, hence proceeded to commit the accused to face trial before the Court of Session.

**Trial Proceedings**

11. The learned trial Judge concerned, after receiving the case for trial, after its becoming committed to him, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw charges against all accused under Sections 120-B, 302, 149, 148 IPC. The learned trial Judge concerned, also drew charge against accused Jogender qua the commission of an offence punishable under Section 25 of the Arms Act, besides also drew charges against accused Rajeev, Albel and Jogender qua the commission of an offence punishable under Section 30 of the Arms Act. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

12. In proof of its case, the prosecution examined 17 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence.

13. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused pleaded innocence, and, claimed false implication. The



accused led five defence witnesses into the witness box.

**Submissions of the learned counsel for the convicts-appellants**

14. The learned counsel for the aggrieved convicts-appellants has argued before this Court, that both the impugned verdict of conviction, and, the consequent thereto order of sentence, thus require an interference. He supports the above submission on the ground, that they are based on a gross misappreciation, and, non-appreciation of evidence germane to the charge. They rest the above submission on the ground(s)-

(i) Since the purported eye witness to the occurrence, namely Satbir (PW-7), is not stated in the appeal FIR (Ex. P-11/A) to be an ocular witness to the crime event, thereby neither his previously made statement in writing to the police officer concerned, wherein, he rendered an eye witness account vis-a-vis the crime event is credible, nor the corroborative thereto testification rendered in Court by the witness (supra), thus acquires any credibility. Therefore, it is submitted that thereby the said witness was an introduced or a sham witness rather to falsely implicate the accused.

(ii) That since during the course of investigations being made into the appeal FIR, thus no valid test identification parade became conducted. Therefore, it is contended that the first time identification thus made in Court, rather of the convicts-appellants, but gathers no evidentiary efficacy, as the imperative prior thereto test identification parade of the accused-appellants, rather never became conducted.

(iii) That though the alleged occurrence took place on a busy road, however, no independent witness was joined by the investigating officer concerned, thereby a tainted version by the interested witness to the crime event has been rendered, and, thereto no credibility is to be assigned.



**Submissions of the learned State counsel**

15. On the other hand, the learned State counsel has argued before this Court, that the verdict of conviction, and, consequent thereto sentence(s) (supra), as become imposed upon the convicts-appellants, are well merited, and, do not require any interference, being made by this Court in the exercise of its appellate jurisdiction. Therefore, he has argued that the appeals (supra), as preferred by the convicts-appellants be dismissed.

**Analysis of the deposition of the eye witness to the occurrence,  
who stepped into the witness box as PW-7**

16. Satbir, father of deceased Naresh, who is the purported eye witness to the occurrence, stepped into the witness box as PW-7, and, deposed that his son Naresh and his nephew Jaibir had committed the murder of one Tagar of their village in the year 2009. The said Tagar was the friend of accused Rajeev. He further deposed, that on 3.9.2009, when he was going to village Kaulsi on his bicycle, then he noticed that a Verna car of Rajeev bearing registration No. 0161 was going towards Delhi. The said car after crossing him, and, after covering a distance about one kilometer, hit the motorcycle bearing registration No. HR-12M-2125, whereons one Naresh and Babloo were astride, as a result whereof both fell in the ditch. Subsequently, accused Rajeev and Bhuppi alighted from the said Verna car and started firing upon Naresh and Babloo. The said witness also reached near the spot. He further testified that both Naresh and Babloo were crying in an unconscious condition, and, on seeing their condition, he also lost his consciousness. The said witness further deposed that he did not know as to how he was brought to his house, and, that he regained consciousness at about 10.00/11.00 P.M. On 4.9.2009, the police reached his house at a



empty cartridges along with blood stained parna and blood stained earth were taken into police possession vide recovery memo Ex. P-16 and Ex. P-18. The police also noticed two documents at the spot, one of them was the driving licence of Bhupender @ Bhuppi and the other was the income tax receipt of Rajeev. Both the said documents were taken into police possession vide recovery memo Ex. P-19. The motorcycle bearing registration No. HR-12M-2157 was also taken into police possession vide recovery memo Ex. P-20. The said witness also identified his signatures as well as the signatures of his brother Harsawroop on the above documents.

17. Significantly, since a wholesome reading of his testification, as carried in his examination-in-chief, and, in his cross-examination, does not unfold, qua thereins rather becoming carried any rife improvements or embellishments viz-a-viz his previously recorded statement, in writing, nor when his testification suffers from any further taint of its being ridden with any *intra se* contradiction, thus *intra se* his examination-in-chief, and, his cross-examination, therefore, utmost sanctity is to be assigned to his testification.

18. Though, it is argued by the learned counsel for the convicts-appellants that since the witness (supra) was not named in the appeal FIR to be an eye witness to the occurrence, therebys it is contended that the witness (supra) has rendered a concocted and premeditated account vis-a-vis the crime event.

19. However, the said submission would hold vigour only when an incisive and wholesome reading of the testification(s) made by the witness (supra), as occurs both in his examination-in-chief and in his cross-examination, reveals that he has not rendered a truthful account vis-a-vis the



crime event, whereupon this Court would not assign credit to his testification.

20. In the said endeavour, this Court has noticed, that during the course of cross-examination being made upon the witness (supra), a suggestion became made to him that at about 4.00 P.M., in the evening when he was going alone towards the pond, then he overheard a conspiratorial conversation happening amongst the accused. Since thereto an affirmative answer became rendered by the witness (supra), thereupon, the corresponding testification in respect thereof, as became rendered by the witness (supra) in his examination-in-chief, thus acquires truthfulness, wherebys the defence acquiesces qua the accused also acquiescing to their holding a conspiratorial talk rather for eliminating the deceased. Resultantly therebys, through the said proven fact, the prosecution has proven the fact that the accused prior to the commission of the offence had hatched a conspiracy to eliminate the deceased, whereupon it has to be further concluded, that for effectuating the said hatched conspiracy, the charged offences did take place. Furthermore, the hereinafter extracted speakings, which became made by the witness (supra), thus in his cross-examination, do also vividly magnify, qua irrespective of the witness (supra) not being named in the FIR to be an eye witness to the crime occurrence, rather therebys the defence acquiescing qua the witness (supra) eye witnessing the occurrence.

“x x x x

*House of Rajiv is at a distance of  $\frac{3}{4}$  of a K.M. from my house. I am 8<sup>th</sup> class failed and I am agriculturist. My house and the house of my brother Harsarup are adjacent to each other. Tagar was murdered on the evening of Raksha Bandhan in the year 2009. In that murder Naresh, my nephew Jaibir and Bablu alias Parveen were involved and they were absconding from the village in that*



*case. There is direct passage from my house to bus stand of our village. My house is towards village Kulasi and the house of Rajiv is towards village Jakhoda. My fields fall towards village Kulasi. My eye sight is weak.*

*x x x x*

*Earlier I and my brother used to visit the house of Rajiv. We only entered upto the baithak of Rajiv and I do not know how many rooms are in the house of Rajiv and there is a chaubara in the house of Rajiv. At about 4.00 P.M. in the evening I was going alone towards the pond and then I heard the conversation.*

*x x x x*

*Accused fired upon the deceased from close range and distance was about 12 feet. I cannot say how many bullets were fired by the accused. My brother Harsarup has not told me that some unknown persons fired on deceased. I did not know whether my brother Harsarup told the police that three unknown persons with muffled faced fired on the deceased and on his statement, FIR was registered. I do not know the registration number of the car and my presence at the spot has not been mentioned at the spot.*

*x x x x*

*The bumper of the car bent slightly due to the impact. I cannot tell which accused fired on which deceased. I was visible to the accused at the time of occurrence. The accused drove away in the car towards village Brahi. I had not raised alarm and due to fear I turned back and after leaving the cycle on the road, I started walking towards backside.*

*x x x x”*

21. Consequently, the learned counsel for the appellants becomes disabled to contend, that neither the PW-7 was an eye witness to the occurrence, nor he can contend, that he has rendered a concocted and premeditated account vis-a-vis the crime event. Contrarily, the deposition of the witness (supra) acquires immense evidentiary worth.

22. Since the witness (supra) was previously known to the accused,

and, he also identified the accused in Court, thereby even if no prior thereto



valid test identification parade became conducted, wherein, the witness (supra) did identify the accused, yet the non-holdings of the imperative prior test identification parade, does not affect the identification, as made in Court of the accused by the witness (supra). The reason but clearly emerges from the above made acquiescences by the witness (supra), to the supra affirmative incriminatory suggestions, as became meted to him, during the course of his becoming subjected to a rigorous cross-examination by the defence counsel. Though the witness (supra) in his cross-examination stated that he cannot identify accused Jogender and the co-accused concerned, who are not from his village, but the said failure on the part of the witness (supra), to identify (supra) does not also carry any exculpatory effect vis-a-vis the supra, as from the accused (supra) recovery of .32 bore pistol became validly effected.

23. Moreover, though the witness (supra) in his cross-examination stated that his eyesight is weak, but the said fact would not at all detract from the credibility of his testification, which is anvil upon his previously made statement in writing, especially when the said previously made statement in writing was made in the year 2009, whereas, his deposition becoming recorded in the year 2011. Resultantly with almost two years elapsing since the making of his previously made statement in writing to the police officer concerned, and, his stepping into the witness box, thereby the said elapse of time appears to have brought some weakness to the eyesight of the witness (supra). Consequently, the effect of weakness of the eyesight of the witness (supra) thus when he stepped into the witness box, does not yet discount the testification made by him in Court, which is otherwise completely consistent with his previously made statement in writing to the



police, moreso when, there is no evidence suggestive that his memory had also suffered some failure. Therefore, for all the above stated reasons, this Court finds that PW-7 has rendered a consistent credible testification, and, thereons this Court can proceed to draw a firm conclusion that, as such the prosecution has proven the charge to the hilt.

**Signatred disclosure statement of convict-appellant**  
**Joginder @ Kala Ex. P-22**

24. During the course of investigations, being made into the appeal FIR, convict-appellant Joginder @ Kala, thus made his signatred disclosure statement, to which Ex. P-22 becomes assigned. The signatred disclosure statement, as made by the accused is *ad verbatim* extracted hereinafter.

“x                      x                      x                      x

*I, along with my co- associate Bhupender @ Bhupi S/o Ram kumar Jat R/o Jassaur Kheri, Ramphal S/o Dhani Ram caste Brahman R/o Assaudha, Sanju S/o Satbir Jat R/o Kharawar, Albel S/o Bhagwan Singh Jat R/o Barahi, Ajay S/o Ram Niwas, caste Jat, r/o Assaudha, Naveen @T.T. S/o Dilbagh Jat R/o Barahi, and Rajeev @ Kala S/o Sunder Singh, Caste Jat few days prior all of us by sitting in the house of Rajeev @ Kala S/o Sunder Singh Jat R/o Assaudha made a plan to murder the Naresh R/o Assaudha, as per our plan Albel R/o Barahi had handed over his licensed Pistol and 315 bore Rifle and cartridge and Sanju had also given his licensed Pistol and Rifle and cartridge. Sanju and Albel handed over their weapons to Rajeev @ Kala, and Naveen @ T.T S/o Dilbagh Jat r/o Barahi, was deputed on the duty to keep watch over the Naresh and Babloo @ Parveen on Dated 03.09.2009. Ajay had gave the information by his own telephone regarding Naresh and Parveen @Babloo that they are on a Motor cycle nearby at village Kanoudha. On this information, I, Bhupender @Bhupi, Rajeev @ Kala and Ramphal along with our weapons, as per telephonic massage received from Ajay, all four of us went away by sitting in a white colour Car make Verna bearing registration No. DL-10-CA-0161. The car was driven by Bhupender @ Bhupi. The Motor cycle of Naresh and Parveen @ Babloo met with us nearby village Kanoudha. Bhupender @ Bhupi hit the side of the car on our directions over the Motor cycle of Naresh @ Babloo, due to that they fell down along with their Motor cycle on the kaccha Path of Road side. I, and Rajeev @ Kala had murdered Naresh and*



*Babloo by shooting bullets fires with the pistol in our hand safter getting down from the car, and fled away from there with our weapons by sitting in the car. From which pistol, I had murdered by firing bullet shots over the Naresh and Parveen @ Babloo, the same pistol and riffle was given by the Rajeev @ Kala. The said pistol and riffle and remaining cartridges are kept concealed by me, by wrapping in a cloth at a room of my residential house, I can get recovered the same by making demarcation, and I can also get demarcated the place of occurrence. Rajeev had disclosed me that Sanju has the license of the Pistol and revolver and Sanju S/o Satbir, Caste Jat, R/o Kharwar can disclose about the whereabouts of the license.*

25. Pursuant to the above made signed disclosure statement, the convict-appellant Joginder @ Kala ensured the recoveries of a 32 bore pistol, on the body whereof RP-105615 was written, of three live cartridges (which were found after opening the magazine), of a 12 bore rifle on the body of whereof 11590-2006 was written and of 11 cartridges of 12 bore, all of which were taken into police possession, through a recovery memo, to which Ex. 23 becomes assigned.

26. The disclosure statement (supra), carries thereon the signature(s), of the convict-appellant. In his signed disclosure statement (supra), the convict, confessed his guilt in inflicting injuries on the person of the deceased, hence with the recovered weapon. The further speaking therein is qua his keeping, and, concealing the incriminatory weapon of offence. Moreover, the said signed disclosure statement does also make speakings about his alone being aware about the location of his hiding and keeping the same, and, also revealed his willingness to cause the recovery of the incriminatory weapon, to the investigating officer concerned, from the place of his hiding, and, keeping the same.

27. Significantly, since the appellant has not been able to either ably deny his signatures as occurs on the exhibit (supra) nor when he has



been able to prove the apposite denial. Moreover, since he has also not been able to bring forth tangible evidence but suggestive that the recovery(ies) is/are either contrived or invented. Therefore, the exhibits (supra) are *prima facie* concluded to be holding the utmost evidentiary tenacity.

28. Significantly also, since post the making of the said signed disclosure statement, thus by the convict concerned, to the investigating officer concerned, he through the recovery memo (Ex. P-23), thus caused the recovery of the weapon of offence to the investigating officer concerned. Consequently, when the said made recovery(ies) is/are also not suggested by any cogent evidence to be planted recovery(ies). Resultantly, the effect thereof, is that, valid recovery(ies) was/were made vis-a-vis the incriminatory weapon of offence by the convict, to the investigating officer concerned. In sequel, the making of the valid signed disclosure statement, by the convict besides the pursuant thereto effectuation of valid recovery(ies) of the incriminatory weapon of offence, thus by the convict concerned, to the investigating officer concerned, but naturally *prima facie* corroborates and supports the case of the prosecution.

29. However, yet for assessing the vigor of the said made disclosure statement and consequent thereto made recovery, it is apt to refer to the principles governing the assigning of creditworthiness to the said made disclosure statement and to the consequent thereto made recovery. The principles governing the facet (supra), become embodied in paragraphs Nos. 23 to 27 of a judgment rendered by the Hon'ble Apex Court in **Criminal Appeal Nos.1030 of 2023, titled as "Manoj Kumar Soni V. State of Madhya Pradesh", decided on 11.8.2023**, relevant paragraphs whereof



become extracted hereinafter.

23. *The law on the evidentiary value of disclosure statements under Section 27, Evidence Act made by the accused himself seems to be well established. The decision of the Privy Council in **Pulukuri Kotayya and others vs. King-Emperor** holds the field even today wherein it was held that the provided information must be directly relevant to the discovered fact, including details about the physical object, its place of origin, and the accused person's awareness of these aspects. The Privy Council observed:*

*The difficulty, however great, of proving that a fact discovered on information supplied by the accused is a relevant fact can afford no justification for reading into s. 27 something which is not there, and admitting in evidence a confession barred by s. 26. Except in cases in which the possession, or concealment, of an object constitutes the gist of the offence charged, it can seldom happen that information relating to the discovery of a fact forms the foundation of the prosecution case. It is only one link in the chain of proof, and the other links must be forged in manner allowed by law.*

24. *The law on the evidentiary value of disclosure statements of co-accused too is settled; the courts have hesitated to place reliance solely on disclosure statements of co-accused and used them merely to support the conviction or, as Sir Lawrence Jenkins observed in **Emperor vs. Lalit Mohan Chuckerburty**, to “lend assurance to other evidence against a co-accused”. In **Haricharan Kurmi vs. State of Bihar**, this Court, speaking through the Constitution Bench, elaborated upon the approach to be adopted by courts when dealing with disclosure statements:*

*13. ...In dealing with a criminal case where the prosecution relies upon the confession of one accused person against another accused person, the proper approach to adopt is to consider the other evidence against such an accused person, and if the said evidence appears to be satisfactory and the court is inclined to hold that the said evidence may sustain the charge framed against the said accused person, the court turns to the confession with a view to assure itself that the conclusion which it is inclined to draw from the other evidence is right.*

25. *In yet another case of discrediting a flawed conviction*



*under Section 411, IPC, this Court, in **Shiv Kumar vs. State of Madhya Pradesh** overturned the conviction under Section 411, declined to place undue reliance solely on the disclosure statements of the co-accused, and held:*

*24. ..., the disclosure statement of one accused cannot be accepted as a proof of the appellant having knowledge of utensils being stolen goods. The prosecution has also failed to establish any basis for the appellant to believe that the utensils seized from him were stolen articles. The factum of selling utensils at a lower price cannot, by itself, lead to the conclusion that the appellant was aware of the theft of those articles. The essential ingredient of mens rea is clearly not established for the charge under Section 411 IPC. The prosecution's evidence on this aspect, as they would speak of the character Gratiano in Merchant of Venice, can be appropriately described as, "you speak an infinite deal of nothing." [William Shakespeare, Merchant of Venice, Act 1 Scene 1.]*

*26. Coming to the case at hand, there is not a single iota of evidence except the disclosure statements of Manoj and the co-accused, which supposedly led the I.O. to the recovery of the stolen articles from Manoj and Rs.3,000.00 from Kallu. At this stage, we must hold that admissibility and credibility are two distinct aspects and the latter is really a matter of evaluation of other available evidence. The statements of police witnesses would have been acceptable, had they supported the prosecution case, and if any other credible evidence were brought on record. While the recoveries made by the I.O. under Section 27, Evidence Act upon the disclosure statements by Manoj, Kallu and the other co-accused could be held to have led to discovery of facts and may be admissible, the same cannot be held to be credible in view of the other evidence available on record.*

*27. While property seizure memos could have been a reliable piece of evidence in support of Manoj's conviction, what has transpired is that the seizure witnesses turned hostile right from the word 'go'. The common version of all the seizure witnesses, i.e., PWs 5, 6, 11 and 16, was that they were made to sign the*



*seizure memos on the insistence of the 'daroga' and that too, two of them had signed at the police station. There is, thus, no scope to rely on a part of the depositions of the said PWs 5, 6, 11 and 16. Viewed thus, the seizure loses credibility.*

30. Furthermore, in a judgment rendered by the Hon'ble Apex Court in **Criminal Appeal No.2438 of 2010, titled as "Bijender @ Mandar V. State of Haryana", decided on 08.11.2021**, the relevant principles governing the apposite assigning of creditworthiness become set forth in paragraph 16 thereof, paragraph whereof becomes extracted hereinafter.

*16. We have implored ourselves with abounding pronouncements of this Court on this point. It may be true that at times the Court can convict an accused exclusively on the basis of his disclosure statement and the resultant recovery of inculpatory material. However, in order to sustain the guilt of such accused, the recovery should be unimpeachable and not be shrouded with elements of doubt. We may hasten to add that circumstances such as (i) the period of interval between the malfeasance and the disclosure; (ii) commonality of the recovered object and its availability in the market; (iii) nature of the object and its relevance to the crime; (iv) ease of transferability of the object; (v) the testimony and trustworthiness of the attesting witness before the Court and/or other like factors, are weighty considerations that aid in gauging the intrinsic evidentiary value and credibility of the recovery. (See: **Tulsiram Kanu vs. The State; Pancho vs. State of Haryana; State of Rajasthan vs. Talevar & Anr and Bharama Parasram Kudhachkar vs. State of Karnataka**).*

31. Furthermore, in another judgment rendered by the Hon'ble Apex Court in **Special Leave Petition (Criminal) No.863 of 2019, titled as "Perumal Raja @ Perumal V. State, Rep. By Inspector of Police", decided on 03.01.2024**, the relevant principles governing the assigning of



whereof become extracted hereinafter.

22. *However, we must clarify that Section 27 of the Evidence Act, as held in these judgments, does not lay down the principle that discovery of a fact is to be equated to the object produced or found. The discovery of the fact resulting in recovery of a physical object exhibits knowledge or mental awareness of the person accused of the offence as to the existence of the physical object at the particular place. Accordingly, discovery of a fact includes the object found, the place from which it was produced and the knowledge of the accused as to its existence. To this extent, therefore, factum of discovery combines both the physical object as well as the mental consciousness of the informant accused in relation thereto. In **Mohmed Inayatullah v. State of Maharashtra**<sup>12</sup>, elucidating on Section 27 of the Evidence Act, it has been held that the first condition imposed and necessary for bringing the section into operation is the discovery of a fact which should be a relevant fact in consequence of information received from a person accused of an offence. The second is that the discovery of such a fact must be deposed to. A fact already known to the police will fall foul and not meet this condition. The third is that at the time of receipt of the information, the accused must be in police custody. Lastly, it is only so much of information which relates distinctly to the fact thereby discovered resulting in recovery of a physical object which is admissible. Rest of the information is to be excluded. The word ‘distinctly’ is used to limit and define the scope of the information and means ‘directly’, ‘indubitably’, ‘strictly’ or ‘unmistakably’. Only that part of the information which is clear, immediate and a proximate cause of discovery is admissible.*

23. *The facts proved by the prosecution, particularly the admissible portion of the statement of the accused, would give rise to two alternative hypotheses, namely, (i) that the accused had himself deposited the physical items which were recovered; or (ii) only the accused knew that the physical items were lying*



*at that place. The second hypothesis is wholly compatible with the innocence of the accused, whereas the first would be a factor to show involvement of the accused in the offence. The court has to analyse which of the hypotheses should be accepted in a particular case.*

*24. Section 27 of the Evidence Act is frequently used by the police, and the courts must be vigilant about its application to ensure credibility of evidence, as the provision is vulnerable to abuse. However, this does not mean that in every case invocation of Section 27 of the Evidence Act must be seen with suspicion and is to be discarded as perfunctory and unworthy of credence.*

*25. The pre-requisite of police custody, within the meaning of Section 27 of the Evidence Act, ought to be read pragmatically and not formalistically or euphemistically. In the present case, the disclosure statement (Exhibit P-37) was made by the appellant – Perumal Raja @ Perumal on 25.04.2008, when he was detained in another case, namely, FIR No. 204/2008, registered at PS Grand Bazar, Puducherry, relating to the murder of Rajaram. He was subsequently arrested in this case, that is FIR. No.80/2008, which was registered at PS Odiansalai, Puducherry. The expression “custody” under Section 27 of the Evidence Act does not mean formal custody. It includes any kind of restriction, restraint or even surveillance by the police. Even if the accused was not formally arrested at the time of giving information, the accused ought to be deemed, for all practical purposes, in the custody of the police.*

32. Now the principles set forth therein are that the defence, is required to be proving;

- i) That the disclosure statement and the consequent thereto recovery being forged or fabricated through the defence proving that the discovery of fact, as made in pursuance to a signed



disclosure statement made by the accused to the investigating officer, during the term of his custodial interrogation, rather not leading to the discovery of the incriminatory fact;

- ii) That the fact discovered was planted;
- iii) It was easily available in the market;
- iv) It not being made from a secluded place thus exclusively within the knowledge of the accused.
- v) The recovery thereof made through the recovery memo in pursuance to the making of a disclosure statement, rather not being enclosed in a sealed cloth parcel nor the incriminatory item enclosed therein becoming sent, if required, for analyses to the FSL concerned, nor the same becoming shown to the doctor concerned, who steps into the witness box for proving that with the user of the relevant recovery, thus resulted in the causings of the fatal ante mortem injuries or in the causing of the relevant life endangering injuries, as the case may be, upon the concerned.

- vi) That the defence is also required to be impeaching the credit of the marginal witnesses, both to the disclosure statement and to the recovery memo by ensuring that the said marginal witnesses, do make speakings, that the recoveries were not made in their presence and by making further speakings that they are compelled, tutored or coerced by the investigating officer concerned, to sign the apposite memos. Conspicuously, despite the fact that the said recovery memos were not made in pursuance to the accused leading the investigating officer to the



site of recovery. Contrarily the recovery memo(s) becoming prepared in the police station concerned.

vii) The defence adducing evidence to the extent that with there being an immense gap *inter se* the making of the signed disclosure statement and the consequent thereto recovery being made, that thereby the recovered items or the discovered fact, rather becoming planted onto the relevant site, through a stratagem employed by the investigating officer.

33. Therefore, unless the said defence(s) are well raised and are also ably proven, thereupon the making of a disclosure statement by the accused and the consequent thereto recovery, but are to be assigned credence. Conspicuously, when the said incriminatory link in the chain of incriminatory evidence rather is also the pivotal corroborative link, thus even in a case based upon eye witness account.

34. Be that as it may, if upon a prosecution case rested upon eye witness account, the eye witness concerned, resiles therefrom his previously made statement. Moreover, also upon his becoming cross-examined by the learned Public Prosecutor concerned, thus the judicial conscience of the Court become completely satisfied that the investigating officer concerned, did record, thus a fabricated apposite previously made statement in writing, thereby the Courts would be led to declare that the said made apposite resilings are well made resilings by the eye witness concerned, thus from his previously made statement in writing.

35. Moreover, in case the Court, in the above manner, becomes satisfied about the well made resilings by the eye witness concerned, to the

crime event, thereupon the Court may consequently draw a conclusion, that



the recoveries made in pursuance to the disclosure statement made by the accused, even if they do become ably proven, yet therebys may be the said disclosure statement, and, the consequent thereto made recoveries also loosing their evidentiary tenacity. The said rule is not a straitjacket principle, but it has to be carefully applied depending upon the facts, circumstances and evidence in each case. Tritely put in the said event, upon comparative weighings being made of the well made resilings, thus by the eye witness concerned, from his previously made statement in writing, and, of the well proven recoveries made in pursuance to the efficaciously proven disclosure statement rendered by the accused, the Court is required to be drawing a conclusion, as to whether evidentiary tenacity has to be yet assigned to the disclosure statement and the pursuant thereto recovery memo, especially when they become ably proven and also do not fall foul from the above stated principles, and/or to the well made resiling by the eye witness concerned, from his previously recorded statement in writing. Emphatically, the said exercise requires an insightful apposite comparative analyses being made.

36. To a limited extent also if there is clear cogent medical account, which alike, a frailly rendered eye witness account to the extent (supra), vis-a-vis the prosecution case based upon eye witness account rather unfolds qua the ante mortem injuries or other injuries as became entailed on the apposite regions of the body(ies) concerned, thus not being a sequel of users thereovers of the recovered weapon of offence. Resultantly therebys too, the apposite signed disclosure statement and the consequent thereto recovery, when may be is of corroborative evidentiary vigor, but when other adduced prosecution evidence, but also likewise fails to connect the recoveries with the medical



the consequent thereto recovery, thus may also loose their evidentiary vigor. Even the said rule has to be carefully applied depending upon the facts, circumstances, and, the adduced evidence in every case.

37. However, in a case based upon circumstantial evidence when the appositely made signed disclosure statement by the accused and the consequent thereto prepared recovery memos, do not fall foul, of the above stated principles, thereby they acquire grave evidentiary vigor, especially when in pursuance thereto able recoveries are made.

38. The makings of signed disclosure statement and the consequent thereto recoveries, upon able proof becoming rendered qua both, thus form firm incriminatory links in a case rested upon circumstantial evidence. In the above genre of cases, the prosecution apart from proving the above genre of charges, thus also become encumbered with the duty to discharge the apposite onus, through also cogently proving other incriminatory links, if they are so adduced in evidence, rather for sustaining the charge drawn against the accused.

39. Consequently, since the statutory provisions enclosed in Section 25 of the Indian Evidence Act, provisions whereof becomes extracted hereinafter, do not assign statutory admissibility to a simpliciter/bald confession made by an accused, thus before the police officer, rather during the term of his suffering custodial interrogation, but when the exception thereto, becomes engrafted in Section 27 of the Indian Evidence Act, provisions whereof becomes extracted hereinafter. Therefore, thereby when there is a statutory recognition of admissibility to a confession, as, made by an accused before a police officer, but only when the confession, as made by the accused, before the police officer concerned, but becomes made during



the term of his spending police custody, whereafters the said incriminatory confession, rather also evidently leads the accused, to lead the investigating officer to the place of discovery, place whereof, is exclusively within the domain of his exclusive knowledge.

*“25. Confession to police-officer not to be proved.—No confession made to a police-officer, shall be proved as against a person accused of any offence.*

x        x        x        x        x

*27. How much of information received from accused may be proved.— Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”*

40.            Significantly, it would not be insagacious to straightaway oust the said made signed disclosure statement or the consequent thereto recovery, unless both fall foul of the above principles, besides unless the said principles become proven by the defence. Contrarily, in case the disclosure statement and the consequent thereto recovery enclosed in the respective memos, do not fall foul of the above principles rather when they become cogently established to link the accused with the relevant charge. Resultantly, if the said comprises but a pivotal incriminatory link for proving the charge drawn against the accused, thereby the snatching of the above incriminatory link from the prosecution, through straightaway rejecting the same, but would result in perpetration of injustice to the victim or to the family members of the deceased, as the case may be.

41.            Now coming to the facts at hand, since the disclosure statement and the consequent thereto recovery do become efficaciously proven by the prosecution. Moreover, when none of the marginal witnesses, to the said

memos become adequately impeached rather for belying the validity of



drawings of the memos nor also when it has been proven that the said memos are fabricated or engineered, besides when it is also not proven that the disclosure (supra) did not lead to the discovery of the apposite fact from the relevant place of hiding, thus only within the exclusive knowledge of the accused.

42. Conspicuously also, when the said disclosure statement is but not a bald or simpliciter disclosure statement, but evidently did lead to the making of efficacious recovery(ies), at the instance of the accused, to the police officer concerned.

43. Consequently, when therebys the above evident facts rather do not fall foul of the above stated/underlined principles in the verdicts (supra). Consequently, both the disclosure statements, and, the consequent thereto recovery, when do become efficaciously proven, therebys theretos immense evidentiary tenacity is to be assigned. Preeminently also when thus they do corroborate the rendition of a credible eye witness account rendered by the prosecution witness (supra). Moreover, when the memos (supra) also lend corroboration to the medical account, therebys through all the links (supra), the charge drawn against the accused becomes proven to the hilt.

#### **Post-mortem report**

44. The post-mortem reports of deceased Naresh and Parveen @ Bablu to which respectively Ex. P-3 and Ex. P-3 are assigned, became proven by Dr. Jitender Kumar Jakhar (PW-2). PW-2 in his examination-in-chief, has deposed that on an autopsy being conducted on the bodies of both the deceased by him along with Dr. Manju Mehra, thus theirs noticing



thereons the hereinafter ante mortem injuries--

**PMR of deceased Naresh**

*“1. An entry wound of size 0.5X0.5 cm circular in shape present over the left side of the forehead, situated 3 cm lateral to mid line and 5 cm above the left eyebrow. Margins were inverted and brain matter came out. On deep dissection, the tract goes through and through the brain after piercing the Dura matter in the front and posteriorly and bullet reach in extra dural space and then pericranial space in the occipital region. A radiating fracture of skull bone start from the entry wound and radiate posteriorly and laterally situated 5cm in the frontal region and 8 cm in temporal region from the mid line. Wound was situated 164 cm above the heel.*

*2. An entry wound of size 1.5 cm radius circular in shape present over the postero superior aspect of left shoulder situated just postero superior to acromio clavicular joint. Wound was situated 155 cm above the heel.*

*3. Exit wound of size 2.5 cm radius present over the superolateral aspect of upper one third of left arm.*

*4. An abrasion of size 2x1 cm present over the lateral aspect of lower one third of right thigh. On deep dissection, underlying tissues found ecchymosed.*

*5. An abrasion of size 5x3 cm present over the front aspect of right knee.*

*6. An abrasion of size 1x1 cm present over the front aspect of lower one third of right thigh. On deep dissection, underlying tissues found ecchymosed.*

*7. An abrasion of size 8x1.5 cm present over the front of the middle one third of right leg.*

*8. A lacerated wound of size 1x0.5 cm present over the front of the middle one third of right leg just below the injury No. 7.*

*9. An abrasion of size 7x1 cm present over the middle one third of left leg. On deep dissection, underlying tissues found ecchymosed.”*

**PMR of deceased Parveen @ Bablu**

*“1. An entry wound of size 0.5 cm radius present over the lateral aspect of upper eye lid of right eye. Wound situated 144 cm above the heel. Exit wound of size 1 cm radius present over the temporo-parietal region of the left side of scalp situated 5cm postero-superior to left external auditory meatus. The tract of the bullet goes through the cribriform plate of base of cranial fossa and through and through the brain after piercing the brain membranes.*

*2. An abrasion of size 2x1 cm present over the right side of the*



*neck situated 2 cm below the right angle of the mandible.*

3. *An entry wound of size 1cm radius circular in shape present over the front aspect of upper 1/3rd of right arm. Wound was situated 132 cm above the ground level. On further dissection, track goes to the apex of axilla and piercing the right side of pleura and lung and passes through and through the mediastinum and left pleura and lung and pierce the 7th intercostals space and bullet stuck into the subcutaneous tissue.*

4. *An entry wound of firearm present over the palmer aspect of medial border of left hand situated 6cm below the wrist joint. The track goes through and through the hand muscles and third inter-meta carpal space. Exit wound present on the dorsal aspect of left hand in the third inter-metacarpal space situated 4cm above the meta-carpo phalangeal joint.*

5. *An entry wound of firearm present over the palmer aspect of right hand situated 2cm below the wrist joint. The wound was 0.5 cm in radius and circular in shape. Track goes through and through the hand and reach up to the exit wound. Exit wound present over the dorsal aspect of hand in the second inter-metacarpal space. On deep dissection, underlying tissues found ecchymosed.*

6. *An abrasion of size 2x1 cm present over the medial aspect of the right ankle.”*

45. Furthermore, PW-2 also made a speaking in his examination-in-chief, that the cause of demise of both the deceased (supra) was owing to firearm injuries and their complications. The said witness was shown the bullets to which respectively Ex. P3/E and Ex. P7/1 became assigned, whereupon he admitted that the said bullets were extracted from the respective bodies of deceased Naresh and Parveen.

46. The above made echoings by PW-2, in his examination-in-chief, became never challenged through any efficacious cross-examination, being made upon him, by the learned defence counsel. Therefore, the opinion, as made by PW-2 qua the demise of the deceased, thus acquires formidable force. Consequently, the above echoings, as made by PW-2, in his examination-in-chief, do relate, the fatal ante-mortem injuries to the time of the crime event hence taking place at the crime site.



**Report of the FSL concerned, to which Ex. P-25 becomes assigned**

47. Through memo Nos. 658-DP and 811 dated 8.9.2009 and 17.11.2009, ten sealed cloth parcels became sent, through HC Raj Kumar No. 784 to the FSL concerned. The FSL concerned, thus upon making examinations of all the incriminatory items, as became sent to it in sealed cloth parcels, hence made thereons an opinion, opinion whereof, becomes *ad verbatim* extracted hereinafter.

““X X X X

**Description of parcel(s) and condition of seal(s)**

*The seals on the parcels were found intact and tallied with the specimen seals as per forwarding authority.*

**Description of article (s) contained in parcel(s)**

| Parcel No. | No. and seal impression | Description of parcel(s)                                                                                                                                                          |
|------------|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I.         | 3 of SN                 | Stated to contain blood stained earth lifted from the place of occurrence (Sent to Serology Division in original packing).                                                        |
| II.        | 3 of SN                 | Stated to contain blood stained earth lifted from the place of occurrence (Sent to Serology Division in original packing).                                                        |
| III.       | 8 of SN                 | Stated to contain blood stained parna recovered from the place of occurrence (Sent to Serology Division in original packing).                                                     |
| IV.        | 3 of SN                 | Contained four 7.65 mm fired cartridge cases, stated to have been collected from the place of occurrence (Marked C/1 to C/4 by me).                                               |
| V.         | 5 of Fm                 | Stated to contain clothes of Naresh in ref. PMR No. 1477/09 dated 4.9.09 (Sent to Serology Division in original packing).                                                         |
| VI.        | 2 of Fm                 | Contained one 7.65 mm fired bullet stated to have been taken out from the body of Naresh (Bullet marked BC/1 by me).                                                              |
| VII.       | 5 of Fm                 | Stated to contain blood stained clothes of deceased Parveen @ Bablu in ref. PMR No. 1478/09 dated 4.9.09 (Sent to Serology Division in original packing).                         |
| VIII.      | 2 of Fm                 | Contained one 7.65 mm fired bullet stated to have been taken out from the body of deceased Parveen @ Bablu (Bullet marked BC/2 by me).                                            |
| IX.        | 5 of RP.                | Contained one 7.65 mm pistol No. RP-105615-2001 of Indian Ordinance Factories along with magazine and three number of 7.65 mm live cartridges, stated to have been recovered from |



|    |         |                                                                                                                                                                                                                                          |
|----|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |         | <i>accused Jogender @ Kala (Pistol marked W/1 by me).</i>                                                                                                                                                                                |
| X. | 3 of BS | <i>Contained one 7.65 mm pistol No. RP-114733-2003 of Indian Ordinance Factories along with magazine and three number of 7.65 mm live cartridges, stated to have been recovered from accused Rajiv @ Kala (Pistol marked W/2 by me).</i> |

**Laboratory Examination**

*Products of combustion of smokeless powder were detected from the barrels of 7.65 mm pistols marked as W/1 and W/2. Test firings were done in the laboratory from 7.65 mm pistols marked W/1 and W/2. Their firings mechanism were found in working order.*

*The class as well as individual characteristic marks present on 7.65 mm fired bullets marked BC/1 and BC/2 and those on test fired cartridge cases & bullets fired from 7.65 mm pistols marked W/1 and W/2 were examined and compared and under stereo and comparison microscope.*

*Based on the examinations carried out in the laboratory, the result of analysis is as under-*

**Result**

- 1. 7.65 mm pistols marked W/1 and W/2 are firearms as defined in Arms Act 54 of 1959. Their firing mechanism were found in working order.*
- 2. 7.65 mm fired cartridge cases marked C/1, C/2 and 7.65 mm fired bullet marked BC/2 have been fired from 7.65 mm pistol marked W/2 and not from any other firearm even of the same make and bore/calibre because every firearm has got its own individual characteristic marks.*
- 3. 7.65 mm fired cartridge cases marked C/3, C/4 and 7.65 mm fired bullet marked BC/1 have been fired from 7.65 mm pistol marked W/1 and not from any other firearm even of the same make and bore/calibre because every firearm has got its own individual characteristic marks.*
- 4. Report in original from Serology Division is enclosed herewith.”*

48. A reading of the hereinabove extracted opinion, thus vividly unveils, that the firing mechanism of the recovered 7.65 mm pistols marked as W/1 was found in working order. Furthermore, it also makes candid underlinings, that the recovered 7.65 mm fired cartridge cases marked as C/3, C/4, and 7.65 mm fired bullet marked as BC/1, both thus becoming



fired from the countrymade revolver marked as W/1, and, that the firings of the said cartridges, thus not occurring from any other fire-arm. Consequently, therebys a firm opinion is made vis-a-vis the user of the recovered fire-arm by appellant Jogender @ Kala. Thus, therebys the prosecution has proven, that the accused had, through firing of the apposite bullets from .7.65 mm pistol, thus committed the murder of the deceased concerned.

49. Importantly also since the relevant cloth parcels also travelled in an untampered, and, unspoiled condition to the FSL concerned. Moreover, when for the reasons (supra), this Court has assigned probative sanctity to the signed disclosure statement, and, to the consequent thereto prepared recovery memo. Resultantly, the results of the examination(s), as made on the items enclosed in an untampered, and, unspoiled cloth parcels when do clearly indicate the inculpatory role of the accused-respondents. Therefore, as but a natural corollary thereof, this Court is of the firm view, that the prosecution has been able to cogently establish the guilt of the accused-respondents in the relevant crime event. Moreover, when there are unrebutted evidences (supra) suggestive, that all the appellants did prior to the crime event taking place hold conspiratorial talks rather to eliminate the deceased, therebys the appellants are liable to be convicted for the charged offences.

50. Thus, conjoint readings of the report of the doctor concerned, who proved the apposite post-mortem report of the deceased concerned, with the efficaciously proven signed disclosure statements (supra) as made by the appellant, and, also with the consequent thereto made valid recovery through recovery memo (Ex.P-23), does therebys foster an inference, that



therebys there is *inter se* corroboration *inter se* the medical account and the report of the ballistic expert, besides with the memos supra. In summa, this Court finds no gross perversity or absurdity in the appreciation of the adduced relevant evidence, as became made by the learned trial Judge concerned.

**Final Order**

51. The result of the above discussion, is that, this Court does not find any merit in the appeals (supra) preferred by the appellants, and, is constrained to dismiss them. Consequently, both the appeals (supra) are dismissed. The impugned verdict of conviction, as becomes recorded upon the convicts-appellants, by the learned convicting/Trial Court, is maintained, and, affirmed. Moreover, the consequent thereto order of sentence is also affirmed. If the convicts are on bail, thereupon, the sentence as imposed upon them, be ensured to be forthwith executed by the learned trial Judge concerned, through his drawing committal warrants.

52. The case property be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal.

53. Records be sent down forthwith.

54. The miscellaneous application(s), if any, is/are also disposed of.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(SUDEEPTI SHARMA)**  
**JUDGE**

**December 16<sup>th</sup>, 2024**  
**Gurpreet**

**Whether speaking/reasoned : Yes/No**  
**Whether reportable : Yes/No**