

\$~10

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

Date of Decision: 12th July, 2016

+ **Criminal Appeal No.390/2016 & Crl. M.B. 829/2016**

BHARAT

..... Appellant

Through: Mr. Harsh Prabhakar & Mr. Anirudh
Tanwar, Advs. (DHCLSC)

versus

STATE

..... Respondent

Through: Mr. Varun Goswami, APP for State.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

GITA MITTAL, J (ORAL):

1. The appellant assails the judgment dated 25.08.2015 whereby he has been found guilty for commission of an offence under Section 302 IPC in the case arising out of FIR No.388/2012 registered at Police Station New Ashok Nagar as well as the order of sentencing dated 15.09.2015 whereby he was sentenced to life imprisonment and a fine of ₹ 25,000/-.
2. The case of the prosecution before the trial court related to an incident which occurred on 05.12.2012 in which the deceased Vinod Kumar was alleged to have been stabbed by the appellant Bharat, who was his co-brother-in-law, that is to say, that late Sh. Vinod Kumar and the appellant were married to two sisters.

3. The prosecution relied on circumstantial evidence to establish its case. The trial court held that the prosecution has established motive for the crime on the part of the appellant; and considered the dying declaration made by the deceased to his son, Praveen Kumar (PW-2) while he was placed inside the police PCR van (ROM-72, East Zone) after the occurrence and overheard by ASI Satyawar Singh (PW-5) which also forms part of the *Rukka*. The prosecution also placed reliance on an extra judicial confession made by the appellant to his friend Baljeet @ Ballan (PW-6) on 06.12.2012 which the prosecution also proved during the trial. After his arrest on 09.12.2012, the appellant made a disclosure statement (Ex. PW6/C) to the police. The prosecution led evidence that pursuant thereto, on 09.12.2012, the appellant led the police to the recovery of the blood stained jersey (Ex. P2) about 100 metres from the scene of occurrence as well as blood stained knife (Ex. P3) from the appellant's tenanted premises in Dallupura. To connect the recovery to the offence, the prosecution led evidence of the scientific examination by way of forensic reports (Ex. PA & PB) which had reported the existence of human blood on both the recovered articles.

4. The prosecution examined a total of 36 witnesses in support of its case. The trial court also recorded a detailed statement of the appellant under Section 313 of the Cr. PC. The appellant led no evidence in his defence.

5. After consideration of the entire material on record by the impugned judgment dated 25.08.2015, the appellant was found guilty of the commission of the offence under Section 302 and by the judgment dated 15.09.2015 was sentenced to life imprisonment and fine of ₹25,000/-.

6. By way of this appeal, the appellant has assailed the judgment of the trial court primarily on the ground that the evidence led by the prosecution was not worthy of any credence and deserves to be disbelieved.

7. To facilitate consideration, we propose to examine the evidence in the order of the circumstances which have been considered by the learned trial judge.

MOTIVE

8. So far as the motive for the offence is concerned, we find that the prosecution has examined (PW-13) Smt. Mamta, wife of the appellant who stepped into the witness box and unequivocally declared that the appellant had suspected her of having developed illicit relations with the deceased Vinod Kumar, who was the husband of her real sister. Mamta (PW-13), the wife of the appellant narrated about wayward ways of the appellant after her marriage in 1994. She stated that the appellant had abandoned her and the children sometime in 2008; used to beat her and the children for no plausible reason: left her to fend for herself making her work as a maid to run the household: returned in February, 2011 but only to indulge in further violent conduct. The testimony of this witness could not be shaken by the appellant in her cross-examination.

9. The testimony of this witness is supported by the evidence of (PW-7) Bhupender Kumar Bhardwaj, an advocate by profession, who disclosed that the deceased Vinod Kumar was his friend, who after 22.11.2011 had contacted him for consultation of the case regarding assault by the appellant on his wife in which the appellant had given a sharp injury on the left side of Mamta's face. PW-7 has adverted to the hospital examination and the preparation of MLC as well as further details leading to the registration of

FIR 436/2011 (Ex.PW 13/A) by the Police Station Kalyan Puri under Section 324 of the IPC as well as the animus of the appellant against the deceased Vinod Kumar. PW-7 refers to the threats of violence to the deceased at the instance of the appellant who was nursing a grievance and suspicion against him.

10. We also find that PW-7 has referred to a conversation which took place between the deceased and him on 04.12.2012, that is, one day before the date of the alleged incident in which the deceased had informed PW-7 that the appellant had been released from Jail and was extending threats to him. The evidence of PW-7 has vividly brought out that the appellant had been demonstrating his violent behavior all along, even at the time of his arrest in the case under Section 324 IPC. It further reveals that after his release from custody in the said case, the appellant had been extending threats to the deceased, apparently feeling aggrieved i.e. involvement in registration of the FIR at the instance of PW -13. PW-7 has also testified about meeting scheduled at about 8.00 a.m. on the fateful morning with regard to the threats which were received by Vinod from the appellant. PW-7 also disclosed that at about 8.30 a.m. when he made efforts to reach the deceased Vinod on his mobile (PW-2) Praveen, son of the deceased, informed him that the appellant had assaulted the deceased with a knife.

11. The witness (PW-7) has also stated that even he was criminally intimidated by the appellant and that he also apprehended danger to his own life. We find that the testimony of even this witness could not be shaken in the cross-examination.

12. The learned trial Judge has held that from the testimony of these two witnesses PW-13 and PW-7, the prosecution has unequivocally established

that the appellant was suspicious of the illicit relations between the deceased and his wife and was nursing his grudge against them for this reason. Violence at the hands of the appellant against his wife PW-13 and prior threats to the deceased stand proved on record. Pertinent to note that PW-13 has also testified that the appellant had developed some suspicion in his mind with regard to illicit relations between his wife (PW-13) on one hand and the deceased on the other. There is no reason before us as to why the evidence of PW-7 and PW-13 to above effect as corroborated by the FIR relating to the offence under Section 324 IPC concerning an incident that had occurred in November, 2011 should be disbelieved. The said evidence not only reflects the propensity of the appellant to indulge in violent behavior but also establishes as to why he had reasons to be inimically placed vis-à-vis the deceased. Nothing has been placed before us which would suggest that any other view with regard to the finding of motive on the part of the appellant could be reached by us.

DYING DECLARATION

13. We now come to the evidence of the dying declaration attributed to the deceased as having been made shortly after the incident.

14. Mr. Harsh Prabhakar, learned counsel for the appellant has carefully taken us through the record of the learned trial court which includes the record made by the police shortly after the incident.

15. The first document in this regard is the PCR form which is maintained by the police which records the details of a call actually made by the deceased Vinod Kumar himself at 7:51:27 hours (Ex. PW11/A) after he was attacked. This record notes that the caller had informed that he had been

stabbed with a knife in his stomach on the Vasundara Road near the Dharamshila Cancer Hospital.

16. It appears on receipt of information, the PCR van had proceeded to the spot at and sent a report to the control room at 8:26:28 a.m. The PCR form (Ex. PW11/A) notes that the deceased had suffered injury on the right side of his stomach below his ribs; that he was conscious and that the SHO was also on the spot. This document clearly states that Vinod's brother-in-law (*Saadu*) Bharat aged about 40 years, R/o Sector-9, Noida, had inflicted the knife wound on account of prior animosity. The document also refers the time at which the *Rukka* was dispatched from the hospital.

17. So far as the *Rukka* is concerned, Mr. Prabhakar has drawn our attention to Ex. PW-3/C, which document, in fact, also notes the fact that the deceased had made the complete disclosure of the above incident to his son Praveen Kumar in the presence of PCR officials.

18. The prosecution, in fact, has placed reliance on this statement, clearly a dying declaration, which was made by the deceased to his son Praveen Kumar (PW-2). Its genuineness is supported by the fact that it stands mentioned in the *Rukka* (Ex. PW3/C) as well, which is the first document in this regard.

19. As to the circumstances in which this declaration was made, it becomes necessary to advert the evidence of Praveen Kumar, son of the deceased, as PW-2 and ASI Satyawar Singh (PW-5), who was in the PCR Van. It is the testimony of (PW-2) Parveen Kumar that while on a morning walk, he had received information from a cyclist about a stabbing incident which had happened near the Dharamsheela Cancer Hospital, at the side of *nala*. He went to the side of the *nala* and found that the victim who was in

the PCR van by then, was Shri Vinod - his father who was in an injured condition. On inquiry from his father, as to what had transpired, his father had disclosed that he had been stabbed by PW-2's uncle (*Mausa*) i.e. the present appellant who should not be spared and should be punished. Praveen Kumar had stated that this conversation was heard by the PCR officials who had flashed the message on their wireless.

20. Though effort was made on behalf of the appellant during trial as well as Mr. Prabhakar, learned counsel, before us to challenge the presence of PW-2, that is the son of the deceased, at the spot, however, we are unable to disbelieve his testimony in as much as it finds contemporaneous corroboration in oral testimony of other witnesses as well as the documents proved on record including the *Rukka* which has been referred to above.

21. The evidence of Praveen Kumar (PW-2) is fully supported by the oral testimony of PW-5, ASI Satyawan Singh, who was the incharge of the PCR van which had reached the spot on receipt of the message from the police control room about the incident, and moved the then injured Vinod into the van to shift him to the hospital. This witness establishes the presence of Praveen Kumar (PW-2) at the spot and his conversation with his injured father who was in the van. PW-5 also established the statement made by Vinod to PW-5, with regard to the manner in which the deceased Vinod had received the stab injury at the instance of Bharat, the appellant before us.

22. Mr. Varun Goswami, learned APP would submit that PW-5 was a truthful witness, had no reason to wrongly implicate the appellant and must be believed. Mr. Goswami, places reliance on *AIR 2013 SC 3344 Pramod Kumar vs. State* in support before us. With regard to the testimony of the

police witness, we may usefully extract para 10 of this precedent which reads thus:-

“10. ...The witnesses from the department of police cannot per se be said to be untruthful or unreliable. It would depend upon the veracity, credibility and unimpeachability of their testimony. This Court, after referring to State of U.P. v. Anil Singh, State, Govt. of NCT of Delhi v. Sunil and another and Ramjee Rai and others v. State of Bihar, has laid down recently in Kashmiri Lal v. State of Haryana that there is no absolute command of law that the police officers cannot be cited as witnesses and their testimony should always be treated with suspicion. Ordinarily, the public at large show their disinclination to come forward to become witnesses. If the testimony of the police officer is found to be reliable and trustworthy, the court can definitely act upon the same. If, in the course of scrutinising the evidence, the court finds the evidence of the police officer as unreliable and untrustworthy, the court may disbelieve him but it should not do so solely on the presumption that a witness from the department of police should be viewed with distrust. This is also based on the principle that quality of the evidence weighs over the quantity of evidence.

11. Thus, the submission that the whole case should be thrown overboard because of non-examination of independent witness and reliance on the official witnesses cannot be accepted. ...”

23. In our view, the prosecution has proved the dying declaration made by the deceased to his son in the presence of police officials without any doubt. The dying declaration was made very shortly after the occurrence as there was no possibility of any concoction improvement therein. No reason has

been suggested as to why deceased would falsely implicate the appellant for commission of the offence or causing the injury to the deceased.

24. It is noteworthy that PW-2, the son of the deceased would be really interested in bringing the real culprit to book and would have no reason to falsely implicate the appellant who is also closely related to him.

25. The learned trial Judge has accepted the fact that the deceased had actually disclosed the circumstances in which he received the injury and its correctness. Vinod died shortly thereafter. The statement is admissible in evidence as a dying declaration under Section 32 of the Evidence Act. We see no reason to disagree with the learned trial judge.

26. In fact on acceptance of the correctness of the dying declaration, the guilt of the appellant stands established and nothing further actually remains to be examined. However, in as much as the learned counsel for the appellant has sought to challenge the other evidence led by the prosecution, we may briefly advert to the other challenge as well.

RECOVERY AND FORENSIC EXAMINATION

27. We now come to the challenge led by the appellant to the last piece of important evidence proved by the prosecution on record after his arrest on 09.12.2012. It is the case of the prosecution that the appellant made a disclosure statement (Ex. PW6/C) which was recorded by PW-36 Inspector Vijay Kumar. Pursuant to this disclosure statement, the appellant led the police to the recovery of a blood stained *jersey* (Ex. P2) from some bushes which were about 100 metres from the scene of occurrence. The appellant additionally led the police to the recovery of blood stained knife (Ex. P3) from the premises in Dallupura which had been tenanted by him. Mr.

Prabhakar, learned counsel for the appellant has contended at some length that it is the case of the prosecution that the police had extensively scanned the scene of the occurrence on 05.12.2012 when nothing was found. It is submitted that therefore, the *jersey* clearly was planted piece of evidence.

28. We may note that in the instant case the name of the accused was revealed on 05.12.2012 itself by the deceased himself in his dying declaration and became known to the police very shortly after the incident. Therefore, the police may not have extensively scrutinized or thoroughly searched the place where the offence had occurred or its surroundings.

29. The evidence on record discloses that the *jersey* was not found lying in the open but was found lying in some bushes which were about 100 metres from the scene of the occurrence. It is not possible to doubt the recovery of the *jersey* for the sole reason that it wasn't recovered on the day of the incident. We also find that the police subjected the recovered articles that is the knife and the *jersey* to forensic examination. The reports (Ex. PA & PB) from the Forensic Science Department have been proved on record wherein it is clearly opined that the human blood was found on both articles. It is well settled that it is neither necessary nor always possible for the prosecution to link the blood to the injury by grouping and it may be sufficient for the prosecution to establish the existence of human blood on the recovered articles.

30. The absolute proposition that recovery having been effected from an open place must be disbelieved stood rejected by the Supreme Court in the pronouncement reported at (1999) 4 SCC 370 *State of Himachal Pradesh v. Jeet Singh*. In this regards, it was held thus:

"26. There is nothing in Section 27 of the Evidence Act which renders the statement of the accused inadmissible if recovery of the articles was made from any place which is "open or accessible to others". It is a fallacious notion that when recovery of any incriminating article was made from a place which is open or accessible to others, it would vitiate the evidence under Section 27 of the Evidence Act. Any object can be concealed in places which are open or accessible to others. For example, if the article is buried on the main roadside or if it is concealed beneath dry leaves lying on public places or kept hidden in a public office, the article would remain out of the visibility of others in normal circumstances. Until such article is disinterred its hidden state would remain unhampered. The person who hid it alone knows where it is until he discloses that fact to any other person. Hence the crucial question is not whether the place was accessible to others or not but whether it was ordinarily visible to others. If it is not, then it is immaterial that the concealed place is accessible to others.

xxx

xxx

xxx

28. In the present case, the fact discovered by the police with the help of (1) the disclosure statements and (2) the recovery of incriminating articles on the strength of such statements is that it was the accused who concealed those articles at the hidden places. It is immaterial that such statement of the accused is inculpatory because Section 27 of the Evidence Act renders even such inculpatory statements given to a police officer admissible in evidence by employing the words: "Whether it amounts to confession or not".

(Emphasis by us)

31. In the present case, we are unable to disbelieve the recoveries of the incriminating articles attributed to the appellant.

32. Mr. Prabhakar has also assailed the judgment on the ground that the seizure memo of the clothing of the articles of the deceased prepared by the police does not refer to the fact that the said clothing had any knife cuts. It is contended that if the incident had occurred in the manner as was alleged by the police, the articles would have been having knife cuts.

33. The record placed before us would show that the clothes (including shirt, sweater and vest) of the deceased were removed by the medical officer who had examined the deceased, upon his being brought to the casualty of Lal Bahadur Shastri Hospital, Khichripur, Delhi. This fact is duly recorded in his MLC (Ex.PW-12/A). It is these clothes which were passed on by the duty constable Sanjeev (PW-26) to SI Jagdish Kumar (PW-3), the then Investigating Officer of the case, whereupon the said articles were taken into possession vide seizure memo (Ex.PW-3/A). Noticeably, the shirt of the deceased at the time of the seizure, passed on to the Investigating Officer, was contained in a parcel which had already been sealed by the hospital administration. In these circumstances, the absence of any mention about existence of cut marks on the seizure memo by the police is inconsequential.

Extra Judicial Confession

34. The matter did not end with the making of the dying declaration by the deceased. It appears that the appellant also became remorseful of his conduct as the prosecution has led evidence of extra judicial confession made by him to his friend Baljeet @ Ballan (PW-6) and regret shown by him to his sister. It is in the testimony of Sh. Baljeet @ Ballan (PW-6) that on 06.12.2012 at about 7.00 a.m. the appellant came to his *Jhuggi* and

requested Baljeet's mobile phone on the pretext that he wanted to call his sister urgently. The witness has testified that PW-6 was using mobile which was actually registered in the name of his younger brother, from which he permitted the appellant to make the phone call to his sister. In this conversation, the appellant sought forgiveness for the mistake that he had committed in murdering his co-brother-in-law. It is in the evidence of PW-6 that when he enquired from the appellant as to what had happened, whence the appellant unequivocally declared that he had murdered his co-brother-in-law Vinod by inflicting a knife injury. After making this declaration, the appellant is stated to have run away from the spot. This witness further claimed that the appellant had thereafter returned to his (*Baljeet's*) *Jhuggi* on 09.12.2012 at about 5 p.m. and requested him for some food. He made the appellant to sit in his *Jhuggi* and went out under the pretext that he was going to arrange some eatables from the market. Thereafter, PW-6 informed the police. The police reached there and the appellant was apprehended.

35. Mr. Harsh Prabhkar, learned counsel for the appellant, has assailed the veracity of the extra judicial confession contending that the prosecution had failed to secure easily available corroboration of this testimony by proving the full chain of call records to establish that a call was actually made by PW-6 to his sister. In our view, nothing turns on the call records in as much as PW-6 would have heard only one side of the conversation which would have been the appellant's utterances. In any case, the witness Baljeet @ Ballan clearly stated that independent of the call to his sister, the appellant had made a full confession to him as well. This witness has also withstood cross-examination. His testimony stands corroborated from the arrest of the appellant as well.

36. In support of the contention, that an extra judicial confession forms a valuable piece of corroborative evidence, Mr. Varun Goswami, learned APP has placed reliance on the pronouncement of the judgment of the Supreme Court reported in **(2012) 6 SCC 403 Sahadevan and Anr. Vs. State of Tamil Nadu**. In paras 15 and 16 of this pronouncement, the Supreme Court has authoritatively laid down the principles which apply to the weight it is to be attached to an extra judicial confession. We extract the same hereunder :

“...15. Now, we may examine some judgments of this Court dealing with this aspect.

15.1 In Balwinder Singh v. State of Punjab, [1995 Supp. (4) SCC 259], this Court stated the principle that :

“10. An extra-judicial confession, by its very nature is rather a weak type of evidence and requires appreciation with a great deal of care and caution. Where an extrajudicial confession is surrounded by suspicious circumstances, its credibility becomes doubtful and it loses its importance.

15.2 In Pakkirisamy v. State of T.N. [(1997) 8 SCC 158], the Court held that :

“8. It is well settled that it is a rule of caution where the court would generally look for an independent reliable corroboration before placing any reliance upon such extra-judicial confession.

15.3 Again in Kavita v. State of T.N.. [(1998) 6 SCC 108], the Court stated the dictum that

“..4. There is no doubt that conviction can be based on extrajudicial confession, but it is well settled that in the very nature of things, it is a weak piece of evidence. It is

to be proved just like any other fact and the value thereof depends upon veracity of the (witnesses) to whom it is made.

15.4 While explaining the dimensions of the principles governing the admissibility and evidentiary value of an extra-judicial confession, this Court in the case of **State of Rajasthan v. Raja Ram [(2003) 8 SCC 180]** stated the principle that :

“19. An extra-judicial confession, if voluntary and true and made in a fit state of mind, can be relied upon by the court. The confession will have to be proved like any other fact. The value of evidence as to confession, like any other evidence, depends upon the veracity of the witness to whom it has been made..”

The Court, further expressed the view that :

“19....such a confession can be relied upon and conviction can be founded thereon if the evidence about the confession comes from the mouth of witnesses who appear to be unbiased, not even remotely inimical to the accused and in respect of whom nothing is brought out which may tend to indicate that he may have a motive of attributing an untruthful statement to the accused...”

15.5. In the case of **Aloke Nath Dutta v. State of W.B. [(2007) 12 SCC 230]**, the Court, while holding the placing of reliance on extra-judicial confession by the lower courts in absence of other corroborating material, as unjustified, observed:

“87. Confession ordinarily is admissible in evidence. It is a relevant fact. It can be acted upon. Confession may under certain circumstances and subject to law laid down by the superior judiciary from time to time form the basis for conviction. It is, however, trite that for the said purpose the court has to satisfy itself in regard to: (i) voluntariness of the confession; (ii) truthfulness of the confession; and (iii) corroboration.

Xxx

xxx

xxx

xxx

xxxx

89. A detailed confession which would otherwise be within the special knowledge of the accused may itself be not sufficient to raise a presumption that confession is a truthful one. Main features of a confession are required to be verified. If it is not done, no conviction can be based only on the sole basis thereof.”

15.6 Accepting the admissibility of the extra-judicial confession, the Court in Sansar Chand v. State of Rajasthan [(2010) 10 SCC 604] held that :-

“29. There is no absolute rule that an extra-judicial confession can never be the basis of a conviction, although ordinarily an extra-judicial confession should be corroborated by some other material. [Vide *Thimma and Thimma Raju v. State of Mysore*, *Mulk Raj v. State of U.P.*, *Sivakumar v. State* (SCC paras 40 and 41 : AIR paras 41 & 42), *Shiva Karam Payaswami Tewari v. State of Maharashtra* and *Mohd. Azad v. State of W.B.*]

30. In the present case, the extra-judicial confession by Balwan has been referred to in the judgments of the learned Magistrate and the Special Judge, and it has been corroborated by the other material on record. We are satisfied that the confession was voluntary and was not the result of inducement, threat or promise as contemplated by Section 24 of the Evidence Act, 1872.”

15.7. Dealing with the situation of retraction from the extra-judicial confession made by an accused, the Court in the case of *Rameshbhai Chandubhai Rathod v. State of Gujarat [(2009) 5 SCC 740]*, held as under :

“53. It appears therefore, that the appellant has retracted his confession. When an extra-judicial confession is retracted by an accused, there is no

inflexible rule that the court must invariably accept the retraction. But at the same time it is unsafe for the court to rely on the retracted confession, unless, the court on a consideration of the entire evidence comes to a definite conclusion that the retracted confession is true.”

15.8 Extra-judicial confession must be established to be true and made voluntarily and in a fit state of mind. The words of the witnesses must be clear, unambiguous and should clearly convey that the accused is the perpetrator of the crime. The extra-judicial confession can be accepted and can be the basis of conviction, if it passes the test of credibility. The extra-judicial confession should inspire confidence and the court should find out whether there are other cogent circumstances on record to support it. [Ref. S.K. Yusuf v. State of W.B. [(2011) 11 SCC 754] and Pancho v. State of Haryana. [(2011) 10 SCC 165].

The Principles

16. ***Upon a proper analysis of the above-referred judgments of this Court, it will be appropriate to state the principles which would make an extra-judicial confession an admissible piece of evidence capable of forming the basis of conviction of an accused. These precepts would guide the judicial mind while dealing with the veracity of cases where the prosecution heavily relies upon an extra-judicial confession alleged to have been made by the accused.***

i) ***The extra-judicial confession is a weak evidence by itself. It has to be examined by the court with greater care and caution.***

ii) ***It should be made voluntarily and should be truthful.***

iii) ***It should inspire confidence.***

iv) An extra-judicial confession attains greater credibility and evidentiary value, if it is supported by a chain of cogent circumstances and is further corroborated by other prosecution evidence.

v) For an extra-judicial confession to be the basis of conviction, it should not suffer from any material discrepancies and inherent improbabilities.

vi) Such statement essentially has to be proved like any other fact and in accordance with law...”

(Emphasis by us)

37. Baljeet @ Ballan (PW-6) was a friend of the appellant. It is not urged that he was inimical to the appellant in any way. No suggestion to this effect has been pointed out. The appellant's visit to PW-6's *jhuggi* seems to be in normal course and natural. The appellant also appears to have made the extra judicial confession voluntarily and in a fit state of mind. The same is supported by the other evidence noted by the trial court and by us here, and does not suffer from any discrepancies or improbabilities. The utterances of the appellant to and before PW-6 have been duly proved in accordance with law.

38. The testimony of the witness in Court was unassailable at the instance of the appellant. We may also note that the witness PW-6 had also made a statement under Section 164 of the Cr. PC on 05.02.2013 (Ex. PW6/D) which was on the same lines as his deposition in court. In view of the above, the extra judicial confession attributed to the appellant clearly further implicates him and supports the other evidence led by the prosecution in support of this contention.

39. In view of the above, the appeal is dismissed.
40. Let the LCR be returned forthwith.
41. Copy of this judgment be sent to the convict through the Jail Superintendent.

(GITA MITTAL)
JUDGE

(R.K. GAUBA)
JUDGE

July 12, 2016
nk

