

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

+ **CRIMINAL APPEAL NO. 66/2011**

Reserved on: 7th January, 2015

% **Date of Decision:** 22nd January, 2015

BHIM SINGH Appellant
Through Ms. Anu Narula, Advocate with Mr.
Kunal Arora, Advocate.

Versus

STATE Respondent
Through Mr. Varun Goswami, Additional
Public Prosecutor with Inspector Raj Pal Singh,
Ashok Vihar Traffic Circle.

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

SANJIV KHANNA, J:

Bhim Singh has challenged his conviction under Section 302 and 201 of the Indian Penal Code, 1860 (IPC, for short) in Sessions Case No. 34/2009 arising out of FIR No.122/2009, registered at Police Station Sarai Rohilla.

2. The prosecution version, accepted by the trial court, is that the appellant Bhim Singh committed murder of Sharda, wife of Kanahiya Lal, in the night intervening 9th and 10th of May, 2009 in a house located opposite electric pole No.EP-153, E-Block, Qutub Vihar, Goyala Dairy, Delhi. Thereafter, the dead body was taken to the roof top of the said house and thrown in the adjacent property belonging to Chandu Lal (PW-2). There, the deceased was beheaded inside a room. The severed head along with the saree, blouse, petticoat, blood stained towel, silver/gillet *pajeb*, rexine purse and other belongings of the deceased including the knife were kept in a plastic bag/*katta* and

thrown in the Ganda Nala, Kakrola near the police booth.

3. The prosecution case primarily relies upon the disclosure statement (Ex.PW-12/A) of the appellant and the subsequent recovery of the dead body, i.e. the torso and the severed head, clothes and other belongings of the deceased Sharda, under Section 27 of the Evidence Act, 1872. The prosecution also relies upon the testimony of Kanahiya Lal (PW-1), husband of the deceased Sharda, to the effect that the deceased was missing since 9th May, 1999 and he had suspected involvement of Bhim Singh, the appellant herein.

4. Kanahiya Lal (PW-1) has deposed that he had been residing in Harijan Basti, New Rohtak Road, Sarai Rohilla, Delhi with his six children. The appellant Bhim Singh was their neighbour and an acquaintance. On 9th May, 2009, the appellant Bhim Singh took the deceased Sharda with him, on the pretext of introducing her to a girl for matrimonial alliance with her son, Monu. When his wife did not return home on 9th May, 2009, distressed and perturbed, PW-1 searched for his wife but in vain. He went to the Goyala Dairy as he had learnt that the appellant Bhim Singh was residing there at the house of his sister. The house was found to be locked. At about 1.30 A.M. on 11th May, 2009, he went to the Police Station Sarai Rohilla and reported the disappearance of his wife, Sharda. However, his statement was recorded by the Duty Officer in the morning hours of 11th May, 2009. The appellant Bhim Singh was traced and arrested at about 3.00 P.M. vide arrest memo, Ex.PW1/A, which PW-1 signed as a witness at point A. The appellant Bhim Singh was interrogated and, thereafter, PW-1 along with the police and the appellant went to Goyala Dairy. At the pointing out by the appellant, lock of a house was broken open and dead body of Sharda was recovered from a

vacant room. The body was without clothes and the head had been severed. Blood could be seen scattered. HC Rajiv Kumar (PW-10) took photographs, which were exhibited on record as Ex.PW-10/1 to 4, Ex.PW-10/A-5 to 25, and Ex.PX-1. Thereafter, the appellant Bhim Singh produced the key of the adjacent house which was opened, and an empty bottle of liquor, two steel glasses and one empty water bottle were seized vide Seizure Memo, Ex.PW-1/C. The key and the lock were seized vide Seizure Memo, Ex.PW-1/D. Photographs of the stairs and roof of the house showing the gap or hole from where the dead body was thrown/lowered in the adjacent house were taken. Thereupon, the appellant took them to Ganda Nala, Kakrola, from where the severed head of the deceased Sharda kept in a plastic bag/*katta* was taken out by a diver, Rajan (PW-8). A saree, blouse, petticoat, blood stained towel, silver/gillet *pajeb*, rexine purse with small phone diary, printed cup and a kitchen knife were found in the said bag/*katta*. These articles were taken into possession vide Seizure Memo, Ex.PW-1/E. Blood samples from the room from where the headless body was found were taken and earth control samples including blood stains, small stones were taken into possession vide Seizure Memo, Ex.PW-1/F. The police also seized a half sleeve shirt and one black pant worn by the appellant vide Seizure Memo, Ex.PW-1/J. The headless body was identified by PW-1, as that of his wife Sharda, vide memo, Ex.PW-1/K.

5. The aforesaid statement of Kanahiya Lal (PW-1) regarding recovery of the severed head and other belongings of the deceased finds corroboration from the testimony of Rajan (PW-8), the diver, who had taken out the plastic bag/*katta* from Pulia Ganda Nala, Kakrola, Najafgarh Road on 11th May, 2009. He had gone inside the *nala* and on the indication and instruction of the appellant Bhim Singh

fished out the plastic bag/*katta*. He deposed that the plastic bag was opened in the presence of the accused, and contained a severed head of a lady, blood stained towel, saree, blouse, petticoat, one pair of ladies *chappal*, one pair of silver/gillet *pajeb* and a small knife. The said articles (except the severed head, which was not shown to PW-8) were recognized and identified by Rajan (PW-8) in the Court. PW-8 affirmed the Seizure Memo, Ex.PW-1/E. He also identified the photograph marked as Ex.PX-1, which was taken while he was taking out the plastic bag/*katta* from the drain.

6. Learned counsel for the appellant Bhim Singh has challenged the prosecution version and the testimony of Kanahiya Lal (PW-1) and Rajan (PW-8) on several grounds. She had submitted that the disclosure statement (Ex.PW-12/A) was recorded by the first Investigating Officer, SI Ram Nath (PW-12) after he had already seen the headless torso of the deceased Sharda at the property located opposite electric pole No.EP-153, E-Block, Qutub Vihar, Goyala Dairy, Delhi. Reliance is placed upon the first paragraph of the testimony of SI Ram Nath (PW-12), which is to the following effect:-

“On 11.5.09, I was present in the P.S. Sarai Rohilla. Case in hand was registered vide FIR No.122/09 and the investigation was handed over to me. Thereafter I along with the complainant Sh. Kanhiya Lal and my staff HC Suresh, Const. Gejender, Const. Sudhir left in the Govt. Vehicle for Harijan Basti, New Rohtak Road, near Indl. Area within the jurisdiction of P.S. Sarai Rohilla. There I prepared site plan Ex.PW1/M at the instance of complainant bearing my signatures at point B. Efforts were made for tracing out the accused Bhim Singh but he was not available there.”

7. We have examined the said contention and the site plan (Ex.PW-1/M). The said site plan does not pertain to the property of the appellant Bhim Singh at Harijan Basti, New Rohtak Road within the jurisdiction of Police Station Sarai Rohilla. The site plan (Ex.PW-

1/M) is a composite site plan of two adjacent properties opposite electric pole No.EP-153, E-Block, Qutub Vihar, Goyala Dairy, Najafgarh, Delhi. It is apparent that the last sentence of the first paragraph in the testimony of SI Ram Nath (PW-12) is a mistake or an error because when we read the earlier portion of the first paragraph of his testimony, it makes it crystal clear that he was referring to the visit to the property at Harijan Basti, New Rohtak Road within the jurisdiction of Police Station Sarai Rohilla. Obviously, PW-12 was not referring to his visit to the property at Goyala Dairy located within the jurisdiction of Police Station Najafgarh. This is glaringly evident. The subsequent portion of the testimony of SI Ram Nath (PW-12) elucidates and affirms the true factual situation. PW-12 has deposed that the appellant Bhim Singh was apprehended from his house at Harijan Basti, New Rohtak Road and was interrogated. His disclosure statement (Ex.PW-12/A) was recorded and thereafter, he was arrested vide memo (Ex.PW-1/A). The appellant had then led them to the house near electric pole No.EP-153, E-Block, Qutub Vihar in Goyala Dairy. SI Ram Nath (PW-12) avouched the assertion made by Kanahiya Lal (PW-1) by deposing as to the headless body of a lady being found in a room after they broke open the main door. Kanahiya Lal (PW-1) had identified the dead body as that of his wife Sharda. Thereupon, the appellant Bhim Singh, produced the key and on opening the lock of the adjacent house, liquor bottle, glasses, etc. were found. Photographs of the dead body, place of occurrence and crime scene were taken by the Crime team. Thus, SI Ram Nath (PW-12) had clearly deposed that they had visited Goyala Dairy after recording the disclosure statement (Ex.PW-12/A) of the appellant Bhim Singh and not before. The arrest memo (Ex.PW-1/A) bears the time of arrest as 3.00 P.M. on 11th May, 2009 and the place of arrest has been

described as House No.2/79, Gali No.7, Harijan Basti, Delhi. The visit to Goyala Dairy and the recovery of the dead body, etc. is subsequent. If, SI Ram Nath (PW-12) had already visited the two properties at Goyala Dairy before recording disclosure statement (Ex.PW-12/A), the question of breaking open the lock on the main door and opening the locks of the adjacent property would not arise. A close scrutiny of the site plan (Ex.PW-1/M) reveals the gap or the hole from where the dead body was lowered/dropped in the adjacent property and taken inside a separate room after going through a verandah. The preparation of site plan (Ex.PW-1/M) would have been possible, if and only if, the draftsman drawing the sketch had physically inspected and seen the property. This happened post the disclosure statement (Ex.PW-12/A). It may be opportune and appropriate to reproduce the relevant portions of the disclosure statement, admissible under Section 27 of the Evidence Act, 1872:-

“I can get recovered the headless dead body of Sharda from the house adjacent to Prabhu’s house at Goyala Dairy, Chhawla and also the severed head, her clothes, knife, anklet and chappals, etc. which I had thrown* putting them in a plastic sack from the Ganda Nala. ...”

(*underlined portion is inadmissible)

8. The findings recorded above stand confirmed by the testimony of Kanahiya Lal (PW-1), who unambiguously and categorically has stated that only after the arrest and interrogation of the appellant Bhim Singh, they had visited the properties at Goyala Dairy and thereupon at the directions of the appellant Bhim Singh, the headless body and the plastic bag/*katta* with a severed head and other belongings of the deceased Sharda were recovered. As already noticed, Rajan (PW-8), the diver, has fully supported the prosecution version.

9. The prosecution case that the appellant Bhim Singh was arrested on 11th May, 2009 has been contested relying upon the

statement made by Kanahiya Lal (PW-1) in the cross-examination to the following effect:-

“... After 9.05.2009, I saw the accused first time on 10.05.2009 in the street where my house is situated while he was in Police Custody. Vol. I had brought the Police for getting apprehending the accused and on my pointing out the accused by apprehended. Police did not prepare any document in the street at the time when the accused was apprehended. There was a huge crowd in the street at that time. ...”

10. The said statement was made in the cross-examination on 10th December, 2009. Learned Additional Public Prosecutor submits that the date ‘10.5.2009’ mentioned in the aforesaid quoted portion is incorrect and should be read as ‘11.5.2009’. It is noticeable that in the examination-in-chief, Kanahiya Lal (PW-1) had specifically stated that on 10th May, 2009, he along with his nephew, Sanju had gone to Goyala Dairy, Dwarka, the house of his sister. Thereafter, on 11th May, 2009, he had gone to the Police Station Sarai Rohilla at about 1.30 A.M. In the cross-examination on 9th December, 2009, Kanahiya Lal (PW-1) had reiterated the same facts. He affirmed having gone to the police on 10th May, 2009 to lodge a complaint about his missing wife after making fruitless and futile efforts to locate her. They had returned from Goyala Dairy on 10th May, 2009 at 5.30 P.M. Thereafter, on 11th May, 2009, the events took place after 11 A.M./12.00 noon. Even in the testimony recorded on 10th December, 2009, Kanahiya Lal (PW-1) has deposed that on 11th May, 2009, he had left the police station along with police personnel for Goyala Dairy, where he identified the headless dead body of his deceased wife Sharda. Subsequently, the severed head and other belongings of Sharda were recovered from the drain. Noticeably, the appellant in his statement under Section 313 of Code of Criminal Procedure, 1973 (Cr.P.C., for short) in response to one of the questions had stated as under:-

“Q. It is in the evidence against you that PW-1 along with PW-13 HC Narayan Dass and PW-15 IO Inspector Rajpal Singh were on a look out for you and at about 3:00 p.m. on 11.05.2009 you were arrested from your house vide memo Ex.PW-1/A and personal search memo Ex.PW1/B signed by you. What do you have to say?

Ans. The factum of arrest is correct. Rest I do not know.”

It is, therefore, clear that the appellant Bhim Singh was not arrested or even detained on 10th May, 2009, but was arrested on 11th May, 2009. SI Ram Nath (PW-12), the then Investigating Officer, was not questioned on the date and time of arrest and no suggestion was put to him that the appellant stood arrested earlier on 10th May, 2009.

11. Another contention raised on behalf of the appellant Bhim Singh is that the dead body and the head did not belong to Sharda, wife of Kanahiya Lal (PW-1). The said contention is only to be noted and unhesitatingly rejected. The headless torso and the severed head were identified by Kanahiya Lal (PW-1). In the cross-examination, PW-1 had deposed that he identified the dead body of his deceased wife Sharda on the basis of the tattoo ‘OM’ and her name which was inked on her right hand. Further, Banti (PW-3), had affirmed that he had identified the dead body of his mother, which was handed over to his father after the post mortem. The testimony of Banti (PW-3) remained unchallenged. This also puts to rest the contention of the appellant with reference to the testimony of Dr. Parminder Singh (PW-6) that proper authentication was not carried out to ascertain whether the head and the torso were of the same person as the Investigating Officer had not requisitioned any opinion on the said aspect. The factum that Dr. Parminder Singh (PW-6) in the cross examination, had stated that he did not observe any tattoo mark on the body, is plausible but would not be sufficient to negate the statement of Kanahiya Lal (PW-1) that he

had seen tattoo mark 'OM' and the name inked on the right hand of the body. Absence or failure of Dr. Parminder Singh (PW-6) to see or re-collect in the factual matrix of the case, would not be sufficient to discard the positive assertion by the husband, Kanahiya Lal (PW-1). Similarly, the contention that photographs do not show the said tattoo mark or name is trivial and trifling, in view of the identification by the husband, Kanahiya Lal (PW-1) and son, Banti (PW-3) of the deceased.

12. The testimony of Kanahiya Lal (PW-1) and SI Ram Nath (PW-12) also get corroborated from the testimony of Chandu Lal (PW-2), who was the owner of the adjacent property, i.e. the house from where the headless dead body was recovered. He had deposed that he was not residing in the said property which was lying vacant under his lock and keys. On 12th May, 2009, he came to know that a dead body of a lady was recovered from his house. He was called to the police station and had narrated the relevant facts to the police. He deposed that when he visited the house, he found blood stains on the floor of the house, which were washed. PW-2 professed ignorance of his familiarity with the appellant Bhim Singh or the deceased. He further deposed that the adjacent house was locked and the occupants thereof had gone to attend some marriage.

13. Prabhu Dayal (PW-5) has deposed that he was residing since September, 2008 on rent, in the house located opposite electric pole No.E-153, E Block, Phase I, Qutub Vihar, Goyala Dairy, PS Chawla, Delhi,. It was owned by one Surender Singh, serving in the Indian Army. On 6th May, 2009, he along with his family members had gone to Shalimar Bagh in connection with a family wedding. He had given the keys of the house to Raj Devi, sister of the appellant Bhim Singh and his sister-in-law. The appellant Bhim Singh was related to him and

used to reside with his sister Raj Devi. On 11th May, 2009, he came to know about the occurrence, i.e. Sharda's dead body had been recovered from the adjacent house. In his cross-examination, PW-5 has stated that on 11th May, 2009, his house was found to be open and he had not asked for the key from Raj Devi. The recovery of the key (seized vide Seizure memo, Ex.PW-1/D) from the appellant Bhim Singh, during the recovery proceeding based on the disclosure statement (Ex.PW-12/A) is noteworthy and corroborates PW-5's deposition.

14. The contention is that the prosecution has not shown as to how the dead body was taken inside the locked house or how the appellant managed to escape out of the locked house, is a specious and pretentious argument. The photographs and the site plans are illustrative and negate the submission. The site plan (Ex.PW-1/M) and the scaled site plan (Ex.PW-7/A) are illustrative and affirm the factual situation. The properties in question were rather small and had a common terrace without any parapet dividing the terrace. The scaled site plan (Ex.PW-7/A) demarcates at point 'C' the hole or the gap in the roof from where the dead body was thrown/lowered and, thereafter, taken to the room in the house from where it was recovered. Blood stains were found at the two spots, i.e. the place where the body was lowered from the roof and inside the room. These details are also shown in the unscaled site plan (Ex.PW-1/M). The photographs depict copious amount of blood, which had spilled as a result of the severed head. This is strikingly noticeable in the room. Blood is clearly visible at the place where the body was lowered, in the photographs marked Ex.PW-10/1 to 4 and Ex.PW-10/A5 to 25.

15. On the question as to how the appellant could have gone inside the adjacent property, deposition of HC Narain Dass (PW-13) is

convincing and justifiably clarifies the situation. In his cross examination, PW-13 has stated that there was only one entry or exit gate in the adjacent house but the roof could have provided an alternate access into the said house. Though, there were no stairs, but the protruding bricks on the walls could have been used to climb up or go down to and from the roof to the adjacent house.

16. The prosecution version that a kitchen knife was used to severe the head of the deceased at first appears to be implausible, but finds resonance and support from the medical evidence (Ex.PW-6/B). Dr. Parminder Singh (PW-6), who had conducted the post mortem on the dead body, has stated that rigor mortis had passed off and the body had the following external injuries:-

“EXTERNAL INJURIES

1. Incised wound over neck (Head part), measuring 33 cms, completely encircling the neck, in the middle, cutting all neck structures through and through (Cartilages, blood vessels, trachea, oesophagus etc.), edges are sharp and serrated and is peri mortem in nature.
2. Incised wound of neck (Body part), 33cms completely encircling neck in the middle, cutting all neck structures through and through separating head and body apart from each other with edges sharp and serrated, peri mortem in nature.
3. Bruise 6 X 1.5 cms. present over left side of face near angle of mouth.
4. Bruise 14X8 cms. present over left cheek.
5. Bruising of inner aspect of upper and lower lips present deffusely.
6. Upper and lower gums shows extra vasion of blood.
7. Bruise 1X1 cms. present over middle of upper lip.
8. Bruise 8X4 cms. present around left eye and lateral aspect of left eye.
9. Bruise 6X1.5 cms below right eye.
10. Bruise 1.5X1.5 cms. present over right cheek.
11. Bruise 3.5 X3 cms present over thenar eminence of left hand.
12. Bruise 7.5X7 cms. present over upper part of right side of neck below angle of mandible.
13. Bruise 1.5 X2 cms. present over middle of forehead.
14. Bruise 1.5 X1 cms. present over right side of forehead.

15. Swelling 6X5 cms. present over right temporal area of skull.”

17. The following aspects were noticed on internal examination:-

“Neck Structure: On dissection of neck structures layer by layer, subcutaneous tissue and underlying neck muscles shows extra vasation of blood under the external injuries (Bruises). Tracheal Mucosa is congested. Oesophageal mucosa congested and soft.

Head: Effusion of blood present under the scalp over the left parieto temporo occipital area of skull. Subdural and subarachnoid haemorrhage present over left parieto temporo occipital lobes of brain. Brain is soft and gelatinous in texture.”

18. The opinion as given by Dr. Parminder Singh (PW-6) was that death was due to asphyxia following ante mortem, smothering and throttling, along with cranio-cerebral damage, i.e. head injury. He opined that the Injury Nos.1 and 2 were peri mortem and recent and were caused by a sharp serrated edged weapon. He was shown the knife recovered from the plastic bag/*katta* which was identified in the Court. Injury Nos.1 and 2 mentioned in the post mortem report, he opined, could have been caused by the said or similar knife. The knife was marked Ex.P-1; the sketches of the same were exhibited as Ex.PW-1/H and Ex.PW-6/C.

19. Section 27 of the Evidence Act, 1872 embodies in it, the doctrine of confirmation by subsequent events. Discovery of an unknown fact, on the strength of information and disclosure of the accused is a guarantee that the information supplied was reliable and true. The legislature has permitted such information to be used as evidence and to this extent the disclosure or information is admissible. (see *Rumi Bora Dutta versus State of Assam* (2013) 7 SCC 417 and other cases quoted therein). Earlier the Privy Council in *Pulukuri Kotayya versus King Emperor*, AIR 1947 PC 67 had interpreted Section 27 to hold that the ‘fact discovered’ embraces the place from

where the object was produced, and the knowledge of the accused as to it, but the information must relate distinctly to that effect.

20. In *State of Maharashtra versus Suresh* (2000) 1 SCC 471, the Supreme Court discussed that there were three possibilities when a dead body is recovered at the instance of the accused. It was held:-

“26. We too countenance three possibilities when an accused points out the place where a dead body or an incriminating material was concealed without stating that it was concealed by himself. One is that he himself would have concealed it. Second is that he would have seen somebody else concealing it. And the third is that he would have been told by another person that it was concealed there. But if the accused declines to tell the criminal court that his knowledge about the concealment was on account of one of the last two possibilities the criminal court can presume that it was concealed by the accused himself. This is because the accused is the only person who can offer the explanation as to how else he came to know of such concealment and if he chooses to refrain from telling the court as to how else he came to know of it, the presumption is a well-justified course to be adopted by the criminal court that the concealment was made by himself. Such an interpretation is not inconsistent with the principle embodied in Section 27 of the Evidence Act.”

In such cases, the explanation of the accused to under what circumstance he had information regarding the dead body of the deceased, assumes primacy and importance. In fact, it may be a clinching circumstance in factual matrix of a given case. In *Shanti Devi versus State of Rajasthan* (2012) 12 SCC 158, recovery of the dead body based upon the information furnished by the accused from a place adjacent to her house, it was observed, unerringly point towards her guilt. This finding was given in view of the determinative circumstance that ultimate discovery of the dead body was at the instance of the accused herself, who had exclusive knowledge of the special factor and could not explain the basis of the said knowledge. The conclusion, therefore, was inescapable that the accused was squarely responsible for the death.

21. In *Anuj Kumar Gupta versus State of Bihar* (2013) 12 SCC 383, a part of the disclosure statement by the two accused as to where the dead body of the deceased was lying, which was exclusively within their knowledge was held to be admissible by virtue of Section 27 and application of Section 8 of the Indian Evidence Act, 1872. It was accordingly held:-

“18. In such circumstances, in the absence of any convincing explanation offered on behalf of the appellant-accused as to under what circumstances he was able to lead the police party to the place where the dead body of the deceased was found, it will have to be held that such recovery of the dead body, which is a very clinching circumstance in a case of this nature, would act deadly against the appellant considered along with rest of the circumstances demonstrated by the prosecution to rope in the appellant in the alleged crime of the killing of the deceased. Therefore, once we find that there was definite admission on behalf of the appellant by which the prosecuting agency was able to recover the body of the deceased from a place, which was within the special knowledge of the appellant, the only other aspect to be examined is whether the appellant came forward with any convincing explanation to get over the said admission. Unfortunately though the above incriminating circumstance was put to the appellant in the Section 313 CrPC questioning where he had an opportunity to explain, except a mere denial there was no other convincing explanation offered by him.”

22. Similarly, in the case of *Dharam Deo Yadav versus State of U.P.* (2014) 5 SCC 509, recovery of skeleton at the behest of the accused, who had buried in his house, it was observed, would be a compelling circumstance. Since the dead body was found in the house of the accused, it was for him to explain how the same was found to be concealed. The aforesaid decision invokes the principles and provisions of Section 106 of the Evidence Act, 1872 i.e. when any fact is especially within the knowledge of a person, the burden of proving that fact is upon him. [Also see *State of Rajasthan versus Kashi Ram* (2006) 12 SCC 254 and the decision of the Delhi High Court in *Kaushal Singh versus State NCT of Delhi* 194 (2012) DLT 342].

23. In view of the aforesaid discussion, we uphold the conviction of the appellant Bhim Singh under Section 302 and 201 of the IPC. By order of sentence dated 07th July, 2010, the trial court has sentenced the appellant to undergo imprisonment for life and pay fine of Rs.10,000/- under Section 302, IPC and in default, to undergo Rigorous Imprisonment of 7 years. For the offence under Section 201, IPC, the appellant has been sentenced to undergo Rigorous Imprisonment of 5 years and pay fine of Rs.5,000/-, in default, to undergo Rigorous Imprisonment of 1 year. We partly modify the order on sentence and direct the appellant Bhim Singh would undergo Rigorous Imprisonment of 1 year in default of payment of fine of Rs.10,000/- for the offence under Section 302, IPC. Sentence of imprisonment for life and fine of Rs.10,000/- for the offence under Section 302, IPC and sentence under Section 201, IPC is maintained. The sentences shall run concurrently. The appellant will be entitled to benefit of Section 428 of the Cr.P.C.

24. The appeal is accordingly disposed of. Trial Court Record be sent back.

(SANJIV KHANNA)
JUDGE

(ASHUTOSH KUMAR)
JUDGE

JANUARY 22nd, 2015
NA