

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

% **Reserved on: 22nd September, 2015**
Date of Decision : 21st December, 2015

+ **CRL.A. 1096/2013**

RAKESH Appellant
Through: Mr. Rajender Chhabra, Adv.

versus

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

CRL.A. 1095/2013

MANOJ SIROHI Appellant
Through: Mr. Chetan Lokur, Adv.

versus

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

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE R.K.GAUBA

R. K. GAUBA, J:

1. On the basis of report under Section 173 of the Code of the Criminal Procedure, ("Cr.P.C.") submitted on conclusion of investigation into FIR No. 21/2005 of police station Bawana, the two appellants were put to trial (with two others) on the charge of they

having entered into a criminal conspiracy on or about 12.1.2005 and, in furtherance of the common object thereof, having abducted Yogender Kumar son of Baljit Singh sometime around 6.30 p.m. on the said day from Bawana along with motor vehicle used as taxi make Tata sumo bearing registration No.DL 3C W 1174 (“the taxi”) with the intention of causing him (Yogender) to be secretly and wrongly confined and thereafter committing his murder near village Ahmednagar, falling within the jurisdiction of police station Bulandshahr (UP), on the same night, causing disappearance of the evidence of the said offences by throwing the dead body in the fields of wheat and selling off the taxi for consideration and thereby having committed offences punishable under Section 120-B of the Indian Penal Code, 1860 (“IPC”) and Sections 365/302/201 IPC. By judgment dated 2nd March, 2013 in Sessions Case No.307/2006 they were held guilty and convicted as charged. By order dated 11th April, 2013, the trial court awarded imprisonment for life with fine of ₹ 3,000 each for offences under Sections 120-B and 302 IPC. In addition, rigorous imprisonment for three years and one year respectively with fine of ₹ 2,000 each was also awarded for offences under Sections 365 and 201 IPC. The trial court directed that in case of default in payment of fine, the appellants would undergo further rigorous imprisonment for three months, three months, two months and two months respectively on each count.

2. Aggrieved with the judgment convicting them and the order awarding the sentences, these appeals have been preferred by the appellants seeking to assail the conclusions reached by the trial court.

3. The first information report (“FIR”) (Ex.PW-1/A) of the case was registered on 16.1.2005. at 4.45 p.m. in police station Bawana on the basis of *rukka* sent by Inspector (then SI) Satya Prakash (PW-24) through head constable Surender Kumar (PW-1), containing his endorsement (Ex.PW-24/A) appended to the statement (Ex.PW-7/A) of Devender Kumar (PW-7), brother of the victim Yogender Kumar (hereinafter referred to as “the victim”). The first informant Devender Kumar (PW-7) was a resident of House No.702, Village Bawana, Delhi-39. The victim then aged 24 years was his elder brother living with him as part of the family under the same roof.

4. The evidence of Sanjeev Kumar (PW-3), an official working in the office of Motor Licensing Officer, South Zone, as indeed the testimony of PW-7 together proved that the victim was the registered owner of the taxi (bearing No. DL 3C W 1174) having purchased it on 17.12.2003. He would ply the said motor vehicle on hire, operating from Bawana. As per the unchallenged testimony of Devender Kumar (PW-7), the victim was in possession and use of mobile telephone instrument containing SIM No. 9312300702 (hereinafter referred to as “the mobile phone of the victim”). The evidence of Sanjeev Lakra (PW-18), Nodal officer of Reliance Communication Ltd. shows that this phone (9312300702) is actually registered in the name of Devender Kumar (PW-7), the SIM card having been issued against Customer Application Form (CAF) proved (vide Ex.PW18/A) by the witness. Depositing on the strength of certificate (Ex.PW-18/D), under Section 65-B of Indian Evidence Act 1872 (“the Evidence Act”), the

witness (PW-18) proved call detail record (CDR) for the period 1.1.2005 to 31.1.2005 (collectively Ex.PW-18/C) in respect of the mobile phone of the victim.

5. Devender Kumar (PW-7) had reported (vide Ex.PW-7/A) and affirmed on oath that during the relevant period he was using mobile phone number 9350900034. Since there was no contest to his said claim, we accept his testimony to such effect and conclude that the said mobile phone number 9350900034 (hereinafter referred to as “the mobile phone of the brother of the victim”) was in the possession and use of PW-7.

6. On 15.1.2005 at 10 a.m. Devender Kumar (PW-7) came to the police station Bawana and lodged missing report in respect of his brother (“the victim”) which was recorded vide DD No. 11A (Ex.PW-24/A). According to the said missing report, the victim had left for Garh Ganga around 6.30 p.m. on 12.1.2005 with certain acquaintances, driving the taxi. Devender Kumar (PW-7) informed the police in the missing report that he had made a call on the mobile phone of the victim thereby contacting him using his own mobile phone at about 7.15 p.m. on 12.1.2005 to be told by the latter (the victim) that he was going to Garh Ganga with some acquaintances and had reached at Samaipur Bye-pass. This was reiterated by Devender Kumar (PW-7) in his statement (Ex.PW-7/A) made on 16.1.2005, whereby the FIR was registered later, though he would mention the time of the said telephonic contact as about 7.30 p.m..

7. The prosecution adduced evidence, which the defence made no attempt to discredit, proving that the victim had left Bawana (Delhi) heading towards Garh Ganga (UP) having set out at about 6.30 p.m. on 12.1.2005. The court testimony of PW-7 shows that the phone call around 7.30 p.m. was the last contact, the evidence on record showing previous telephonic conversations as well. The evidence of Devender Kumar (PW-7) in this regard is confirmed by the CDR (Ex.PW-18/C) of the mobile phone of the victim. To be specific, we may note that the said CDR affirms that the brothers had been in telephonic contact with each other eleven times on 12.1.2005, seven of the said calls having been made by Devender Kumar (PW-7) from his mobile phone to that of the victim, the timing of the said calls being 09:55:23, 11:11:25, 11:27:58, 11:52:28, 18:32:37, 18:34:12 and 19:33:45. Prior to these calls, it was the victim who had given four calls to his brother Devender Kumar (PW-7) at 09:53:28, 09:53:39, 09:53:57 and 09:54:33. It is apparent that the said phone calls were made by the victim, one after other, perhaps on account of call drops, to give some information to the brother (PW-7). This explains why the brother (PW-7) would call him back at 09:55:23, the last morning call lasting 32 seconds.

8. According to the version of Devender Kumar (PW-7) in the court, as indeed in the missing report (Ex.PW-24/A) and the *rukka* (Ex.PW-7/A), after telephonic conversation at 19:33:45 hours on 12.1.2005, no further telephonic contact could be established by the family with him. The CDRs (collectively Ex.PW-17/D) of the mobile

phone of the victim, though issued by the service provider for the period 1.1.2005 to 31.1.2005 show the said mobile phone to be in use only till 13.1.2005, the last being an outgoing call made at 00:12:09 hours of the said date.

9. While on the subject, we may note that the CDRs further show that, after the last call (at 19:33:45 hours) on 12.1.2005 received by the victim from his brother (PW-7), the mobile phone of the victim was used for seven outgoing calls. Three of the said outgoing calls were made to mobile phone number 9312008361, the time thereof being 22:41:05, 22:41:27 and 22:43:24 hours of 12.1.2005. The last four calls were made to landline phone number 55182706, the first two at 22:47:49 and 23:27:08 hours of 12.1.2005 and the final ones at 00:09:07 and 00:12:09 hours of 13.1.2005. Thereafter, the mobile phone of the victim went into disuse.

10. The landline phone number 55182706 is proved by M.N.Vijayan (PW-17) nodal officer, Tata Teleservices Ltd. to be in the name of one Kanhaiya, installed at A-721, Begumpur, Delhi-41 with billing address given as House No. 307, Rajiv Nagar Extension near Masjid Wali Gali. The prosecution case has been that the mobile phone of the victim, after abduction and murder had come to be in possession and use of an accomplice (Pappu @ Dharmesh) of the appellants. Since the person named Pappu @ Dharmesh was not traced or arrested and there is no other evidence adduced in support, the prosecution is not in a position to prove as to what happened to the mobile phone of the victim after his death. It also be noted here that nothing could be brought out from

the investigation into the landline phone number 55182706 standing in the name of the person called Kanhaiya, or, for that matter, respecting mobile phone number 9312008361.

11. The prosecution case is that having first lodged the missing report (Ex.PW-24/A) on 15.1.2005, Devender Kumar (PW-7) got the FIR registered on the basis of his statement (Ex.PW-7/A) in the evening of 16.1.2005 expressing suspicion that his brother Yogender Kumar (the victim) may have been abducted by someone as his vehicle (the taxi) was also not traceable. The investigation was taken over by Inspector Satya Prakash (PW-24) who went to Kanjhawla Bawana road. During the said investigation, he came across Rajender @Lilu (PW-8), a relative of the victim, who also worked as a driver on private taxi attached to the taxi stand at Kanjhawala crossing Bawana. He (PW-8) informed Inspector Satya Prakash (PW-24) on 16.1.2005 that the taxi of the victim had been taken on hire at about 5.30 p.m. on 12.01.2005 for journey to Garh Ganga by a person named Pappu who had come to the taxi stand at Kanjhawala Crossing Bawana accompanied by a person named Manoj. He stated that the person named Pappu was known to him he being a nephew (*Bhanja*) of the village. According to him, the said Pappu and Manoj had settled the fare at ₹ 1600 with the victim telling him that their family would also be travelling upto Prahaladpur.

12. Rajender (PW-8) affirmed on oath at the trial the aforesaid facts identifying appellant Manoj Sirohi as one of the two persons who had taken the taxi of the victim on hire for journey to Garh Ganga and he

(appellant Manoj Sirohi) with the other person (Pappu) having set out in the said taxi driven by the victim from the taxi stand at Kanjhawala sometime after 5.30 p.m. on 12.1.2005.

13. The evidence adduced by the prosecution reveals that no headway could be achieved immediately on the basis of input received on 16.01.2005 from Rajender @ Lilu (PW-8). The testimony of Inspector Satya Prakash (PW-24) reveals that during the investigation, secret information was developed on 18.1.2005 regarding the associates of the person named Pappu (who with Manoj had statedly taken the taxi on hire on 12.1.2005) and this led to the arrest of appellant Rakesh from the area of Jain Nagar, Begumpur when his presence on the street was pointed out by the secret informer. PW-24, whose word is corroborated by Head Constable (since ASI) Ram Phal Singh (PW-16) testified that, on being apprehended, appellant Rakesh was interrogated leading to certain disclosures being made which were reduced into writing (vide Ex.PW-16/A), indicating his complicity in the crime, on account of which he was formally arrested vide arrest memo (Ex.PW-16/B) after personal search (Ex.PW-16/C) at 7.30 p.m. on 18.1.2005.

14. There is no discrepancy in the statements of PW-16 and PW-24 about the circumstances leading to the arrest of appellant Rakesh at 7.30 p.m. on 18.1.2005 from the area of Begumpur, Delhi. In fact, the material on record confirms that this appellant is a local resident of Jain Nagar, Begumpur, Delhi. In the course of his statement under Section 313 Cr.P.C. he (appellant Rakesh) vaguely denied his arrest on

the said date and time from that area. There is, however, no reason why the prosecution evidence in this regard should be disbelieved.

15. The appellant (Rakesh) does dispute the disclosures (Ex.PW-16/A) attributed to him. It is trite that the information claimed to have been gathered from appellant Rakesh (vide Ex.PW-16/A) being a statement made to a police officer, it being hit by the provisions of Sections 25 and 26 of the Evidence Act except to the extent it can be shown to have led to the discovery of a fact in its wake within the meaning of the provision contained in Section 27 of the Evidence Act. In given cases, Section 8 of the Evidence Act, can and could apply. It has been the case for prosecution that the disclosure made by appellant Rakesh (Ex.PW-16/A) on 18.1.2005 to PW-24, in the presence of PW-16, led to the revelation as to the full identity and particulars of co-participants in the crime including that of appellant Manoj, Pappu @ Dharmesh (absconder) and a woman named Renu Tomar (since acquitted) wife of Susheel Kumar as also the involvement of one Inderjeet Singh (since convicted) son of Narain Singh, resident of Morvan, PS Ghonda, District Aligarh (UP), the last named being the person to whom the taxi of the victim had been sold off for consideration post his murder after abduction, one from whom the taxi was actually recovered.

16. PW-16 and PW-24 have deposed about appellant Rakesh having led them to village Morvan on 19.1.2005 in the territorial jurisdiction of PS Ghonda (UP), in the presence of SI BP Singh (PW-23) of the local police station who had been joined in the proceedings and getting

the taxi of the victim recovered from the courtyard of the house of Inderjeet Singh. The seizure of the taxi in the said circumstances, at the instance of appellant Rakesh, was made subject-matter of formal proceedings (Ex.PW-16/A) which is affirmed by PW-16, PW-23 and PW-24. These witnesses also proved the formal arrest (vide arrest memo Ex.PW-16/F) of Inderjeet Singh after personal search (vide Ex.PW-16/G). It may be noted here that Inderjeet Singh, from whose possession the taxi of the victim was recovered, also stood trial as a co-accused in these very proceedings on the charge for the offence under Section 411 IPC. By the impugned judgment dated 2nd March, 2013, he was held guilty as charged and by impugned order dated 11th April, 2013, he was sentenced to undergo imprisonment for the period of detention already undergone with fine of ₹3,000, in default rigorous imprisonment for three months. Inderjeet Singh did not challenge his conviction or the sentence by any appeal. The said result of trial against him has, thus, attained finality.

17. As indicated earlier, in the disclosure (Ex.PW-16/A) attributed to appellant Rakesh, reference had been made to the role of Renu Tomar wife of Susheel Kumar. According to the prosecution case, appellant Rakesh had led to she being arrested at 3.40 p.m. on 19.1.2005, from road in front of her house in Naveen Vihar, Begumpur, Delhi, vide arrest memo (Ex.PW-12/A) after personal search (Ex.PW-12/B), by PW-24, in the presence of Head Constable Ram Phal (PW-16) and lady constable Manju (PW-12). It was further the case of the prosecution that Renu Tomar had got recovered cash

₹5,000 from her house (in the form of 50 currency notes of the denomination of ₹100 each) which were seized (vide Ex.PW-12/C) it being allegedly her share in the proceeds from the sale of the taxi of the victim to Inderjeet Singh.

18. Renu Tomar was also sent up for trial with the two appellants (and Inderjeet Singh). In the charge framed by the trial court on 5.12.2005, she was accused to be a co-conspirator and, thus, party to the offences under Sections 365/302/201 IPC committed pursuant thereto. Aside from some reference respecting her presence during the investigative steps of 20.1.2005 involving mainly appellant Rakesh (to which we shall advert later), prosecution case against Renu was founded essentially on the disclosures (Ex.PW-16/A) attributed to appellant Rakesh and the recovery of cash ₹5,000. The learned trial court, however, found these circumstances insufficient to reach conclusions affirming her complicity in the crime. Thus, by judgment dated 2nd March, 2013 she was acquitted. No appeal has been preferred against the said result of the trial against Renu Tomar which has also attained finality.

19. In its case against appellant Rakesh, the prosecution, *inter alia*, relied on the disclosures attributed to appellant Rakesh (Ex.PW-16/A), and to convict Inderjeet (vide Ex.PW-6/F), both affirmed by PW-16 and PW-24, *inter alia*, indicating the sale proceeds of the taxi in the sum of ₹30,000 having been passed on in cash by the latter (Inderjeet Singh) to the former (appellant Rakesh) and his associates and recovery of ₹5,000 in cash (in the form of 50 currency notes in the

denomination of ₹ 100 each) from the house of appellant Rakesh, at his instance, vide formal pointing out cum seizure memo (Ex.PW-16/D). The circumstance of recovery of cash ₹5,000, in our view, is too insignificant to be incriminating, least of all clinching. By the very nature of the recovery effected, it cannot be said with certainty that the money (currency notes) would be part of proceeds of a crime of this magnitude. Except for the word attributed to the appellant, there is nothing to show that these currency notes were handed over by convict Inderjeet Singh to appellant Rakesh as consideration for sale of the taxi of the victim.

20. The evidence of Inspector Satya Prakash (PW-24), corroborated by the testimonies of Devender Kumar (PW-7), ASI Asha Devi (PW-10), ASI Ramphal Singh (PW-16) and Constable Sanjeev Kumar (PW-19), however, proved that on 20.1.2005, appellant Rakesh made a disclosure (Ex.PW-16/A) and led the investigating police and pointed out a wheat firm in the area near jungle of Ahmednagar in District Bulandshahr (UP) where the dead body of the victim had been disposed of on the night of 12-13.1.2005. The Investigating officer (PW-24) recorded formal proceedings (Ex.PW-10/B) in this regard and then made a contact with the local police. SI Brij Mohan Singh (PW-20) affirmed and corroborated the testimony of PW-24 in this regard. It is this input which led to the discovery of the fact that the victim had actually died and his dead body had been found and seized by officials of police station BB Nagar, Bulandshahr (UP) on 13.1.2005 in which regard FIR (Crime) No. 2/2005 under Sections 302/201 IPC had also

been registered (vide Ex.PW-20/C). At this stage, we may take note of the prosecution evidence concerning seizure of the dead body of the victim by the local (UP) police and proceedings recorded in such context.

21. Anil (PW-4) was a resident of village Ahmednagar, which falls within the jurisdiction of police station BB Nagar of district Bulandshahr (UP). He testified that on the morning of 13th (he would not recall the exact month or year), while going to his agriculture fields, he had come across dead body of a male person lying partly on the path and partly towards the fields of his co-villager Parmatma Sharan. He had noticed a muffler around the dead body and blood on the nostrils. He informed the Pradhan of the village and then the police. Kunwar Pal (PW-5) and Naval Kishore (PW-6) are similarly placed villagers of Ahmednagar. Both of them also affirmed similar facts about they having come across the dead body. They are witnesses to the police proceedings (Ex.PW-5/A) concerning the seizure of blood stained earth and earth control by SI Brij Mohan Singh (PW-20), the station officer (SO) of police station BB Nagar, Bulandshahr (UP). PW-20, in fact, also proved the seizure memo (*Panchnama*) of the dead body recovered during investigation beginning 2 p.m., upon receipt of the information at 12.10 p.m. on 13.1.2005 and DD No. 14 (mark Ex.PW-20/E) logged in this regard leading to registration of FIR No. 2/2005. Since the circumstances in which the dead body was found indicated it to be a case of murder and destruction of evidence,

the crime registered by UP police was meant to investigate from the perspective of offences punishable under Sections 302/201 IPC.

22. The evidence of PW-4, PW-5, PW-6 and PW-20 collectively proves that UP police, after registering the aforementioned FIR on 13.1.2005, conducted the requisite inquest proceedings (vide Ex.PW20-D) and preserving the photograph of the dead body (vide Ex.PW-4/A) and shifting it to the mortuary of BBD Hospital, Bulandshahr with formal requests (vide Ex.PW-20/C and Ex.PW-20/E) for post-mortem examination to be conducted. It is clear from the evidence that the dead body at that stage was unclaimed and unidentified.

23. The post mortem examination on the dead body was conducted by Dr. Krishan Kumar (PW-11) in the mortuary of BBD Hospital in the afternoon of 15.1.2005. He proved his report (Ex.PW-11/A), *inter alia*, noting that the dead body was in a state of decomposition with post mortem staining present, its face swollen and congested and the abdomen distended, its lower part greenish in colour. The autopsy doctor recorded, *inter alia*, the following observations in his report:-

“Ligature mark 3 cm in width present all around the neck which is horizontal and continuous below the thyroid, base of the ligature mark was brown in colour and soft, subcutaneous tissue under ligature was found ecchymosed on exploration of the neck. Both carotids found ruptured, there was a congestion and fracture of the thyroid and trachea found fractured, there was also right side of the cornu of hyoid bones of right side fractured”.

24. In the opinion of the autopsy doctor, death had occurred due to asphyxia as a result of ante-mortem strangulation, the time of death being approximately two and half days before the post mortem examination. This would broadly coincide with midnight of the night intervening 12-13.1.2005.

25. The evidence of PW-20 confirms that UP police had not been able to make any progress in the investigation of FIR No.2/2005 which had been registered on 13.1.2005 in the wake of seizure of the dead body in the aforementioned circumstances. In spite of issuance of public (hue and cry) notices (copy mark PW-20/A), no information had come its way regarding the identity of the dead body till the Investigating Officer (PW-24) of the case at hand was led by appellant Rakesh to the area in question on 20.1.2005. The local (UP) police took note of the information gathered after the visit of Delhi police vide DD Nos. 10 and 12 (mark 20/C and 20/D). Devender Kumar (PW-7) (brother of the victim) identified the dead body from its photographs (Ex.PW-4/A and Ex.PW-7/B) preserved by police station BB Nagar of District Bulandshahr (UP) to be that of his missing brother Yogender (the victim) also identifying his clothes i.e. trousers (Ex.P-1), belt (Ex.P-2), shirt (Ex.P-3), sweater (Ex.P-4) and muffler (Ex.P-5), which had also been preserved at the time of post-mortem examination.

26. From the above evidence of unimpeachable character, we have no hesitation in concluding that the victim had died homicidal death around the midnight of 12-13.1.2005 in the area of agriculture fields

along the highway near village Ahmednagar within the jurisdiction of police station BB Nagar of district Bulandshahr (UP). The injuries on the dead body clearly revealed he was strangled with intent to cause death. The place where the dead body had been dumped leaves no room for doubt that the perpetrator (s) intended to destroy evidence.

27. The dead body of the victim had come to the notice of the local police on 13.1.2005. Though a case (FIR No. 2/2005) had been formally registered by UP police in this regard on the same date, it could not establish the identity of the deceased. The dead body was identified to be that of the victim Yogender Kumar only on 20.1.2005, when this fact was confirmed by his brother Devender Kumar (PW-7) who had accompanied the Investigating Officer (PW-24) to the said area, in the wake of disclosure made by appellant Rakesh.

28. On 28.1.2005, the Investigating Officer (PW-24), assisted by Head Constable Dharampal (PW-15), took the taxi that had been seized from the possession of convict Inderjeet, at the instance of appellant Rakesh, to the Forensic Science Laboratory (FSL) where it was examined by Naresh Kumar (PW-9), Sr. Scientific Assistant (Biology). The witness (PW-9) found blood stains on the seat cover of the front passenger seat and near the front door on the left side. Four pieces of the blood stained seat cover were cut out, and the blood stains on the door also lifted with gauze pieces, and formally taken over vide seizure memo (Ex.PW-15/A). The UP police also handed over the blood stained earth and earth control with the clothes of the deceased which had been preserved during autopsy, to the Investigating Officer (PW-

24) through Head Constable Ajit Singh (PW-2) on 9.2.2005 vide seizure memo (Ex.PW-21/A). All the said exhibits, duly received in the malkhana of police station Bawana against entries in register No.19 (Ex.PW-14/A) were sent by ASI Mohinder Singh (PW-14), the *Malkhana Mohrararr* to the FSL on 23.2.2005 against road certificate No. 18/21 (Ex.PW-14/C) through Inspector Satya Prakash (PW-24), as per acknowledgement (Ex.PW-14/D). The exhibits were examined in the FSL by PW-9 who proved his reports (Ex.PW-9/A and Ex.PW-9/B) at the trial.

29. The FSL Reports (Ex.PW-9/A and Ex.PW-9/B) show that blood of human origin was found, *inter alia*, on the clothes of the deceased and the pieces of the seat cover of the taxi, the last being found to be of group 'B'. The blood group of the deceased, however, could not be detected as the other exhibits would evince no reaction during serological examination.

30. According to the prosecution case, in the wake of disclosures made by appellant Rakesh and the evidence gathered thereafter, efforts were made to trace out appellant Manoj Sirohi and the person named Dharmesh @ Pappu. Since they could not be located, after efforts to execute non-bailable warrants against them had failed to bear fruit, orders were obtained from the magisterial court for processes under Sections 82/83 Cr.P.C to be initiated qua them. It is against this backdrop that the investigating officer (PW-24) learnt on 10.03.2005 that appellant Manoj had surrendered himself to custody of a court in Bulandsahar (UP) in connection with crime no.07/2004 under Sections

392/411/34 IPC of local police station B. B. Nagar. Upon permission being granted by the local court in District-Bulandsahar (UP), on the application of the IO (PW-24), appellant Manoj Sirohi was arrested at 12:25 PM on 16.03.2005 vide arrest memo (Ex.PW-16/H). The IO thereafter obtained his custody and transit remand for he to be produced before the competent court in Delhi in connection with the case at hand.

31. According to the evidence of PW-24, appellant Manoj Sirohi was produced in muffled face before the jurisdictional magistrate at Delhi on 16.3.2005 and a request was made for test identification parade ("TIP") to be arranged in his respect but on the date fixed for the purpose, he refused to join such proceedings. After refusal of appellant Manoj Sirohi for joining TIP, on the application of the IO (PW-24), he was produced again in the court on 24.03.2005 and police remand for two days was granted. It is the case of the prosecution that follow up was necessary on the disclosures made by appellant Manoj Sirohi (vide Ex.PW16/J) that had been made on 16.03.2005 during his interrogation in the presence of HC Ramphal Singh (PW16).

32. Per the evidence of the IO (PW-24), corroborated by Constable Vijay Kumar (PW22) appellant Manoj Sirohi led the police team to village Ahmednagar from where he got recovered a polythene bag kept concealed in a room housing tube-well in agricultural fields. The bag contained the laminated copy of the registration certificate (Ex.P-6) of the taxi of the victim, a driving licence (Ex.P-8) issued by Transport Department of Government of NCT Delhi on 28.03.2000 (valid upto

27.03.2020) in the name of the victim bearing his photograph and an electricity bill (Ex.P-7) issued on 18.12.2004 by North Delhi Power Limited again in the name of the victim respecting house no.702, Bawana, Delhi, all of which were seized vide formal memo (Ex.PW-22/A), attested by PW-22.

33. Though the chargesheet submitted in the court on 02.04.2005 was accompanied by the record of proceedings of TIP, presided over by Ms. Archana Sinha, the then Metropolitan Magistrate, at Tihar Jail, New Delhi on 22.03.2005 in respect of appellant Manoj Sirohi containing his statement of refusal, *inter-alia*, for the reason the vehicle in which he was brought to Delhi may have been driven by the brother of the complainant, formal proof of the said record of TIP was not adduced as the concerned judicial officer was not examined during trial. But then, this should not affect the prosecution case in this regard in as much as the testimony of PW24 affirming the same very facts was not challenged during his cross-examination. For these reasons, we do not read anything against the prosecution version into the testimony of PW24 that appellant Manoj Sirohi was confronted with the witness (PW-8) pertaining to “last seen” circumstance on 26.03.2005 to be positively identified by the latter as the person who had accompanied Pappu on 12.01.2005 for taking on hire the taxi of the victim for journey with family to Garh Ganga and leaving for the said destination from the taxi stand at Kanjhawala crossing, Bawana. PW-8, on his part, confirmed at the trial the said role of appellant Manoj Sirohi, positively identifying him as the companion (named

Manoj) of the person called Pappu, already an acquaintance of the witness. Thus, we must reject the defence argument that the identification of the appellant Manoj Sirohi by PW-8 was merely a “dock identification” which ought not be relied upon.

34. It was argued by the learned counsel for appellant Manoj Sirohi that the recovery of the three documents (i.e. the registration certificate of the taxi, driving licence of the victim and electricity bill pertaining to his house at Bawana, Delhi) is doubtful because PW-22 spoke about seizure having been made from village Karim Nagar. It does appear that PW-22 mentioned name of the village in question wrongly. But then, he also affirmed that the proceedings were formalised in the shape of seizure memo (Ex.PW22/A). Since he is signatory to the said seizure memo and the document affirms that the recovery was effected from the tube-well room in agricultural field in Ahmednagar, within the jurisdiction of District Bulandsahar (UP), the word of PW-24 on this score need not be doubted. Human memory is frail and the proceedings in court are not a memory test. Stray lapse of this nature in correctly naming of a small hamlet in a district of another State cannot belie the contents of a document contemporaneously prepared, executed and attested. Registration book is an important document, which is required to be available in the vehicle when driven. Similarly, the driver must possess and have the original driving license. Recovery of these documents is significant and of consequence.

35. The learned counsel for both the appellants argued that the disclosures attributed to them cannot be acted upon as they have not

led to discovery of any incriminating fact within the meaning of the provision contained in Section 27 of the Evidence Act and, therefore, are hit by the inhibition in Sections 25 and 26. The main thrust of these submissions was that the dead body had already been recovered by UP police on 13.1.2005 and that the revelation statedly made by appellant Rakesh under interrogation had not uncovered anything new on 18/20.1.2005 so as to treat it something discovered in consequence of “information received” from him.

36. In our view, the above submissions are fallacious and divorced from the background facts proved on record. We must dilate on this subject by setting out our detailed reasons hereinafter.

37. Section 25 of the Evidence Act prohibits confession made to a police officer to be proved against a person accused of any offence. The object of the provision is to ensure that no one is induced by any threat, coercion or force to make a confessional statement about complicity in crime. The justification for this protective umbrella stands elevated to the level of fundamental right guaranteed by Article 20(3) of the Constitution of India, encompassing what is commonly known as rule against self-incrimination. Section 26 of the Evidence Act only enlarges what is contained in Section 25 by stipulating that a confession statedly made by a person in the custody of police shall not be proved against him unless it is made in the immediate presence of a magistrate.

38. Section 27 of the Evidence Act is in the nature of a proviso or an exception to the general rule, partially lifting the ban imposed by Sections 25 and 26. It reads as under:-

“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”.

39. The expression “fact” as used in Section 27 quoted above is defined in Section 3 of the Evidence Act in the following manner:-

““Fact”. —“Fact” means and includes—

(1) any thing, state of things, or relation of things, capable of being perceived by the senses;

(2) any mental condition of which any person is conscious”.

40. The provision contained in Section 27 of the Evidence Act has been the subject-matter of a series of authoritative and illuminating pronouncements, the earliest landmark decision being one reported as *Pulukuri Kotayya vs. Emperor AIR 1947 PC 67*, the exposition of law therein in the following words having ever since been treated as *locus classicus*:-

“It is fallacious to treat the 'fact discovered' within the section as equivalent to the object produced; the fact discovered embraces the place from which the

object is produced and the knowledge of the accused as to this and the information given must relate distinctly to this fact. Information as to past user or the past history, of the object produced is not related to his discovery in the setting in which it is discovered. Information supplied by a person in custody that 'I will produce a knife concealed in the roof of my house' does not lead to the discovery of the knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added 'with which stabbed A', these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant."

41. In *Mohd. Inayatullah vs. The State of Maharashtra*, (1976) 1 SCC 828, it was held that the expression 'fact discovered' includes not only the physical object produced but also the place from which it is produced and the knowledge of the accused as to the same. Interpreting the words "*so much of such information as relates distinctly to the fact thereby discovered* ", the court held that the word "distinctly" means "directly", "indubitably", "strictly" or "unmistakably". The word has been advisedly used to limit and define the scope of provable information. The phrase "distinctly" relates "to the fact thereby discovered". The phrase refers to that part of the information supplied by the accused which is the direct cause of discovery of a fact. The rest of the information has to be excluded.

42. In *State of Maharashtra vs. Damu Gopinath Shinde and others*, (2000) 6 SCC 269, the law was summarised thus:-

*“35. The basic idea embedded in Section 27 of the Evidence Act is the doctrine of confirmation by subsequent events. The doctrine is founded on the principle that if any fact is discovered in a search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true. The information might be confessional or non-inculpatory in nature, but if it results in discovery of a fact it becomes a reliable information. Hence the legislature permitted such information to be used as evidence by restricting the admissible portion to the minimum. It is now well settled that recovery of an object is not discovery of a fact as envisaged in the section. The decision of the Privy Council in *Pulukuri Kottaya v. Emperor* [AIR 1947 PC 67 : 74 IA 65] is the most quoted authority for supporting the interpretation that the “fact discovered” envisaged in the section embraces the place from which the object was produced, the knowledge of the accused as to it, but the information given must relate distinctly to that effect.*

36. No doubt, the information permitted to be admitted in evidence is confined to that portion of the information which “distinctly relates to the fact thereby discovered”. But the information to get admissibility need not be so truncated as to make it insensible or incomprehensible. The extent of information admitted should be consistent with understandability...”

43. In *State vs. Navjot Sandhu @ Afsan Guru* (2005) 11 SCC 600 while examining the issue as to whether discovery of fact referred to in Section 27 should be confined only to the discovery of a material object and the knowledge of the accused in relation thereto or the

discovery should be in respect of his mental state or knowledge in relation to certain things – concrete or non-concrete, the Supreme Court traced the jurisprudential development on the subject and observed that:-

“125. We are of the view that Kottaya case [AIR 1947 PC 67 : 48 Cri LJ 533 : 74 IA 65] is an authority for the proposition that “discovery of fact” cannot be equated to the object produced or found. It is more than that. The discovery of fact arises by reason of the fact that the information given by the accused exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place”.

44. Pertinently, this decision also refers to ambit and scope of Section 8 of the Evidence Act and quotes with approval the following passage from *Prakash Chand vs. State (Delhi Administration)* AIR 1979 Sc 400, in two paragraphs extracted as under :

“190.It would be admissible under Section 8 of the Evidence Act as a piece of evidence relating to the conduct of the accused person in identifying the dead bodies of the terrorists. As pointed out by Chinnappa Reddy, J. in Prakash Chand v. State (Delhi Admn.): (SCC p. 95, para 8)

“There is a clear distinction between the conduct of a person against whom an offence is alleged, which is admissible under Section 8 of the Evidence Act, if such conduct is influenced by any fact in issue or relevant fact and the statement made to a police officer in the course of an investigation which is hit by Section 162, Criminal Procedure Code. What is excluded by Section 162, Criminal Procedure Code is the statement made to a police officer in the

course of investigation and not the evidence relating to the conduct of an accused person (not amounting to a statement) when confronted or questioned by a police officer during the course of an investigation. For example, the evidence of the circumstance, simpliciter, that an accused person led a police officer and pointed out the place where stolen articles or weapons which might have been used in the commission of the offence were found hidden, would be admissible as conduct, under Section 8 of the Evidence Act, irrespective of whether any statement by the accused contemporaneously with or antecedent to such conduct falls within the purview of Section 27 of the Evidence Act (vide H.P. Admn. v. Om Prakash)."

206. We have already noticed the distinction highlighted in Prakash Chand case between the conduct of an accused which is admissible under Section 8 and the statement made to a police officer in the course of an investigation which is hit by Section 162 CrPC. The evidence of the circumstance, simpliciter, that the accused pointed out to the police officer, the place where stolen articles or weapons used in the commission of the offence were hidden, would be admissible as "conduct" under Section 8 irrespective of the fact whether the statement made by the accused contemporaneously with or antecedent to such conduct, falls within the purview of Section 27, as pointed out in Prakash Chand case. In Om Prakash case this Court held that: (SCC p. 262, para 14)

"[E]ven apart from the admissibility of the information under Section 27, the evidence of the investigating officer and the panchas that the accused had taken them to PW 11 (from whom he purchased the weapon) and pointed him out and as corroborated by PW 11 himself would be

admissible under Section 8 of the Evidence Act as conduct of the accused.”

45. The case reported as *Ranjeet Kumar Ram @ Ranjeet Kumar Das vs. State of Bihar 2015 SCC Online SC 500; AIR 2015 SC (supp.) 1374* was founded on facts and circumstances bearing substantial similarity to the one at hand. A five year old boy named Vicky had gone missing on 27.2.2006. His father Sunil Kumar Singh lodged a missing report on 28.2.2006 with the police. After 5-6 days, two accused persons (Ranjeet Kumar Ram and Sanjay) told him that his son would come back if he paid money. On 23.6.2006, he received a phone call demanding ransom of ₹4,00,000 for return of the child. After a series of such calls, the ransom was settled at ₹ 1,05,000/-. On 1.7.2006, the ransom callers instructed him to come with the above mentioned two accused for passing on the money. It appears that besides the above mentioned two accused, another accused (Sanjeet) also accompanied the complainant leading him to the house of fourth accused (Birendra Bhagat) where money was paid. Birendra Bhagat was found to be associated with fifth accused (Chintoo Singh). The child was not restored to the father inspite of payment of ransom money and he reported these developments to the police. This led to the arrest of the five above mentioned persons and recovery of some currency notes (forming part of the ransom amount earlier paid) from the house of the first accused (Ranjeet Kumar Ram). The interrogation of two of the said arrestees (Chintoo Singh and Birendra Bhagat), upon follow up, led to revelation that the dead body of the kidnapped child had been

recovered earlier on 22.4.2006. The Investigating Officer of the local police of the area, where the dead body was found lying, registered a case under Sections 302/201 IPC, and during investigation seized the clothes of the deceased and also preserved the photograph of the dead body. The first informant identified the dead body of the child from the photograph as also the clothes that had been recovered to be that of his missing (since deceased) child.

46. The arguments raised against the above backdrop and the view taken thereupon by the Supreme Court may be quoted thus:-

“18. Learned counsel for the accused Chintoo Singh (A-5) and Birendra Bhagat (A-3) contended that the alleged disclosure statement of the accused is hit by Section 25 of the Evidence Act which makes the disclosure statement inadmissible and the statement recorded from the accused did not lead to disclosure of any fact so as to make it admissible under Section 27 of the Evidence Act and there is nothing to connect the accused with the dead body of a boy recovered from beneath the pulia in connection with (Fakuli OP) P.S. Case No. 128/2006. It was submitted that the link to connect the accused with the murder of deceased boy Vicky is missing and that the confession statement of accused Chintoo Singh (A-5) and Birendra Bhagat (A-3) recorded by police is not admissible in evidence which was not kept in view by the courts below.

19. So far as the recovery of dead body of boy under the culvert between Bhagwanpur and Bahadarpur road is concerned, as noticed earlier, a F.I.R. was registered in (Fakuli OP) P.S. Case No. 128/2006 dated 22.4.2006 under Sections 302, 201 IPC read with Section 34 IPC. Though the statement recorded from the accused Chintoo Singh (A-5) and Birendra Bhagat (A-3) did not lead to

any recovery as admissible under Section 27 of the Evidence Act, their statement led to the disclosure of the details of the dead body and registration of F.I.R. in (Fakuli OP) P.S. Case No. 128/2006. If no statement was recorded from the accused, place of the dead body of deceased boy would have remained unknown”.

47. It is pertinent to take note of another judgment of the Supreme Court in the above context. Though the case reported as *Mehboob Ali & Ors. vs. State of Rajasthan* 2015 SCC online SC 1043; 2015 AIR SCW 6123 was based on a slightly different factual matrix (in that it related to offences punishable under Sections 489-B, 489-C and Section 120 B IPC), the view taken *vis-a-vis* disclosures of two particular accused (Mehboob and Firoz) in the context of Section 27 of the Evidence Act is instructive for present purposes.

48. The factual background in *Mehboob Ali* (supra) was that one Puran Mal had been found in Jaipur, Rajasthan to be in possession of fake currency notes. On interrogation, he revealed having received the fake currency from certain set of persons including Mehboob and Firoz. When Mehboob and Firoz were apprehended they were interrogated and disclosed that they, in turn, had obtained the fake currency notes from one Anju Ali. They led the police to Delhi and upon their identification Anju Ali was arrested and was found having in his possession fake currency of the value of ₹1,75,000. It was the prosecution's case that Anju Ali named certain other persons from whom he had procured the fake currency which led to certain other arrests and recoveries.

49. Noticeably, Mehboob and Firoz had not been found to be having in their possession any incriminating article. No recovery was made from them or at their instance. Against this backdrop, it was argued that the statements attributed to them in the police custody were not admissible under Section 27 of the Evidence Act. The argument was rejected with the following observations:-

“15. It is apparent that on the basis of the information furnished by accused Mehboob Ali and Firoz other accused, Anju Ali was arrested. The fact that Anju Ali was dealing with forged currency notes was not to the knowledge of the Police. The statement of both accused has led to discovery of fact and arrest of co-accused not known to police. They identified him and ultimately statements have led to unearthing the racket of use of fake currency notes. Thus the information furnished by the aforesaid accused persons vide information memos is clearly admissible which has led to the identification and arrest of accused Anju Ali and as already stated from possession of Anju Ali fake currency notes had been recovered. As per information furnished by accused Mehboob and Firoz vide memos P41 and P42, the fact has been discovered by Police as to the involvement of accused Anju Ali which was not to the knowledge of the Police. Police was not aware of accused Anju Ali as well as the fact that he was dealing with fake currency notes which were recovered from him. Thus the statement of the aforesaid accused Mehboob and Firoz is clearly saved by section 27 of the Evidence Act. The embargo put by section 27 of the Evidence Act was clearly lifted in the instant case. The statement of the accused persons has led to the discovery of fact proving complicity of other accused persons and the entire chain of circumstances clearly makes out that accused acted in conspiracy as found by the trial court as well as the High Court”

50. We must also quote the following observations of Supreme Court in (Para 142) *Navjot Sandhu* (supra) :-

“There is one more point which we would like to discuss i.e. whether pointing out a material object by the accused furnishing the information is a necessary concomitant of Section 27. We think that the answer should be in the negative. Though in most of the cases the person who makes the disclosure himself leads the Police Officer to the place where an object is concealed and points out the same to him, however, it is not essential that there should be such pointing out in order to make the information admissible under Section 27. It could very well be that on the basis of information furnished by the accused, the Investigating Officer may go to the spot in the company of other witnesses and recover the material object. By doing so, the Investigating Officer will be discovering a fact viz., the concealment of an incriminating article and the knowledge of the accused furnishing the information about it. In other words, where the information furnished by the person in custody is verified by the Police Officer by going to the spot mentioned by the informant and finds it to be correct, that amounts to discovery of fact within the meaning of Section 27. Of course, it is subject to the rider that the information so furnished was the immediate and proximate cause of discovery...”

51. It is well settled that the bar against admissibility of what is prohibited by Sections 25 and 26 of the Evidence Act is partially lifted by Section 27 in respect of such information given by accused to the police as relates distinctly to the discovery of a “fact” thus far unknown; this, subject to the riders of the information being immediate and proximate cause of discovery and the discovered fact being relevant to prove his complicity through confirmation by subsequent

events. We have also quoted observations of the Supreme Court in *Navjot Sandhu* (supra) referring to Section 8 of the Evidence Act. The contours of the said provision are wider. It is sufficient if the information given by the accused provides the lead to the Investigating Officer to unravel facts and material which were not known to him and which could not have been known but for such information coming from the accused. Further, in a given case when established the relevant facts discovered consequent to the information given by the accused may not lead to recovery directly from the person or the place towards which the information given by the accused pointed. The fact that there was an intermediate person respecting whom the accused made the disclosure and who, in turn, leads to the discovery and recovery does not disrupt the elements of immediacy and proximity; this, so long as the special knowledge of the accused with regard to the fact eventually discovered can be gathered from the circumstances, since that is what provides the requisite confirmation of what was initially disclosed.

52. In a case involving similar circumstantial evidence reported as *Anuj Kr. Gupta vs. State of Bihar* (2013) 12 SCC 383, the Supreme Court further observed thus:-

17 “.....Leaving aside the rest of the part of the admission, the identity of the place at the instance of the appellant and the co-accused, as to where the dead body of the deceased was lying, which was exclusively within the knowledge of the appellant, was certainly admissible

by virtue of the application of Section 8, read along with Section 27 of the Evidence Act.”

53. A similar view was taken in *HP Administration vs. Om Prakash* (1972) 1 SCC 249.

54. In the case at hand, the local police in District Bulandsahar (UP) had found the dead body of the victim on 13.1.2005. The state of the dead body (as further confirmed by the autopsy report) and the circumstances in which it had been found were clearly indicative of it being a case of murder but of an unknown person. The UP police took up the investigation accordingly but could not make any headway since it had no information or clue as to the identity of the deceased. The appellant Rakesh, on being arrested on 18.1.2005, made the disclosure and led the investigating officer of this case from Delhi to the area where the dead body had been disposed of. The disclosure statement (Ex.PW-16/A) and the pointing out of the place of the disposal of the dead body (vide Ex.PW10/B) on 20.1.2005 led to joining of the dots. The investigation in the wake of disclosure and the pointing out of the place in question brought to light the fact that the victim had actually died and his dead body had been recovered in the morning of 13.1.2005 resulting in a formal case being registered by UP police. But for the disclosure and the pointing out of the place the investigation officer of the case at hand would not have come to know about the recovery of the dead body by UP police on 13.1.2005, since there was no material available on the basis of which the two cases could be connected. If no statement to such effect had come forth from

appellant Rakesh, the place of the dead body would possibly have never been unearthed.

55. It cannot be argued that the information divulged by appellant Rakesh did not give leads or is not incriminating. It led to not only the awareness of facts pertaining to the crime registered by UP police but also the proceedings recorded and evidence preserved in such context, particularly the photograph of the dead body and the clothes of the victim recovered by autopsy doctor, in addition, of course, to the proof about the death being homicidal in nature. Identity of the unknown body was ascertained and established. The special knowledge on the part of appellant Rakesh as demonstrated by the facts proved is a clear pointer to his involvement in the offences of murder and destruction of evidence.

56. Drawing strength from the view taken by the Supreme Court in *Ranjeet Kumar Ram* (supra), we conclude that the disclosure attributed to appellant Rakesh Kumar leading the police and unravelling the crime including identity of the dead body is relevant and significant. These facts are highly incriminating as the appellant (Rakesh) has not offered any explanation on these aspects.

57. As in the case *Damu Gopinath Shinde and others* (supra), the case at hand is not one where only the facts regarding earlier recovery of the dead body and police proceedings connected thereto were discovered in the wake of disclosures made by appellant Rakesh. As noted at length earlier, it is he who led the Investigating Officer to the door of Inderjeet Singh (since convicted) leading to recovery of the

taxi of the deceased. The investigation further brought out sufficient evidence to show that the taxi had been sold by the appellant to the said Inderjeet Singh for consideration immediately after the victim had been relieved of it at or about the time of the murder. This completes the chain of circumstances unmistakably pointing towards the complicity of appellant Rakesh in the kidnapping and murder of Yogender Kumar, and criminal conspiracy pertaining thereto.

58. We may mention here that an identical view was taken, against almost similar factual background, by another Division Bench of this Court in case reported as *Sapna Talwar & Anr. vs. State* 183 (2011) DLT 507 (DB).

59. Appellant Manoj Sirohi was not personally known to any of the prosecution witnesses. Rajender @Lilu (PW-8) had, however, seen him in the company of Pappu @ Dharmesh (absconder) at the time of their visit to the taxi stand on the evening of 12.1.2005. He (PW-8) had seen both the said persons, including appellant Manoj, leaving the taxi stand travelling as passengers in the taxi of the victim for journey with family to Garh Ganga. Because PW-8 was not acquainted with him from before, he was unable to give full particulars of Manoj to the Investigating Officer on 16.1.2005. The full particulars of Manoj were brought to light only when appellant Rakesh was apprehended on the basis of leads concerning Pappu @ Dharmesh (absconding). The disclosures made by appellant Manoj (vide Ex.PW-16/J) eventually led to the recovery of the registration certificate of the taxi of the deceased and his personal papers including driving license. The very fact that

the appellant Manoj Sirohi was holding on to the said papers, having kept them concealed at a place specially known to him, provides the requisite confirmation of his involvement. It is not difficult to imagine as to why he would have retained the said documents with him. After all, the taxi which had been taken away from the victim around the time of his murder would need to be arranged to be formally transferred to the person to whom it had been sold off. For such purposes, the documents in the nature of registration certificate of the vehicle and proof of identity of its registered owner (the victim) would have come handy.

60. The confirmation of the identity of the appellant Manoj Sirohi by Rajender @Lilu (PW-8) as the person who was accompanying Pappu @ Dharmesh (absconder) at the time of the taxi being taken on hire for the purported journey to Garh Ganga seals the chain of circumstances adding the element of “last seen” concerning him (appellant Manoj Sirohi). Since he has not offered any explanation and since the victim was subjected to homicidal death on the same night soon after being hired with his taxi, we unhesitatingly uphold the view taken by the trial court that the prosecution has proved beyond all doubts that appellant Manoj Sirohi was party to the criminal conspiracy and was complicit with appellant Rakesh in commission of the offences of kidnapping and murder of the victim.

61. In the given facts and circumstances, the above conclusions further lead to the irresistible inference that the dead body of Yogender Kumar was disposed of in the agricultural fields of wheat

close to the highway along village Ahmednagar within the jurisdiction of police station BB Nagar of District Bullandshahr (UP) and the taxi sold off with the intention of causing disappearance of the evidence by the appellants and their associates so as to screen themselves.

62. For the foregoing reasons, and in the circumstances, we find no error or infirmity in the impugned judgment. The punishment awarded for the offences for which the appellants have been convicted cannot be said to be disproportionate or duly unharsh.

63. Thus, these appeals are unmerited and dismissed.

64. The appellants be informed about the result of their respective appeal by a copy of this judgment to be supplied to each of them through Superintendent jail.

R. K. GAUBA
(JUDGE)

SANJIV KHANNA
(JUDGE)

DECEMBER 21, 2015

nk/ss