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HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment Reserved on: 21/12/2016

Judgment Delivered on : 30/01/2017

Criminal Appeal No. 308 of 2003

Smt. Kalpana Pandey, aged about 36 years, Wife of Sunil Pandey,
Resident of C/o Sri V.P.Shukla, 55/1, Maitri Vihar, Supela, Bhilai,
District Durg, Chhattisgarh.

---- Appellant

Versus

The State of Chhattisgarh.

---- Respondent

Acquittal Appeal No. 227 of 2010

State of Chhattisgarh, Through Station House Officer, PS City
Kotwali, District Raigarh.

---- Appellant

Versus

Anil Kumar Pandey S/o Bhagwat Prasad Pandey, Aged about 46
years, Occupation Cashier, State Bank of India, R/o Kotra Road,
Near Gagas Garrage, District Raigarh.

---- Respondent

For Appellant	:	Shri P.K.C.Tiwari, Senior Advocate with Shri Shashi Bhushan, Shri B.P.Gupta, Shri M.D.Dhote, Advocates.
For Respondent/State	:	Ms. Madhunisha Singh, Panel Lawyer.
For Respondent-Anil Kumar Pandey	:	Shri Rajendra Tripathi and Shri B.D.Guru, Advocates.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

C.A.V. Judgment**Per Deepak Gupta, Chief Justice**

1. These two appeals are being disposed of by a common judgment since they both arise out of one FIR and one judgment passed by the learned trial Court.

2. Vide impugned judgment dated 03.03.2003, passed by learned 4th Additional Sessions Judge (FTC) Raigarh, in Sessions Trial No. 107 of 1995, the learned trial Court convicted Smt. Kalpana Pandey, Appellant in Criminal Appeal No. 308 of 2003, under Section 302 IPC for having committed murder of her husband-Sunil Pandey and also under Section 201 read with Section 34 IPC. She was sentenced to undergo life imprisonment for the offence punishable under Section 302 IPC and to pay fine of Rs. 500/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. For the offence under Section 201 read with Section 34 IPC, she was sentenced to rigorous imprisonment for three years and to pay fine of Rs. 500/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. By the same impugned judgment, the learned trial Court acquitted the other accused-Anil Kumar Pandey, brother of deceased Sunil Pandey.
3. The undisputed facts are that the Appellant-Smt. Kalpana Pandey was married to Sunil Pandey. Anil Kumar Pandey is the brother of Sunil Pandey. They were first residing in one house together, but after sometime, deceased Sunil Pandey and his wife Smt. Kalpana Pandey shifted to another rental house in the same locality in Raigarh. It is not disputed that Appellant-Kalpana Pandey was married to deceased Sunil Pandey on 01.05.1992. Appellant-Kalpana Pandey was working as Assistant Professor in Raigarh College. Deceased-Sunil Pandey was an alcoholic and according to the prosecution, this was the reason why the relations between the husband and wife were strained.
4. On 20.01.1994, Anil Kumar Pandey lodged a report in the City Police Station Raigarh that his brother Sunil Pandey is missing from 17.01.1994. It was alleged that some person on a motor-cycle had come to call Sunil Pandey and thereafter Sunil Pandey left with that person saying that he

would return within a few minutes. He however did not return. A search was made for him in the locality and at the house of relatives, but to no avail. On 31.01.1994, a telephonic information was received in the police station at 10:25 am that one dead body is lying in a culvert (*nala*) near Kosabadi Gharghoda road. Then M.S.Thakur (PW-13), Sub Inspector of Police, alongwith other staff went to the spot. They suspected that this body may be of Sunil Pandey and therefore his brother Anil Kumar Pandey was called, who identified the body to be of his brother Sunil Pandey. Since the body was decomposed, postmortem on the body was conducted at the spot itself by Dr. R.K.Masta (PW-29). One blood stained knife, some blood stained earth were recovered at the spot.

5. Thereafter, the house of Anil Kumar Pandey was searched. Some sexually explicit books were recovered from the house of Anil Kumar Pandey. On 31.01.1994 itself, the house of deceased Sunil Pandey was sealed. Search of this house was conducted on 13.02.1994 and on the search, blood stains were found on the walls, clothes, knife and refrigerator. Further, according to the prosecution, inside the refrigerator, a cup was recovered which contained some liquid which smelt of rotting human flesh. This was preserved. Some books on sex were also recovered. When the refrigerator was opened, there was smell of rotting human flesh. There were also blood stains and the refrigerator was seized. On forensic analysis, the liquid found inside the cup in the refrigerator was found to be of human origin. The prosecution story also is that from 18.01.1994 till they were arrested, both accused Smt. Kalpana Pandey and Anil Kumar Pandey had remained on leave and on these grounds, both the accused were charged for having committed murder of deceased Sunil Pandey.

6. Admittedly, none has seen the murder. The case is based on circumstantial evidence and the prosecution relies upon four circumstances. The first and most important circumstance relied upon by the prosecution is the recovery of fluid of human origin from the refrigerator in the house of deceased Sunil Pandey and Appellant-Smt. Kalpana Pandey. The second circumstance is recovery of blood stained clothes, blood stained knife and the fact that there was blood on the walls, which according to the prosecution, is sufficient to convict the accused. Thirdly, relying upon the statement of Belmato Bai (PW-28) it is submitted that accused Smt. Kalpana Pandey and deceased Sunil Pandey were last seen together. Reliance was also placed on the FSL report of Dr. M.K.Verma, Assistant Chemical Examiner (PW-25) and Serologist report of Dr. V.K.Sharma (PW-32) with regard to the fluid being of human origin and blood being found. The last circumstance relied upon by the prosecution was the conduct of accused Smt. Kalpana Pandey, inasmuch as she has not attended the work from 20.01.1994 till she was arrested on 13.02.1995. The learned Trial Court convicted Appellant-Smt. Kalpana Pandey mainly on the ground that the human fluid has been recovered from the refrigerator in her house. The learned trial Court also relied upon the recovery of blood stained clothes, knife, tiles etc. However, the learned trial Court acquitted the other accused- Anil Kumar Pandey.
7. Appellant Smt. Kalpana Pandey has filed Criminal Appeal No. 308 of 2003 challenging her conviction and the State has filed Acquittal Appeal No. 227 of 2010 challenging the acquittal of accused-Anil Kumar Pandey.
8. We have heard Shri P.K.C.Tiwari, learned Senior Counsel for the Appellant, Ms. Madhunisha Singh, learned Panel Lawyer for the State and Shri Rajendra Tripathi, learned counsel for the acquitted accused-Anil Kumar Pandey.

9. On behalf of the Appellant-Smt. Kalpana Pandey, the following points are urged:

- (i) That the prosecution has failed to prove that death of deceased Sunil Pandey was homicidal in nature.
- (ii) That, no reliance can be placed on the recovery of fluid in a cup in the refrigerator, blood stains inside and outside the house and the other such incriminating materials because of the fact that the prosecution has failed to prove why this material was not recovered on 31.01.1994 when the house of the deceased was sealed.
- (iii) That the house was in possession of the police right from 31.01.1994 and it has been proved that number of police officials entered the house between 31.01.1994 to 13.02.1994.
- (iv) That, the last and main ground is that all these incriminating materials appear to have been planted by the police and was not there when the house was sealed.

10. On the other hand, Ms. Madhunisha Singh, learned Panel Lawyer supports the judgment of the learned trial Court and relies on the circumstances on which the prosecution case is based. In the acquittal appeal, she submits that Anil Kumar Pandey had identified the body to be that of his brother-Sunil Pandey but denied this fact during trial. It is also submitted that one Saree, Pajama, books etc. were recovered at the instance of Anil Kumar Pandey from his house. Lastly, it is submitted that Anil Kumar Pandey who was working in a bank, remained on leave virtually from 17.01.1994 and therefore, his conduct is suspicious.

11. Before dealing with the merits of the case, at the outset, it may be stated that there is no allegation, let alone proof that there was any illicit relationship between Appellant-Smt. Kalpana Pandey and her brother-in-

law Anil Kumar Pandey. It is also established that they were living in separate residences, Appellant-Smt. Kalpana Pandey with her husband in one house and Anil Kumar Pandey, with his wife in another house. It would also be pertinent to mention that they are all educated persons. Appellant-Smt. Kalpana Pandey was an Assistant Professor in a College. Accused-Anil Kumar Pandey was working in a Bank and the deceased Suil Pandey was working in the Insurance Company. Some argument has been raised before us that the deceased was missing from 15.01.1994 and not from 17.01.1994. It is urged on behalf of the State that the date 17.01.1994 was given to mislead the police. In our opinion, it would be immaterial whether the deceased was missing from 15.01.1994 or 17.01.1994 for the reason that the dead body of the deceased was recovered on 31.01.1994 and the postmortem was conducted on 01.02.1994 and it was stated that the death had occurred 5-7 days before. This means that the death occurred between 24th and 26th January, 1994. One must note that on 20.01.1994 itself Anil Kumar Pandey had lodged a report that his brother Suil Pandey was missing. This was done well before Sunil Pandey died. It is also not disputed before us that right from the day when Sunil Pandey went missing, his wife Smt. Kalpana Pandey was living in the house of her brother-in-law, Anil Kumar Pandey and his wife.

- 12.** As far as the first argument of Shri P.K.C.Tiwari, learned Senior Counsel that the death was not homicidal is concerned, we are not in agreement with the same. The postmortem report (Exhibit P-16A) has been proved by Dr. R.K.Masta (PW-29). The cause of death is shown to be cardiogenic shock resulting as a blow in the heart caused by a stab wound found in the fourth inter costal cartilage. According to the Doctor, this injury was antemortem and death had occurred 5-7 days before. When cross-

examined, Dr. R.K.Masta (PW-29) stated that since the blood was clotted all around the injury and could not be removed, he had come to the conclusion that it was an antemortem injury. The main ground raised by Shri P.K.C.Tiwari is that in the postmortem report, though it is mentioned that the injury was antemortem but the reason for mentioning the same to be antemortem has not been recorded. It is also urged that there is no mention of blood having clotted in the postmortem report. A postmortem report is not supposed to be an encyclopedia. The Doctor is supposed to give all relevant facts and thereafter give his finding. The Doctor is an independent witness and we see no reason to disbelieve his statement. Therefore, we are of the opinion that the prosecution has proved that Sunil Pandey was murdered by inflicting a stab injury in his heart.

- 13.** The law with regard to circumstantial evidence is well settled. In a case where the prosecution relies upon the circumstantial evidence, it must not only prove the circumstances but should link them in such a fashion so as to form an unending chain leading to only one conclusion i.e. the guilt of the accused. But if there is any chance of the accused being innocent or the crime having been committed by some other person, then the accused cannot be convicted on the basis of such circumstantial evidence.
- 14.** The main question which arises is whether we can rely upon the circumstantial evidence. If the prosecution can satisfy us that the fluid of human origin was recovered from the refrigerator lying in the house of Appellant-Smt. Kalpana Pandey and the deceased Sunil Pandey, the finding of the learned trial Court will have to be upheld.
- 15.** While dealing with this circumstance, it would be pertinent to mention that M.S.Thakur, Assistant Sub Inspector of Police (PW-13) who went to the place where the dead body was found, in para 20 of his statement has

clearly admitted that the house of deceased Sunil Pandey was sealed on 31.01.1994 itself. Similarly, Mukesh Khare, Inspector (PW-35) in para 7 of his statement has also admitted that the house in which deceased Sunil Pandey used to reside and from which house, the refrigerator etc. were seized, was in the possession of the police from 31.01.1994 to 13.10.1994. No explanation worth name has been given by the Investigating Officer-Mukesh Khare (PW-35) why search of the house was not conducted prior to 13.02.1994. It is also important to note that Mukesh Khare (PW-35) in his statement has admitted that after possession of the house of the deceased was taken over by the police on 31.01.1994, the possession and key to the house was with the police. He states that he does not remember in whose control and possession the key of the house was kept. He does not remember whether key to the house was with the guard or kept in the *Malkhana*. He further states that whenever he went to the house of the deceased alongwith his staff, he took the key with him. The witness in paragraph 21 of his statement has clearly stated that there should be entry in the *Malkhana* register with regard to the key of the house of the deceased being deposited in the *Malkhana*. No such register has been produced in the Court. There is no evidence to show that the key of the house of the deceased, which was sealed by the police, was ever deposited in the *Malkhana*.

- 16.** The house of the deceased was sealed on 31.01.1994. M.S.Thakur (PW-13) in his statement has deposed that he had sealed the house because he suspected that murder may have been committed inside the house and weapon of murder may be recovered from the house. If this was the reason for sealing the house, then he should have, in a case of murder, searched the house on 31.01.1994 itself. This was not done and the explanation given by him is that he was incharge of the investigation

only till 11:00 pm on 01.02.1994 and the Superintendent of Police directed him not to search the sealed house as that would be searched later. He admits that he has not mentioned this fact in the case diary. Therefore, there is no explanation why the house of the deceased was not searched on the day when it was sealed.

17.As far as the second Investigating Officer, Mukesh Khare (PW-35) is concerned, he has given no explanation why he waited till 13.02.1994 to carry out search of the house. We are dealing with a case of murder. The house of the deceased had been sealed. It would only be sealed if the police suspected that something would be recovered from that house. There is no explanation worth name why the police waited to carry out the search.

18.Mukesh Khare (PW-35) states that search was carried out on 13.02.1994. He states that at 3:00 pm, he went to the house of the deceased and at that time, he found blood stains on the floor. Blood stains were removed alongwith cement. The blood stained earth was also recovered. One knife was recovered, the handle of which appeared to be blood stained. One blood stained old white saree was also recovered. According to him on the floor, alongwith blood, they found human hair also. He further states that inside the refrigerator they found a cup containing some fluid which was smelling of human flesh. There were insects in the cup. Thereafter, all these items alongwith other articles were recovered.

19.In cross-examination, this witness has admitted that he had visited the house of the deceased prior to 13.02.1994 and this was not his first visit to the house. He however states that he did not remember the dates on which he had gone to the house of the deceased. In paragraph 9 of the statement of this witness, he stated that on 11.02.1994, he alongwith other police officials had gone to the house of the deceased and had

prepared a property seizure memo (Exhibit P-21). He also states that Exhibit P-23, Panchnama was also prepared on 11.02.1994. Then he stated that he had not gone to the house prior to 11.02.1994. He stated that there is another entry of 03.02.1994 regarding entry to the house but he further states that prior to 11.02.1994 he had not gone to the house. From the evidence of this witness, it is apparent that the police officials had entered the house of the deceased on 03.02.1994 and 11.02.1994. Exhibit P-21 is a property seizure memo witnessed by Yogesh Kumar (PW-23) and Pradeep Situ (PW-17). It clearly mentions that the property has been seized from inside the house of the deceased. In the seizure memo, it is stated that inside the house of the deceased, flooring had blood stains and the flooring was dug out. In the Panchnama (Exhibit P-23) it is mentioned that there were blood stains in the house of the deceased and it is also mentioned that ants were going towards the refrigerator and on opening of the refrigerator, foul smell of rotting human flesh was coming. If the police could see all this on 11.02.1994, then we see no reason why the recoveries were not made on 11.02.1994 itself and why they were made on 13.02.1994.

20. Another important aspect of the matter is that in none of the documents relating to recovery, it is not mentioned whether the articles so recovered were sealed. We now examine the statements of Pradeep Situ (PW-17) and Yogesh Kumar (PW-23). Pradeep Situ (PW-17) worked with the deceased-Sunil Pandey and knew the deceased, Appellant-Smt. Kalpana Pandey and Anil Kumar Pandey. He and deceased Suil Pandey used to work in one office. He states that he last met deceased Sunil Pandey on 14.01.1994. He also states that he and Accused-Anil Kumar Pandey searched for Sunil Pandey when he did not return. They also went to the spot where the body of Sunil Pandey was recovered, however, they did

not go near the body but saw it from the road itself. He has identified his signatures on Exhibit P-21 and Exhibit P-23. He has stated that at the time when the seizure documents were signed on 11.02.1994, the Superintendent of Police was also present. In his cross-examination, he has clearly stated that he accompanied the police to the house of the deceased on two occasions and on both the occasions, Yogesh Kumar (PW-23) had accompanied him. He also states that when he went to the house of the deceased for the first time, no officials of the Forensic Department were present but they were present on the second occasion. He states that on 11.02.1994, he and Yogesh Kumar (PW-23) had accompanied police to the house of the deceased but he does not remember whether he had signed any documents on that date or not. He has clearly stated that on 13.02.1994, though the seized articles were kept in separate packets, nothing was sealed in his presence. According to him, he signed one document on 11.02.1994 and the remaining on 13.02.1994. He however further admits that in fact all the documents were signed on one date. He further states that on 13.02.1994, he received a phone call from Yogesh Kumar (PW-23) that the Superintendent of Police has called them to the house of the deceased Sunil Pandey. When he went to the house of the deceased, Yogesh Kumar and the police officials were already present. Thereafter, accused Anil Kumar Pandey also came. He states that when he went to the house of the deceased Sunil Pandey, on both the occasions, the police officials were already sitting inside the house. He also states that on 11.02.1994, when the refrigerator was opened, foul smell was coming. In his cross-examination, he admitted that on 15.01.1994, he had informed the Raipur Office of the Insurance Company that Sunil Pandey is missing.

21. Yogesh Kumar (PW-23) states that about 15 days after deceased Sunil Pandey was missing, a dead body was found 8-10 Kms away from Raigarh. Thereafter, he alongwith others went to the spot and identified the body of Sunil Pandey. He states that 10-12 days after the body of Sunil Pandey was found, the police called him to the house of Sunil Pandey. The house was already open and some police officials were inside the house. The police officials opened the refrigerator and some foul smell was coming from it, which was then shut. Thereafter, one or two days later, the forensic officials came and all the incriminating articles were recovered. He states that his house is just behind the house of deceased Sunil Pandey. He knows both the accused and the deceased and their relations were very cordial. He has clearly stated that on both occasions i.e. 11.02.1994 and 13.02.1994 when he was called to the house of Sunil Pandey, the police officials were already sitting in the house and the door was open. He also states that on both the occasions when he left the house, then also, the house was open. He further states that prior to 11.02.1994 also, he had seen the police officials inside the house of deceased Sunil Pandey. In his cross-examination, this witness states that on the refrigerator there was a cover and on the top of the cover, some cooked vegetable dish was lying which appeared to be 2-3 days old because it had no insects in it.

22. Shyam Sunder Shukla (PW-19) is another important witness. He works with accused-Anil Kumar Pandey in State Bank of India and knows all of them. He states that on 04.02.1994, he alongwith two other persons had gone to the house of deceased Sunil Pandey and saw it from outside. They stood there for 5-10 minutes. There were no blood stains on the wall or on the ramp used to take motorcycle inside the house.

23. Satyendra Pandey, Inspector of Police (PW-31) states that on 02.02.1994 he was transferred as Incharge, Police Station, Kharsiya. He went to take charge, but he was asked to assist in the investigation of murder of Sunil Pandey. According to him, a meeting took place in the chamber of the Superintendent of Police, Raigarh, in which the Sub Inspector Narendra Sharma, Town Inspector Mukesh Khare and the Superintendent of Police were also present. He states that at that time, it was brought to the notice of all the concerned that some foul smell is coming from the refrigerator lying in the house of the deceased. Thereafter, the house was searched on the same day or on the next day. The refrigerator was in the kitchen and in the lower part of the refrigerator, there was a cup which was half filled with clear liquid. There were some insects in it. Thereafter, the house was again sealed. In cross-examination, he states that on the day when the meeting was held in the chamber of the Superintendent of Police, they went to the house of deceased-Sunil Pandey. There were two witnesses also. He states that when they went there the house was sealed and after breaking the seal, they entered the house. He states that the Superintendent of Police had also gone to the spot.

24. Dr. D.K.Satpathy (PW-33) is the Forensic Scientist. He states that Exhibit P-C and Exhibit P-D which are stated to be human fluids were examined. According to him, the fluid had come out of a human body. He has proved his report Exhibit P-60. This witness in his cross-examination has stated that the samples which he analysed must have been kept in the refrigerator 5-6 days earlier. He then clarifies that in all probability, the samples which he analysed were kept in the refrigerator between 7th and 9th February, 1994. He also stated that if the dead body of the deceased had been kept in the refrigerator, then in addition to human fluid, some skin and tissues should have been found in the refrigerator because the

fluid would come out only from the decomposition of the skin and tissues. In case, the tissues, skin and bones etc. were not found in the refrigerator, then possibility of human fluid having been brought from outside and kept in the refrigerator cannot be ruled out.

25. Though, number of witnesses have been examined, the aforesaid is the main evidence. The forensic evidence, to say the least, cannot be relied upon for various reasons. The most important factor is that the house of the deceased was sealed by the police on 31.01.1994 and there is no explanation why the search was not carried out till 13.02.1994 or at least till 11.02.1994. Secondly, the prosecution has failed to prove that the house of the deceased was kept sealed at all times. Admittedly, the police had entered the house on 11.02.1994 and there is evidence of Pradeep Situ (PW-17) to show that even prior to 11.02.1994 on 03.02.1994, the police had entered the house. There is no record produced that every time, the seals were broken and the house was re-sealed.

26. Deceased-Sunil Pandey died between 24.01.1994 and 26.01.1994. If his body would have been kept in the refrigerator for four-five days, then foul smell would have been coming out immediately. Even when the house was sealed, foul smell should have been there and the police should have investigated the matter.

27. Admittedly, the police went to the house of the deceased on 11.02.1994 alongwith the witnesses. The refrigerator was also opened. There is no reason why the police should not have seized all the material which was lying in the refrigerator on the same day. The witnesses have stated that on 11.02.1994, on the refrigerator, some cooked vegetable dish was also found. This dish was of 2-3 days old. Therefore, it appears that some persons had come to the house of deceased on 8th or 9th February, 1994. None other than the police officials could have entered the house. Dr.

D.K.Satpathy (PW-33) has clearly stated that the samples which he analysed were kept inside the refrigerator 5-6 days earlier. He then clarifies that in all probability, the samples which he analysed were kept between 7th and 9th February, 1994. This means that the fluid was kept in the refrigerator when the house was in the possession of the police. Therefore, none other than the police officials could have kept this substance inside the refrigerator. This substance should have been 14-15 days old if the police version is to be believed, but according to the prosecution, this substance was kept in the refrigerator only 5-6 days prior to 13.02.1994.

28. Another important factor is that this human fluid would secrete out of skin, tissues and bones. It could not come from somewhere else. No skin, tissues, bones or hair have been found inside the refrigerator. Therefore, it is more than apparent that this human fluid was kept in a cup inside the refrigerator.

29. Another important factor is that the prosecution has totally failed to show that how this human fluid has been collected in the cup. If a body of 5'6" tall man was somehow stuffed into the refrigerator from which the human fluid would be secreted on decomposition of the body, it would all be collected on the floor of the refrigerator. How could it get collected in a cup? Assuming that the person who had kept the body in the refrigerator wiped and cleaned the refrigerator, collected the fluid in a cup, and took the body 8-10 Kms away, then why would such a person keep the fluid in the refrigerator. This evidence clearly shows that the investigation has been totally unfair and this innocent lady has been convicted on the basis of the evidence which was planted and this evidence could only have been planted by the police and none else.

30. Once this evidence is excluded, then there is virtually no other evidence worth name to convict the accused. As far as the conduct of the accused is concerned, that in fact supports their case because the deceased went missing from 15th or 17th January, 1994, and within a day or two, a report was lodged. Thereafter, when the deceased who was a known alcoholic did not return after 2-3 days, the family members including the accused took leave from the office. The fact that the accused took leave cannot be used against them because it has come in evidence that during this period, the family members were searching for the accused. After the dead body of the deceased was found, naturally, the family members would remain on leave for 13 days which is the ordinary period of mourning. Therefore, this circumstance cannot be used against the accused.

31. As far as the circumstances of last seen is concerned, no doubt Belmato Bai (PW-28), maid servant has stated that she saw the husband and wife together last but that is no circumstances to be used against the wife. The husband did not die immediately after 15th or 17th January, 1994, but died between 24th and 26th January 1994.

32. Keeping all the above factors in view, we are clearly of the view that the prosecution has miserably failed to prove the two main circumstances i.e. recovery of human fluid and recovery of blood stained knife etc. In fact, as held by us above, this evidence was planted by none other than the police officials themselves.

33. In view of the above discussion, we are clearly of the view that the learned trial Court has gravely erred in relying upon the prosecution evidence. The prosecution evidence, especially the evidence discussed above clearly indicates that the human fluid was introduced in the refrigerator by the police officials themselves. Accordingly, the appeal filed

by Appellant Smt. Kalpana Pandey (Criminal Appeal No. 308 of 2003) is allowed and she is acquitted of all the charges. The Appellant-Smt. Kalpana Pandey is on bail. She need not surrender. However, the bail bonds are not discharged at this stage. They shall be operative for the purpose and in terms of section 437-A CrPC.

34. The appeal filed by the State (Acquittal Appeal No. 227 of 2010) against the acquittal of the accused-Anil Kumar Pandey, is dismissed for the same reasons.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay Agrawal)
JUDGE