

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

Date of Decision: 12th July, 2016

+ **CRL.A. No.322/2014**

RANJEET @ BIHARI Petitioner

Through: Mr. Ajit Sharma, Advocate

versus

STATE Respondent

Through: Mr.Akshai Malik APP for the State.

CRL.A. No.720/2014

ROHIT @ MANGAL Petitioner

Through: Mr. Anwesh Madhukar, Advocate
(DHCLSC)

versus

STATE Respondent

Through: Mr.Akshai Malik APP for the State

CRL.A. No.1240/2014

NEERAJ PAL Petitioner

Through: Mr. Imran Khan, Advocate

versus

STATE Respondent

Through: Mr.Akshai Malik APP for the State.

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CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

J U D G M E N T

: SUNITA GUPTA, J.

1. Ranjit A1, Rohit A2 and Neeraj Pal A3 impugns the judgment dated 12th November, 2013 and the order on sentence dated 25th November, 2013 passed by the learned Additional Sessions Judge, Rohini Courts, Delhi in Sessions Case No. 56/13 arising out of FIR

No.107 of 2011, Police Station Begumpur u/s 392/397/411/482/34 IPC vide which A1 was convicted for offence u/s 392/397 of Indian Penal Code while A2 and A3 were convicted u/s 392/34 Indian Penal Code. They were acquitted of the charge under Section 471/34 IPC. A1 was sentenced to undergo rigorous imprisonment for a period of 10 years and a fine of Rs.2000/-, in default to undergo 15 days simple imprisonment whereas A2 and A3 were sentenced to undergo rigorous imprisonment for a period of 7 years and fine of Rs.2000/- in default to undergo simple imprisonment for a period of 15 days. Benefit of Section 428 Cr.P.C. was given to the convicts.

2. Prosecution case emanates from the fact that on 12th May, 2011, on receipt of information at Police Station Begumpur, vide DD No. 45B regarding robbery of yellow colour motorcycle make Apache bearing no. HR-13B 5996 at Pocket 21, Sector 24, Rohini, by three Pulsar motorcycle borne assailants on the point of pistol, SI Jitender Kumar (PW11) along with constable reached at the spot where they met the victim Himanshu (PW6) who gave his statement Ex.PW6/A regarding commission of robbery of motorcycle, gold chain, gold ring and gold kada on the point of pistol by three boys which resulted in registration of FIR Ex.PW1/A. Efforts were made to search the accused persons but in vain.

3. On 19th May, 2011, SI Satish Kumar (PW13) was entrusted with the investigation of the case FIR 113/11 u/s 395/397 IPC and Section 27 Arms Act, Police Station North Rohini. During the course of investigation, he arrested accused Ranjit @ Santosh @ Bihari, Rohit @ Mangal and Neeraj Pal vide arrest memos Ex.PW11/E1 to E3. The accused persons made disclosure statement Ex.PW11/F1 to PW11/F3 wherein they disclosed about their involvement in the present case. Accordingly, he informed Police Station Begumpur about the same. On receipt of this information, SI Jitender Kumar (PW11) got the production warrant issued of all the three accused persons on 3rd June, 2011 pursuant to which the accused persons were to be produced on 6th June, 2011, however, only accused Neeraj Pal was produced who was arrested vide arrest memo Ex.PW9/A. SI Jitender Singh collected the arrest memos and disclosure statements of accused persons and recovery memo of motorcycle having fake number plate of DL 8SB 2501 from SI Satish Kumar.

4. After the investigation was entrusted to SI Varun Dalal (PW15) on 7th June, 2011, accused Rohit @ Mangal was arrested vide arrest memo Ex.PW10/A. On 9th June, 2011, Test Identification Proceedings of accused Rohit @ Mangal was carried out by Sh. Sachin Gupta, Metropolitan Magistrate (PW5) who refused to join the proceedings as

per proceedings Ex.PW5/B. On 27th June, 2011, SI Varun Dalal along with complainant visited Rohini Jail where Test Identification Proceedings of accused Neeraj Pal was conducted by Sh. Deepak Wasan (PW3), MM, Rohini Courts, Delhi. This accused also refused to join proceedings vide proceedings Ex.PW3/A. On 4th April, 2011, accused Ranjit @ Bihari was arrested vide arrest memo Ex.PW8/A. His Test Identification Proceedings were conducted by Sh. Dharmender Singh (PW4), MM, Rohini Courts, Delhi and he also refused to join the proceedings vide Ex. PW4/B. On 18th July, 2011, the complainant identified all the three accused persons in the Court. After completing investigation, charge sheet was submitted against them.

5. Charges u/s 392/471/34 IPC were settled against all the three accused persons. Besides that, charge u/s 397 IPC was also settled against accused Ranjit. All the accused pleaded not guilty and claimed trial. In order to substantiate its case, prosecution examined as many as 15 witnesses. All the incriminating evidence was put to all the accused while recording their statement u/s 313 Cr.P.C. which was one of denial simplicitor. According to them, they were falsely implicated in this case. It was admitted that they refused to join TIP proceedings, albeit on the ground that their photographs were shown to the witnesses.

6. After scrutinizing the entire evidence and the material available on record, vide impugned judgment, the appellants were convicted and sentenced as mentioned hereinbefore.

7. Feeling aggrieved, separate appeals have been preferred by the convicts. Since all the three appeals are arising out of a common judgment, as such, they are taken up together.

8. Assailing the findings of the learned Additional Sessions Judge, Sh. Ajit Sharma, learned counsel for A1 submitted that entire prosecution case hinges upon the testimony of the complainant, PW6 who is a police official and, therefore, by relying upon *Tahir vs. State*, (1996) 3 SCC 338, it is submitted that the police official being interested in the result of the case, his evidence requires corroboration which is lacking in the instant case. Counsel further submits that in the initial statement, the complainant nowhere stated that his cash was also taken, however, there is an improvement in his testimony wherein he deposed that a sum of Rs.250-300/- was also taken by the accused. Furthermore, according to this witness, after recording his statement, he was taken to dossier cell of the police station, but does not state that he identified any of the accused. He is contradicted in this regard by the Investigating Officer of the case who has deposed that the complainant had identified one of the accused in the dossier cell. However, even he does not depose

as to whom he had identified. Furthermore, the taxi stand was nearby the place of incidence but no independent witness has been examined. The accused had refused to join TIP proceedings because they were shown to the witnesses. The complainant has admitted that he identified the accused persons when they were produced in the Court in un-muffled faces. Moreover, the weapon of offence has not been recovered, as such, the prosecution has failed to prove its case. It is further submitted that the accused has taken a plea of being juvenile on the date of commission of offence which was not decided by the Court. Moreover, the judgment has been passed in a mechanical manner and for raising the submission, reference is made to para 51 of the judgment where it is recorded that case of the prosecution stands proved from the identity of the accused, the manner in which the offence has been committed, place of commission of offence, the investigation including the documents prepared, *post mortem* report etc. It is submitted that present is not a case u/s 302 IPC and, therefore, there was no occasion for any *post mortem* report. Lastly, in the alternative, it is submitted that in case the appellant is held guilty of offence then a lenient view be taken.

9. Sh. Imran Khan and Sh. Anvesh Madhukar, Advocates representing accused Neeraj Pal and Rohit @ Mangal has raised substantially similar pleas. Besides that, it is submitted that although

recovery of motorcycle is alleged to have effected but it is not shown at whose instance it was recovered. Except for the identification of the accused by the complainant, there is no other incriminating evidence against the accused persons to connect them with the crime. Furthermore, while awarding sentence, the learned Trial Court has taken note of involvement of the accused persons in several cases, however, the accused have not been convicted in any of the cases. As such, a lenient view be taken.

10. Per contra, learned Additional Public Prosecutor for the State submitted that even if PW6 is a police official, he had no animosity against any of the accused to falsely implicate them in this case. He was posted at IGI police station and had gone to serve summons to an accused in Rohini where he was robbed by the accused persons. The contradiction referred to by the learned counsel for the accused are trivial in nature and in fact shows the truthfulness of his version. It was fairly conceded by the learned APP for the State that as per the recovery memo of the motorcycle it is not clear as on whose instance, the same was recovered but it is submitted that there is no reason to disbelieve the testimony of the complainant. Non-recovery of weapon of offence is not of any consequence. As per the version of the complainant, he was robbed on the point of pistol which is a deadly weapon. As such, he was

rightly convicted for offence u/s 397 IPC. No leniency is warranted as the accused are hardened criminals and involved in similar types of offences in several cases. As such, it is submitted that the appeals deserve to be dismissed.

11. I have given my considerable thoughts to respective submissions of learned counsel for the parties and have perused the record.

12. Star witness of prosecution is PW6 Himanshu who was working as a constable in Delhi Police. On 12th May, 2011, he was posted at Police Station IGI Airport in VB Section. On that day, he took summons in case FIR 664/2008 for Sector 24, Rohini which was to be served to an accused. When he reached sector 24 and was enquiring from a taxi stand about the address mentioned in the summons and reached near the corner of the road for going to the said address at about 12:00 or 1:00 PM as he took U turn, a motorcycle came from behind and three persons were sitting on it. One of those patted on his back from behind and asked him to stop his motorcycle bearing No. HR13E 5669 of yellow colour make TVS Apachi. He stopped the motorcycle. The boy sitting on the last of the motorcycle got down and asked him to give the key of the motorcycle to him and the boy sitting in the middle came and stood in front of his motorcycle and took out a country made pistol and pointed out towards him. They asked him to hand over his gold chain, ring and

kada. They also asked about the cash but could not take the same as they were in a hurry and within seconds the entire incident took place. They took the key of the motorcycle and went away with his belongings and motorcycle. The person who took the key went on his motorcycle while the two others went on their motorcycle. He identified accused Mangal who was driving the motorcycle. The accused Neeraj and Ranjit were sitting as pillion rider. Accused Neeraj took the key of motorcycle while accused Ranjit pointed out pistol at him. He got scared due to sudden attack and, therefore, handed over his gold chain, kada, ring and cash amount of Rs.250-300/- which were taken by accused Neeraj and he ran away on his motorcycle while accused Ranjit and Mangal went on their pulsar motorcycle. He called the police at 100 number. Initially PCR officials reached the spot, thereafter SHO, ACP, DCP came. The Investigating Officer of the case got his statement Ex.PW6/A recorded. Site plan Ex.PW11/C was prepared at his instance. On 18th July, 2011, he came at Rohini Court for taking his motorcycle on superdari and at that point of time, he identified all the three accused who were being produced before the Duty Magistrate.

13. Although, it is true, that the prosecution case rests on the solitary testimony of PW6, however, the Court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal

impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Evidence Act, 1872. But if there are doubts about the testimony, the courts will insist on corroboration. In fact, it is not the number, the quantity, but the quality that is material. The time-honoured principle is that evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise.

14. In *Namdeo vs. State of Maharashtra*, (2007) 14 SCC 150, Hon'ble Apex Court re-iterated the view observing that it is the quality and not the quantity of evidence which is necessary for proving or disproving a fact. The legal system has laid emphasis on value, weight and quality of evidence rather than on quantity, multiplicity or plurality of witnesses. It is, therefore, open to a competent court to fully and completely rely on a solitary witness and record conviction. Conversely, it may acquit the accused in spite of testimony of several witnesses if it is not satisfied about the quality of evidence.

15. In *Kunju @ Balachandran vs. State of Tamil Nadu*, AIR 2008 SC 1381, a similar view has been taken placing reliance on various earlier judgments including *Jagdish Prasad vs. State of M.P.*, AIR 1994 SC 1251; and *Vadivelu Thevar vs. State of Madras*, AIR 1957 SC 614.

16. Reverting to the case in hand, PW6 has been extensively cross-examined wherein he has explained that there were not many public persons at the place of incident and only 2-4 passerby were coming and going. According to him, he was wearing helmet at that time. The pistol was pointed out towards him from a distance of 2-3 meters. He has also deposed that he was asked to appear for the purpose of TIP proceedings of accused but the accused has refused to join the same, however, he identified them in the Court while they were produced in un-muffled face. Immediately after the incident, he had informed the police and had given the minute details of the incident and the description regarding age, height and clothes which accused were wearing at the time of incident. Thereafter, he also identified them on 18th July, 2011 when they were produced in the Court. Thereafter in the Court also he minutely explained the role played by each and every accused while committing robbery and duly identified them. The mere fact that he is a police official is not sufficient to discard his testimony. Even in *Tahir* (supra), the plea taken by the accused that the conviction was recorded on the testimony of the police officials and in the absence of any independent corroboration, it was not safe to rely upon their said testimony, was repelled. It was held that no infirmity attaches to the testimony of police officials, merely because they belong to the police

force and there is no rule of law or evidence which lays down that conviction cannot be recorded on the evidence of the police officials, if found reliable, unless corroborated by some independent evidence. The rule of prudence, however, only requires a more careful scrutiny of their evidence, since they can be said to be interested in the result of the case projected by them. Where the evidence of the police officials, after careful scrutiny, inspires confidence and is found to be trustworthy and reliable, it can form basis of conviction and the absence of some independent witness of the locality to lend corroboration to their evidence, does not in any way affect the credit worthiness of the prosecution case. A critical analysis of the evidence of PW6 has created an impression that he is trustworthy witness and his evidence suffers from no infirmity whatsoever. Nothing has been brought out in his lengthy cross-examination which may create any doubt about his veracity. The testimony of the witness is cogent, consistent and reliable. No animosity, ill will or grudge has been alleged against him for which reason he would falsely implicate the accused persons. The complainant did not even know any of the accused from before as he was at the relevant time posted at Police Station IGI Airport while the incident took place at Rohini. Slight discrepancy has appeared in his testimony as to whether he was robbed of cash or not as in his initial complaint he has

stated that no cash was taken, however, in his testimony before the Court, he stated that he was also robbed of Rs.250-300/-. However, this discrepancy is very trivial in nature and does not go to the substratum of the case.

17. So far as the discrepancy regarding identification of any of the accused in the dossier cell by the complainant is concerned, his testimony is confined to the fact that he was taken to dossier cell but there is no specific deposition that he identified any of the accused. Even the Investigating Officer does not state that any particular accused was pointed out by the complainant. After the arrest of all the accused persons, their test identification parades were conducted wherein they refused to join TIP proceedings. Counsel for the appellant submits that no adverse inference is liable to be drawn for their refusal to join the proceedings because the complainant had identified them in the Court when they were produced in un-muffled face. This submission is devoid of any merit as accused Neeraj refused to join the proceedings on 27th June, 2011, Rohit on 9th June, 2011 and Ranjit on 5th July, 2011. The complainant identified these accused in the Court only on 18th July, 2011. In their statement u/s 313 Cr.P.C., it was alleged that their photographs were shown to the witnesses, however, it is pertinent to note that no such suggestion was given to the complainant or to the

Investigating Officer of the case. Under the circumstances, an adverse inference is liable to be drawn against the accused persons that had they join the test identification proceedings, they would have been identified by the complainant.

18. There is no substance in the submission of learned counsel for the appellant that despite the fact that there was a taxi stand, no independent witness has been joined, it has come in the statement of complainant that 2-4 passerby were coming and going. The incident has not taken place at taxi stand. Moreover, it is common experience that public persons are generally reluctant to join police proceedings. There is general apathy and indifference on the part of public to join such proceedings. It cannot be ignored that public does not want to get dragged in police and criminal cases and wants to avoid them because of long drawn trials and unnecessary harassment. [vide *Aslam & Ors. vs. State*, 2010 III AD (Delhi) 133, *Manish vs. State*, 2000 VIII AD SC 29; *A. Bhai vs. State*, AIR 1989 SC 296; *Ramjee Rai & Ors. vs. State of Bihar*, (2006) 13 SCC 229; *Ram Swaroop vs. State (Govt. of NCT) of Delhi*, 2013 (7) Scale 407; *Krishna Mochi vs. State of Bihar*, 2002 6 SCC 81; *Sunil Clifford Daniel vs. State of Punjab*, (2012) 11 SCC 205].

19. On the basis of entire material available on record, learned Trial Court rightly came to the conclusion that the complainant was robbed of his motorcycle, gold ring, chain and kada by the accused persons.

20. Counsel for accused-Ranjit submitted that the weapon of offence, i.e., pistol was not recovered and, therefore, offence under Section 397 IPC is not made out. In the absence of recovery of weapon of offence, it cannot be said that it was used in the commission of offence.

21. In *Ashfaq vs. State (Govt. of NCT of Delhi)*, (2004) 3 SCC 116, it was urged that unless the deadly weapon has been actually used to inflict any injury in the commission of the offence, the essential ingredients to attract the said provision could not have been held to have been proved and substantiated. Repelling the contention it was observed by Hon'ble Supreme Court as under:-

"We are of the view that the said claim on behalf of the appellants proceeds upon a too narrow construction of the provision and meaning of the words "Uses" found in Section 397 IPC. As a matter of fact, this Court had an occasion to deal with the question in the decision reported in AIR 1975 SC 905 (Phool Kumar V. Delhi Administration) and it was observed as follows :

"Section 398 uses the expression "armed with any deadly weapon" and the minimum punishment provided therein is also 7 years if at the time of attempting to commit robbery the offender is armed with any deadly weapon. this has created an anomaly. It is unreasonable to think that if the offender who merely attempted to commit robbery but did not succeed in committing it attracts the minimum punishment of 7 years under Section 398, if he is merely armed with any deadly weapon, while an offender so armed will not incur the liability to the minimum punishment under section 397 if he succeeded in committing the robbery. But then, what was the purport behind the use of the different words by the Legislature in the two sections, viz. "Uses" in Section 397 and "is armed" in Section 398. In our judgment the anomaly is resolved if the two terms are given the identical

meaning. There seems to be a reasonable explanation for the use of the two different expressions in the sections. When the offence of robbery is committed by an offender being armed with a deadly weapon which was within the vision of the victim so as to be capable of creating a terror in his mind, the offender must be deemed to have used that deadly weapon in the commission of the robbery. On the other hand, if an offender was armed with a deadly weapon at the time of attempting to commit a robbery, then the weapon was not put to any fruitful use because it would have been of use only when the offender succeeded in committing the robbery."

Thus, what is essential to satisfy the word "Uses" for the purposes of Section 397 IPC is the robbery being committed by an offender who was armed with a deadly weapon which was within the vision of the victim so as to be capable of creating a terror in the mind of victim and not that it should be further shown to have been actually used for cutting, stabbing, shooting, as the case may be."

22. In ***Sanjay Shankar Swami @ Sanjay Kumar vs. State(NCT) of Delhi***, 2013 V AD (Delhi) 413, substantially similar plea was taken that since no recovery of any weapon of offence has been made from the appellant, Section 397 IPC is not attracted. Repelling the contention, it was observed by a Single Judge of this court that from the testimony of PW-5 it was amply clear that one of the appellants showed him the katta while another showed him a knife. Thus there was use of weapons. Conviction u/s 397 IPC is not based on consequential recovery but on the user. If the Court is satisfied that a deadly weapon is used then Section 397 IPC is clearly attracted. Similar plea was taken in ***Kashi Ram and Ors. vs. State***, 2014 V AD (Delhi) 171 that in the absence of recovery of weapon of offence it cannot be known whether the knife alleged to have been used was a deadly weapon or not and, therefore, Section 397 IPC could not have been applied for his conviction. The Court followed the

view taken in earlier decision rendered in ***Ikram Ansari vs. State (NCT of Delhi)*** in Crl.A.No.181/13 and other connected appeals where it was observed as under:-

*"In **Shri Phool Kumar Vs. Delhi Administration**, AIR 1975 SC 905, the appellant before the Apex Court, namely, Phool Kumar was armed with a knife at the time of commission of the robbery. He was convicted with the aid of Section 397 of IPC. It was submitted on behalf of the appellant that sentencing him to undergo RI for seven years under Section 397 of the Penal Code was illegal and he ought to have been convicted under Section 397 simplicitor. The precise evidence against the appellant was "Phool Kumar had a knife in his hand". Rejecting the contention, the Apex Court held that he was carrying a deadly weapon to the view of the victim which was sufficient to frighten or terrorize them and any other overt act, such as, brandishing of the knife or causing of grievous hurt with it was not necessary to bring the offender within the ambit of Section 397 of the Penal Code. The Apex Court in this regard also referred to Section 398 of IPC which prescribes a minimum sentence of seven years in case the offender at the time of attempting to commit robbery is armed with any deadly weapon and held as under:-*

"6. Section 398 uses the expression "armed with any deadly weapon" and the minimum punishment provided therein is also 7 years if at the time of attempting to commit robbery the offender is armed with any deadly weapon. This has created an anomaly. It is unreasonable to think that if the offender who merely attempted to commit robbery but did not succeed in committing it attracts the minimum punishment of 7 years under Section 398 if he is merely armed with any deadly weapon, while an offender so armed will not incur the liability of the minimum punishment under Section 397 if he succeeded in committing the robbery. But then, what was the purport behind the use of the different words by the Legislature in the two sections, viz., "uses" in Section 397 and "is armed" in Section 398. In our judgment the anomaly is resolved if the two terms are given the identical meaning. There seems to be a reasonable explanation for the use of the two different expressions in the sections. When the offence of robbery is committed by an offender being armed with a deadly weapon which was within the vision of the victim so as to be capable of creating a terror in his mind, the offender must be deemed to have used that deadly weapon in the commission of the robbery. On the other hand if an offender was armed with a deadly weapon at the time of attempting to commit a robbery, then the weapon was not put to a fruitful use because it would have been of use only when the offender succeeded in committing the robbery."

38. Carrying a deadly weapon in a manner that it is seen by the victim clearly is aimed at intimidating the victim to part with the property under a fear that if he does not part with the property, the weapon being carried by the offender can be used against him. There is nothing in the judgment to indicate that the size of the knife which the appellant Phool Kumar carried with him at the time of commission of the offence was indicated by the witnesses or that the said knife was recovered by the police during the course of investigation. Despite that, the Apex Court upheld his conviction with the aid of Section 397 of IPC.”

23. Needless to say, pistol is a deadly weapon and it has come in the testimony of the complainant that on the point of pistol by accused Ranjit, he was robbed of his motorcycle and the other gold items. There was thus user of deadly weapon at the time of commission of robbery. Non-recovery of the pistol is of no consequence. As such, this accused was also rightly convicted for offence u/s 392 r/w Section 397 IPC.

24. As regards the submission of learned counsel for the appellant that a plea of juvenile was taken by this accused which was not decided by the Court is bereft of merits as record reveals that after such a plea was taken, several witnesses were examined by the learned Additional Sessions Judge. By detailed order dated 12th April, 2013, the accused was held to be mature, i.e., above 20 years of age at the time of commission of offence on 12th May, 2011. The said order was never challenged by the accused.

25. The plea that the order is mechanical one as reflected in para 51 of the judgment where there is reference to post-mortem report which is not so in the instant case, although such a discrepancy has appeared but the

perusal of entire judgment goes to show that it has dealt with all the material available on record including the evidence, as such, there is no force in the submission of learned counsel for the accused that the judgment was passed in a mechanical manner. In fact such an error has also crept in the appeal filed by appellant Neeraj Pal wherein the Section under which FIR was registered is mentioned as “u/s 363/376/302/201 IPC”. The impugned judgment is based on correct appreciation of entire evidence and material available on record and, therefore, does not call for any interference.

26. Coming to quantum of sentence, a perusal of the impugned order goes to show that the learned Additional Sessions Judge has extensively dealt with the antecedents of the appellants for arriving at a conclusion that no leniency is warranted as accused Ranjit @ Bihari is involved in as many as 20 other cases. Rohit @ Mangal is involved in 11 other cases whereas Neeraj Pal is involved in 15 other cases details of which are given in the order of sentence. A perusal of the involvement of all the three appellants goes to show that they are involved in similar offences whereas accused Ranjit is also involved in a murder case of Police Station Saraswati Vihar. Furthermore, perusal of the nominal roll goes to show that their overall conduct has also been reported to be very unsatisfactory by the Superintendent Jail. Moreover, the proceedings

before the Trial Court reflects that accused Neeraj escaped from the custody and, therefore, his non-bailable warrants were issued which remained unexecuted, thereafter proceedings were initiated for declaring him proclaimed offender. In the meantime, he was arrested in another case FIR No. 309/13 u/s 186/353/307/34 IPC and 25/27 Arms Act, Police Station Alipur. As such, additional charge u/s 174A IPC was settled against him. Proceedings also reflect that accused Ranjit was a high risk prisoner as he was involved in serious offences like dacoity, burglary, extortion etc. On 27th September, 2013, he even refused to appear before the Court and threatened that he will smash his head against the wall in case he is compelled to come to the Court. A detailed report was submitted by the lock up in-charge to this effect.

27. Keeping in view the overall conduct of the accused persons coupled with their involvements in several cases, no leniency is warranted even regarding quantum of sentence.

28. Accordingly, the appeals are dismissed. Appellants be informed through Superintendent Jail.

Trial Court record be sent back.

(SUNITA GUPTA)
JUDGE

JULY 12, 2016/rs