

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

+ **CRIMINAL APPEAL NO. 328/2012**

% **Reserved on:** 19th March, 2015
Date of Decision: 17th July, 2015

ARUN LALAppellant
Through Mr. J.S. Kushwaha, Advocate.

Versus

THE STATE (NCT OF DELHI) ...Respondent
Through Ms. Aashaa Tiwari, APP.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

SANJIV KHANNA, J.

Impugned judgment dated 21st December, 2011 convicts the appellant Arun Lal for murder of Asha and Alka, his mother-in-law and unmarried sister-in-law, in the evening on 2nd May 2008, with the motive of stealing Rs.6 lacs, lying in an *attaché* inside a bed at the house of his in-laws. The appellant by order on sentence dated 24th December, 2011, stands sentenced to imprisonment for life with a direction that he would not be released from prison till the rest of his life. Fine of Rs.10,000/- has also been imposed.

2. The factum that the two deceased Asha and Alka had suffered a homicidal death on 2nd May, 2008 in the evening in their residential house J-1/180, DDA Flats, Kalkaji, Delhi has been proved and established beyond doubt. Post-mortem report of Asha, aged 47 years marked Exhibit PW-13/A, was proved by Dr. Sushil Sharma (PW-13). The post-mortem

on her dead body conducted on 3rd May, 2008 by Dr. Sushil Sharma (PW-13), refers to anti-mortem injury in form of laceration 11 x 5.5 cm bone deep on left temporal parietal region of the scalp, 5 cm medial to left mastoid tip and 2 cm left from mid line associated with sub scalp haematoma and fracture of underlining bone of the skull. The deceased Asha had suffered five other laceration wounds on the occipital region, right temporal parietal region, right front temporal region of the scalp, bone deep at forehead above to medial end of right eyebrow, frontal region of scalp, left forehead 1 cm above the end of the left eyebrow and a fracture of right upper medial incisor tooth in addition to two abraded contusions on the left forearm and arm. On internal examination, multiple fracture injuries of the bone of the skull corresponding to the seven lacerated wound injuries were found to be present. The cause of death was opined as cranio-cerebral injury consequent upon blunt force impact and injuries 1 to 7 were sufficient to cause death in ordinary course of nature individually as well as collectively.

3. Dr. Sushil Sharma (PW-13) also proved the post-mortem report of Alka aged 28 years marked Exhibit PW-13/B, who had suffered ante-mortem lacerated injuries five in number, in addition to one abraded contusion 6cm x 4cm present on the upper half of the right cheek. On internal examination, fracture injury at the left temporal parietal region of the skull and fracture at the base of the skull were noticed and associated with haematoma. The cause of death was ascertained to be cranio-cerebral injury consequent upon blunt force object.

4. Dr. Sushil Sharma (PW-13) did depose in his cross-examination that injuries 1 to 8 mentioned in Exhibit PW-13/A could have been caused due to fall from height, but we do not think the said answer anyway

negates or affects the prosecution case, for there is no indication that the deceased Asha had fallen from a height. Both Asha and Alka had similar injuries on face and head caused by blunt force object. They have died homicidal deaths. This is also lucid and apparent from the deposition of Ms. Neha (PW-1), Ms. Bhawna (PW-3), Chandra Prakash Sawan (PW-2), Beeta (PW-4), Durga Das (PW-5) and Gopal (PW-6).

5. The core or the primary contention, which arises for consideration, is whether the appellant-Arun Lal had murdered Asha and Alka, i.e. his mother-in-law and sister-in-law to steal the money. The prosecution relies upon circumstantial evidence in the absence of eye witnesses to the occurrence. Gopal (PW-6) and Hari Lal (PW-11) have deposed that they had a house in Uttam Nagar, which was sold a week prior to the occurrence for Rs.6,50,000/-. Hari Lal (PW-11) has testified that he, his wife Asha and his daughter Alka knew about this payment. We shall dwell on his testimony subsequently in detail. However, Gopal (PW-6) on the said aspect is more forthright and categorical. Gopal (PW-6) has testified that Rs.6,00,000/- in cash were kept in an *attaché* in the bed and this fact was known to Hari Lal (Papa), Asha (Mummi), deceased Alka (sister), the appellant-Arun Lal and PW-6. This cash was received on sale of the house for Rs.6,50,000/-, out of which Rs.50,000/- was paid as an advance. This amount of Rs.6 lacs was found to be missing and had been stolen, though the *attaché* in which the money was kept was not removed. Jewellery was not stolen. This *attaché* had been concealed inside the bed. Bayana receipt dated 18th December, 2007 marked Exhibit PW-6/A and the documents in form of General Power of Attorney, etc. dated 15th March, 2008 marked Exhibit PW-6/B, agreement to sell and purchase dated 15th March, 2008 marked Exhibit PW-6/C and affidavit dated 15th

March, 2008 marked Exhibit PW-6/D, possession letter dated 15th March, 2008 marked Exhibit PW-6/E, etc were proved by Gopal (PW6).

6. The appellant-Arun Lal was arrested after interrogation on 5th May, 2008 by Inspector Joginder Kumar (PW-30), who had also recorded his disclosure statement marked Exhibit PW-28/A. Thereupon, Inspector Joginder Kumar (PW-30) had recovered currency notes of Rs.500/- each totaling Rs.5 lacs from a steel *almirah* in the appellant's house, located at 45/1116, DDA Flats, Kalkaji. Another amount of Rs.70,000/- was recovered from one diaper box in the same house and seized vide seizure memo Exhibit PW-28/D. The appellant had taken out a polythene bag of pink colour containing a pant (blue jean) and a T-shirt (blue) marked Ex.PW-28/1 and Ex.PW28/2 from beneath the bed lying in the same room from where the currency notes were recovered. These were seized vide seizure memo Exhibit PW-28/E. The recovery and seizure proceedings were videographed by Constable Santosh Pathak (PW-20). On 6th May, 2008, undergarments worn by the appellant, which he had thrown in a jungle opposite Majidia Hospital were recovered vide seizure memo Exhibit PW-28/G. The undergarments consisted of an underwear marked Exhibit PW-28/3 and a vest marked Exhibit PW-28/4. The appellant, thereafter, on 8th May, 2008 made another disclosure statement marked Ex.PW28/J, regarding concealment of the remaining money, that were blood stained, in his sister's house at Sangam Vihar. A police team had then proceeded to the appellant's sister's house at Sangam Vihar and recovered a polythene pouch containing blood stained currency of Rs.27,500/-, which was marked Exhibit PW-26/6. SIM card of the mobile phone, which was being used by deceased Alka was also recovered. The same was marked Exhibit PW-28/5.

7. We have gone through the testimonies of Joginder Kumar (PW-30) and Head Constable Harish Chandra (PW-28) on the question of recoveries made at the behest and upon disclosure statements made by the appellant marked Ex.PW28/A and Ex.PW28/J and are inclined to accept the same. The recoveries on 5th May, 2008 have also been corroborated from the court deposition of Constable Santosh Pathak (PW-20), who had also videographed the recoveries. The appellant in the video could be seen taking out bundle of currency notes from the drawer and top of the *almirah*. The appellant-Arun Lal could also be seen taking the police party to the residence of the two deceased at J-1/180, DDA Flats, Kalkaji, where the weapon of offence '*sil-batta*' was recovered from the kitchen behind the gas cylinder, at the behest of the appellant. The said '*sil* and *batta*' was marked Exhibit PW-20/C and 20/B respectively.

8. As noticed above, blood stains were found on the currency notes worth Rs.27,500/- recovered from the residence of the appellant's sister at Sangam Vihar. The FSL reports marked Exhibits PW-14/A and 14/B gives serial number of the 55 notes and opines that human blood was detected on the said currency notes. However, the blood group could not be ascertained. The FSL report also confirms presence of human blood of Group A and B on various articles, etc. which were found in the house where the dead bodies of Asha and Alka were recovered. Human blood of 'B' group was detected on the bed sheet (Ex.PW27/C) and the piece of cloth of the deceased Asha found at the place of occurrence as well as on the clothes of the appellant Arun Lal, viz. his pants and undergarments (Ex.PW28/G and Ex.PW28/E) recovered vide his disclosure statements. Human blood of 'A' group was detected on the clothes of the deceased Alka. Thus, the prosecution has been successful in establishing the motive behind the double murder and the substantial recoveries made after

the appellant Arun Lal was interrogated and made disclosure statements Ex.PW28/A and Ex.PW28/J. The motive was to steal Rs 6,00,000 lying in the house, a fact which was known to immediate family members and unknown to the world at large. The manner in which the offence was committed and the money was stolen, affirms that an insider who knew that substantial amount of cash was lying in an *attaché* in the box bed, had deliberately committed the offence. Recoveries and relationship of the appellant Arun Lal, therefore, are vital and important links and confirmation between the offence and the perpetrator.

9. This brings us to the testimony of Miss Neha (PW-1) who has deposed about the presence of the appellant at the residence of the deceased immediately before the crime in question was committed and how and when the crime was detected. Miss Neha (PW-1) was about 15 years of age when her court testimony was recorded on 6th April, 2009. She identified the appellant as husband of Sunita, sister of Alka. PW-1 professed that she was friendly and extremely close to the deceased Alka. On 2nd May, 2008, she had gone to the house of deceased Alka where the appellant, who was identified by PW-1 as Arun Bhaiya and Alka didi's mother were also present. Alka subsequently left the house for fetching milk and PW-1 returned to her own residence. At that time, appellant-Arun Lal and Asha were present in the house. In the evening, PW1 played badminton in the lane with another friend Bhawna (PW-3). PW1 had repeatedly called out to Alka to come down and join them, but Alka had failed to respond. Thereupon, she (PW-1) and Bhawna (PW-3) had gone to Alka's house and saw Alka and Asha drenched in blood. Alka's body was lying in the first room and Asha's body was lying in the second room. PW-1 and PW-3 came down and informed others. Information was then communicated to Gopal (PW-6) and Hari Lal (PW-11). PW-1

was cross-examined and confronted with the statement under Section 161 Cr.P.C. marked Exhibit PW-1/DA in which it is not specifically recorded that Asha and Arun were left alone in the house. However, when we read Exhibit PW-1/DA, it is apparent that the appellant-Arun Lal, Asha and Alka and Neha (PW-1) were initially present together in the flat/house No. J-1/180, DDA Flats, Kalkaji, New Delhi. Thereafter, Alka had left to fetch milk and Neha (PW-1) had left with her to go to her own house. Thus, the deceased Asha and the appellant-Arun Lal were then present in the house. Similarly, Exhibit PW-1/DA records that Neha (PW-1) was playing with Bhawna (PW-3) in the street. It does not record that they were playing badminton. This refinement in the Court deposition, to our mind, does not make any difference.

10. Court testimony of Bhawna (PW-3) is almost similar and affirms the later portion of PW1's deposition. She identified the appellant-Arun Lal, who is married to Sunita. Bhawna (PW-3) was also about 15 years of age when her deposition was recorded on 8th April, 2009. In the evening on 2nd May, 2008, she (PW3) was playing with Neha (PW-1) and others in the lane. Neha (PW-1) was unhappy that Alka had not joined them. Neha (PW-1) had then proceeded to the house of Alka and when she returned, she (PW1) was frightened and perplexed. Thereafter, Miss Bhawna (PW-3) informed her father. Her father, on seeing the dead bodies, had informed the police. Bhawna (PW-3) in her cross-examination had given the time when PW-1, PW-3 and others were playing as 5 P.M., whereas Neha (PW-1) in her cross-examination has given the time as 6 P.M. This difference according to us is insignificant and does not dent the core of their deposition. Recollecting exact time after some delay is virtually impossible. Neha (PW-1) has categorically asserted that the deceased Alka had gone to fetch milk at about 5 P.M. and at that time she (PW1)

had left for her house. Subsequently, she had played with Bhawna (PW-3) and others, who used to play with them, but deceased Alka did not come and play with them. Alka was not responding to the calls. Thereupon, Neha (PW-1) had gone to the residence of Alka and had seen the dead bodies and informed others.

11. Chandra Prakash Sawan (PW-2), a neighbour and father of Neha (PW1), has identified the appellant, who was known to him as the son-in-law of Hari Lal (PW-11). He was also a resident of the same area. On 2nd May, 2008, he had returned from school at about 5/5.30 P.M. After taking bath, he had a cup of tea. He then went upstairs to a room to study as he was preparing for examination. At about 8/8.30 P.M., his daughter Neha (PW-1) had come upstairs and informed him that somebody had murdered Alka. He went downstairs and could see that a large number of persons had gathered. He was cross-examined by the Public Prosecutor as he was not entirely supporting his statement under Section 161 CrPC. When confronted with his statement Exhibit PW-2/A (portion A to A), he denied as incorrect that on 2nd May, 2008 at about 5.30 or 5.40 P.M. he had seen appellant-Arun Lal coming from the house of Alka.

12. Beeta (PW-4), sister of Miss Neha (PW-1), has deposed that Neha (PW1) was very close to the deceased Alka. Neha (PW1) used to visit Alka's house and they used to play together. On 2nd May, 2008, at about 8 P.M. in the evening, Neha (PW1) and Bhawna (PW3) were playing in the street. Neha had called out to Alka to come and play with them, but there was no response. Neha had then gone upstairs to call Alka and over there, she had seen the dead body of Alka. She returned home and informed everyone. Beeta (PW-4) had thereupon informed the appellant-Arun Lal and Gopal (PW-6). PW4, in her cross-examination, has testified

that the appellant-Arun Lal was not present when she had gone down stairs and Gopal (PW-6) had reached there. Appellant-Arun Lal had reached after about 20-25 minutes.

13. Similar statement has been made by Durga Das (PW-5), father of Bhawna, who had at about 8 P.M., learnt that Alka had been killed. He had seen dead body of Alka in the first room and the dead body of Asha, on the floor in the second room. He had then made a call to the police. He had also made a call to the police from the mobile phone of the appellant-Arun Lal. Hari Lal (PW-11) had informed him that they had kept the sale proceeds of the plot at Uttam Nagar, Rs.6 lacs in cash, in an *attaché* in the bed. He had joined Hari Lal (PW-11) in ascertaining whether the money was still there. Rs 6,00,000 were missing. No doubt, Durga Das (PW-5) has stated that Gopal (PW-6) and the appellant-Arun Lal had come together, but this statement does not dent or merit rejection of the prosecution case. We accept the prosecution version that Gopal (PW6) and the appellant Arun Lal came separately and the appellant Arun Lal had reached the place of occurrence subsequently as deposed by Beeta (PW4) and even Gopal (PW6).

14. Gopal (PW-6) has stated that on 2nd May, 2008, at 8:00 or 8:06 P.M., when he was in office he had received a telephone call from Beeta (PW-4), regarding murder of Alka and Asha. He reached his residence and went upstairs and entered the flat. He saw dead body of his sister Alka lying in the front room and dead body of his mother was lying on the floor in the second room, next to the kitchen. The police had made enquiries from him and he had informed the police about receipt of Rs.6,50,000/- as sale consideration, out of which Rs 6 lacs were lying in the house. On 9th June, 2008, PW6 had moved an application before the

Metropolitan Magistrate for release of Rs.6 lacs, marked Ex.PW-6/G. The court had then ordered for the release of Rs.5,70,000/-. He identified the photographs of the currency notes, which were then taken and marked Exhibit PW-6/H 1 to H 191. He also identified the fifty-five currency notes, which were duly sealed with the seal of FSL. The said currency notes had brown colour stains. PW-6 could not identify and clearly state whether the currency notes were the same, which had been taken by the appellant and clarified that the notes which were kept in the attaché were of Rs500/- denomination each.

15. Hari Lal (PW-11), father-in-law of the appellant, deposed in the Court on 22nd April, 2009. He was brought from the Holy Family Hospital where he was admitted and was to be re-admitted. His wife Asha and his daughter Alka, he deposed had expired 13-14 months back. His daughter Sunita was married to the appellant-Arun Lal and they had two children. Arun Lal was facing trial as an accused and was present in the court. PW11 did not remember the date, month or the year of the incident but could recollect the '*barsi*' of his wife and daughter. On 2nd May, 2008, when PW-11 returned home from place of work at about 8.30 P.M., he noticed that a number of persons had gathered on the road and he had then made enquiries, but claimed that he (PW-11) did not go upstairs. After about 15-20 minutes, police came to his house and took away the dead bodies. He denied the suggestion that the police had made inquiries from him. He even claimed that nothing was missing from his house and that the appellant Arun Lal had asked for money from the deceased Alka. PW11 was then asked a court question as to why the appellant Arun Lal had asked for money from Alka. He replied that his son-in-law had taken Rs.50,000/- from Alka for purchase of a Maruti Van. It is obvious that Hari Lal (PW11) was not able to specifically answer the said question.

PW11 has contradicted himself on several occasions on the time when he had returned home from work as on one occasion PW-11 had claimed that as he was suffering from fever and had returned from duty at about 3-4 P.M. and at that time, the deceased Alka had told him that Arun Lal had taken money from her. Again on court questioning, PW-11 claimed that he had remained at home and had asked for medicine. When cross-examined by the Public Prosecutor, he (PW-11) accepted as correct the suggestion that he had left the factory at 8 P.M. on 2nd May, 2008 and had reached home at 8.30 P.M. On return, PW11 had seen that his son Gopal (PW-6) was weeping and was told by PW6 that his mother and sister had been murdered. PW-11 was specifically confronted and questioned on his earlier statement that he (PW11) had returned at 3-4 P.M. and did he hear anything in the house. PW11, when confronted with his contradictory statements, professed that he had slept after taking a quilt and had got up at 6 P.M. in the evening. After waking up, PW11 had prepared tea for himself and no other person was present in the house as his daughter had gone to fetch milk. On being cross-examined by the public prosecutor about the time when the murder was committed, he (PW11) replied “*ye to panch che din pehle ki baat hai*” (This is an occurrence, which had taken place about 5-6 days back). On his attention being again drawn to different versions, PW-11 first claimed that he was at home but relented on sustained cross-examination. PW-11 accepted that Rs.5,70,000/- and Rs.27,500/- were recovered from Arun Lal and that the currency notes of Rs.27,500/- had blood stains. He could not tell any reason as to why his son Gopal (PW-6) had got Rs.5,70,000/- released from the court. PW11 finally accepted as correct that Rs.6 lacs kept in the *attaché* were missing. Rs.6 lacs were in currency notes of Rs.500/- each. He accepted as correct

the suggestion that his wife Asha and daughter Alka were murdered on 2nd May, 2008 and that he had come back home at 8 P.M. and not at 3/4 P.M.

16. Contradictions and oscillations in the testimony of Hari Lal (PW-11) reflect his predicament and dilemma. Hari Lal (PW-11) had lost his wife and unmarried daughter in a brutal murder committed for stealing money. He was under an oath and righteously obligated to speak the truth for the perpetrator should be punished. However, perceived pain, misery and desolation which his married daughter and her children would undergo, if the appellant Arun Lal was convicted and imprisoned, had distorted and contorted his statement. Thus, we find that Hari Lal (PW-11) repeatedly curvated and had tried to conceal true facts. Hari Lal (PW-11), himself had suffered immensely and was distressed and hospitalized. We have, therefore, scrutinized and minutely examined the deposition of Hari Lal (PW-11) and accepted the portion, which we hold is the correct version and disbelieved the portion, which according to us, was factually incorrect and made only to help his son-in-law, the appellant-Arun Lal.

17. What has been stated and observed about Hari Lal (PW-11), is partially true and equally applicable to the testimony of Gopal (PW-6). In order to help and exonerate his brother-in-law, i.e., the appellant-Arun Lal, Gopal (PW-6) has tried to negate and contradict the testimony of Neha (PW-1). Gopal (PW-6), in his examination-in-chief, has stated that he had returned to his office from Okhla at about 4.45 P.M. and feeling hungry, he went to the appellant Arun Lal's residence to take the keys of his motorcycle. At about 5.10 P.M., they had then proceeded to Alakananda market where they had *pakor*s and cold drinks. They had remained there for 30-45 minutes. Gopal (PW-6) had left Arun Lal at Alakananda and proceeded to an office located in Greater Kailash, Part-II.

On the way, the appellant Arun Lal had called PW-6 from the mobile phone of his sister (deceased Alka), which PW6 disconnected and had made a return call. At that time, PW6 had spoken to the appellant Arun Lal on his sister's (deceased Alka's) mobile phone. The appellant Arun Lal had asked PW6 whether he could accompany him to his sister (Geeta's) house at Sangam Vihar. Gopal (PW-6) had then politely refused. Surprisingly, Gopal (PW-6) claimed that the appellant Arun Lal had asked him to give his bike and he (PW6) had handed over the keys of his bike to Arun Lal and thereafter, left for his office. Contradictions and pretence in the said statement is apparent and written all over. In the first part of the statement, Gopal (PW-6) claims that he had left the appellant Arun Lal at Alakananda and driven to Greater Kailash, Part-II. PW6 could not have given his bike to the appellant Arun Lal until and unless PW6 had returned to his own or the appellant's house. No such claim or statement is made. If PW6 had returned, then how and when Gopal (PW6) left for work thereafter is not averred and stated. Gopal (PW6) was not certainly present in his house, at about 7.30/8.00 P.M. on 2nd May, 2008. This discrepancy and contrariety can be attributed to the attempt by PW-6 to establish that the appellant-Arun Lal was with him between 5 to 5:30 PM. The phone call at 5.45 P.M. has been examined below.

18. Gopal (PW-6), as noticed above, has stated that he had received a call from Alka's phone, which he had disconnected and then made a return call and had spoken to the appellant-Arun Lal. The said statement was made in the examination-in-chief recorded on 13th April, 2009. In the cross-examination on 16th April, 2009, in order to exculpate the appellant-Arun Lal, Gopal (PW-6) had claimed that he had spoken to his sister Alka at 5.50 P.M., who had stated that she had come to purchase milk and he (PW-6) could speak to *jijaji* (brother-in-law), i.e., the appellant Arun Lal.

PW6 claimed that he had then spoken to the appellant Arun Lal. The contrast and contradiction in the two versions is manifest and the only reason for the same, as we perceive, is PW6's vain effort to absolve and relieve the appellant-Arun Lal. In his cross-examination on 16th April, 2009, Gopal (PW-6) had tried to improve upon the version given by him in his examination-in-chief recorded on 13th April, 2009, asserting that at about 5.05 P.M., he had returned to Arun Lal's house on the company's bike, stayed there for 5-10 minutes and then both of them had driven to Alakananda market on two separate bikes with Arun Lal driving his bike and Gopal (PW-6) driving the office bike. Thereafter, they reached the factory and Gopal (PW-6) had parked the office bike in the factory compound and both of them had then driven on his personal motorcycle to Alakananda. They reached Alakananda at 5.20 P.M. and then, the appellant-Arun Lal got dropped off. This statement in the cross-examination on 16th April, 2009 contradicts the earlier statement of Gopal (PW-6) recorded in his examination-in-chief on 13th April, 2009 as per which they had gone to Alakhnanda to eat pakoras, etc. on his own bike and not on the office motorcycle.

19. We express our unhappiness and displeasure on the failure of the prosecution and the Public Prosecutor in not understanding the adroitness in the statement of Gopal (PW-6) with reference to his movement and interaction with the appellant-Arun Lal after 5 P.M. The version given by Gopal (PW-6) was completely contrary to the testimony of Neha (PW-1) and was intended to undermine her testimony. Neha (PW-1), a child, who was oblivious of the deleterious consequences, has spoken the truth. It is apparent that the version and statement of Gopal (PW-6) was a concave and honey-combed attempt to derail and thwart the prosecution case. The appellant could well have succeeded as no endeavor was made by the

prosecution or the public prosecutor to refer to the testimony of Neha (PW-1) and the version given by Gopal (PW-6) in his statement under Section 161 Cr.P.C., which was not confronted and put to Gopal (PW-6). We have not referred to and relied upon the purported statement of Gopal (PW-6) recorded under Section 161 Cr.P.C. We have referred to his version as to the events after 5 P.M. on 2nd May, 2008, in his testimony recorded on 13th April, 2009 and 16th April, 2009. We would reject the version given by Gopal (PW-6) about his visit to the residence of the appellant Arun Lal at about 5 P.M. on 2nd May, 2008, their visit to the market as an unbelievable and foxy attempt to undermine and derelict the prosecution case.

20. We accept that Gopal (PW6) had made a mobile call from his mobile number to the mobile number of the deceased Alka at about 5.45 – 5.50 PM on 2nd May 2008. We, however, do not accept the statement made by Gopal (PW6) on 16th April, 2009 that he had first spoken to Alka and then to the appellant Arun Lal. Pertinently, Gopal (PW6) in his earlier deposition, recorded on 13th April, 2009, had averred that he had spoken to the appellant Arun Lal on his sister's (Alka's) mobile phone at about 5.45 – 5.50 PM. This version appears to be correct. Gopal (PW6) was then informed by the appellant Arun Lal that he would be going to his sister's (Geeta's) house. Noticeably, the sim card which the deceased Alka was using bearing the number 9958825435 was recovered pursuant to the arrest of the appellant Arun Lal and his disclosure statement (Ex. PW28/J).

21. The appellant Arun Lal in his statement under Section 313 Cr.P.C., in response to question Nos. 14 and 17, has accepted that Rs.6 lacs kept in the attaché in the bed were found missing upon inspection by Durga Das

(PW-5) and Hari Ram (PW-11) and as deposed by Gopal (PW-6). He also accepted as correct that Rs.6 lacs were kept in the attaché and this fact was known to the deceased Asha and Alka, Hari Ram (PW-11), Gopal (PW-6) and the appellant. On the question of recovery of Rs.5,70,000/- at his instance and the video CD, he claimed that the money was already with him as it was given by his father-in-law Hari Ram (PW-11) as a loan to help him purchase a Maruti Van for livelihood. He had handed over the money to the police. He was tortured and the police had first put the money in the *almirah* and the packets, before the recovery was effected and videographed. The appellant has denied recovery of Rs.27,500/- and the sim card from his sister's house at Sangam Vihar. He had Rs.35,100/- in his wallet when he reached the place of occurrence after the crime and during his stay in the police station, he was beaten up and this money was taken away (see response to question No. 52). With regard to blood on his clothes, it was stated that the appellant had removed the dead bodies and, therefore, blood stains were found.

22. Assertion of the appellant-Arun Lal that he was given a loan of Rs.6 lacs by his father-in-law Hari Ram (PW-11) is a false and invented proclamation. It is also contrary to his response to question Nos. 14 and 17 that Rs.6 lacs kept in the attaché in the bed were missing. The aforesaid contradiction falsifies and refutes the appellant's clamour that Rs.5,96,250/- were planted. It is noticeable that Rs.5,70,000/- were released on *superdari* on a claim made by Gopal (PW-6) for release of the entire amount. Recovery of Rs.27,500/-, which were blood-stained and the sim card from the house of the appellant's sister should be accepted. The apologia professed by the appellant is disjointed and incoherent. The impugned judgment notices the different stands of the appellant in his statement under Section 313 Cr.P.C.

23. We have intentionally not referred to the call details and cell tower location details, aspects which have been examined in some detail in the impugned judgment. At best, the said evidence would be supportive and of reassuring nature. The impugned judgment records that the office of Gopal (PW6) was very near to the place of occurrence i.e. his residence. We would prefer to rely upon the ocular evidence and the recoveries.

24. Having examined the evidence and material mentioned above, we are of the firm view and belief that the appellant was the perpetrator of the crime in question and no third person has committed the same. The chain of circumstances is complete and the case has been proved beyond reasonable doubt. The aforesaid evidence reveals and establishes the following facts:

- A. The deceased Asha and Alka had suffered homicidal deaths on 2nd May, 2008, between 5 – 8 PM, in their residential home located at J-1/180 DDA Flats, Kalkaji, Delhi.
- B. The dead body of Asha was found lying on the floor in the inner room, whereas the dead body of Alka was found lying on the floor in the outer room. The two deceased, it is apparent, were not attacked simultaneously.
- C. Both Alka and Asha had died due to laceration wounds on the skull resulting in scalp injury. The injuries were caused by blunt force impact.
- D. The appellant Arun Lal is son-in-law of Asha and brother-in-law of Alka. He is married to Sunita, sister of the deceased Alka.
- E. The appellant Arun Lal was seen in the company of Asha, Alka by Neha (PW1) at 5 PM. Alka had then gone to the market to

purchase milk and Neha (PW1) had proceeded to her residence in the neighbourhood. The appellant Arun Lal and the deceased Asha were in the house at that time.

F. Alka subsequently did not come and play with Neha (PW1) and at about 8.00 PM, Neha (PW1) had noticed her dead body in the house.

G. Beeta (PW6), sister of Neha (PW1), has also deposed on the said aspect. She has testified that she had informed the appellant Arun Lal and Gopal (PW6) about the death of Asha and Alka.

H. Chandra Prakash Sawan (PW2) and Bhawna (PW3) have deposed similarly.

I. Durga Dass (PW5), father of Bhawna, has deposed on identical lines. PW5 has also testified that Hari Lal (PW11) had informed him that they had kept Rs.6,00,000/-, being the sale proceeds of a plot at Uttam Nagar, in an *attaché* inside the bed. PW5 along with PW11 had checked and found that the money was missing. Rs.6,00,000 had been stolen.

J. Hari Lal (PW11), father in law of the appellant, has deposed and accepted that he came back from work at 8.00 PM and came to know that his wife and daughter, namely Asha and Alka, had been murdered. Rs.6,00,000/- lying in an *attaché* in the bed were missing.

K. Gopal (PW6) has also categorically stated that Rs.6,00,000/- kept in the *attaché* were missing.

L. Deposition of Hari Lal (PW11) and Gopal (PW6) shows that the factum that Rs.6,00,000/- were lying in an *attaché* in the flat No. J-1/180, DDA Flats, Kalkaji was known only to close family

members. Crime team report indicates that the crime was committed for stealing the aforesaid amount of Rs.6,00,000/-, a fact which was known to the person who had committed the offence. Evidence did not indicate unfriendly or forced entry in the flat.

M. The appellant Arun Lal was interrogated and subsequently made the disclosure statements (Ex. PW28/A and J). Thereafter Rs.5,70,000/- were recovered from the appellant's house located at 45/116 DDA Flats, Kalkaji, Delhi and Rs.27,500/-, which were blood stained, were recovered from the residence of his sister's house at Sangam Vihar. The sim card being used by Alka was also recovered.

N. CFSL reports (Ex. PW14/A & B) confirms the presence of human blood on currency notes, 55 in number, which were recovered from the residence of appellant's sister at Sangam Vihar. However, the blood group could not be ascertained. The reports also confirm presence of human blood of 'B' group on the bed sheet seized from the room where the body of deceased Asha was lying (Ex.PW27/C), on a piece of cloth of the deceased Asha found at the place where her dead body was lying as well as on the clothes of the appellant Arun Lal, viz. his pants and undergarments (Ex.PW28/G and Ex.PW28/E) recovered vide his disclosure statements.

25. In view of the aforesaid discussion and for the reasons set out above, we uphold the conviction of the appellant Arun Lal for having committed the murder of Asha and Alka, his mother-in-law and sister-in-law respectively.

26. On the question of sentence, as noticed by us, in paragraph 1 above, the appellant Arun Lal stands sentenced to imprisonment for life with the direction that he would not be released for the rest of his life. The double murders of close family members are gruesome and were perpetrated solely to steal money. The appellant had stolen Rs.6,00,000/- and this was the motive behind the crime. We have also commented upon the grief and the suffering of the family members of the deceased which includes the wife of the appellant Arun Lal. The appellant has two children who are also the grand-children of the deceased Asha. Keeping in view the aforesaid facts, we direct that the appellant will undergo imprisonment for life with the direction that he would not be considered for release on remission till he completes 25 years of imprisonment. Thus, we have modified the condition that the appellant would not be considered for release on remission during his life time. We hope and trust that the appellant Arun Lal would realize the dreadful crime committed by him and repent the murder of his mother-in-law and sister-in-law who were the helpless victims of his brutality.

27. The appeal is accordingly disposed of.

(SANJIV KHANNA)
JUDGE

(ASHUTOSH KUMAR)
JUDGE

JULY 17, 2015
VKR