

HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment reserved on: 08/09/2017****Judgment delivered on: 08/11/2017****CRA No. 711 of 2013**

- Tilak Kumar Nayak S/o Arun Kumar Nayak Aged About 23 Years
R/o Ward No. 13 Bazarpara, Behind Mangal Bawan, Sweeper
Mohalla, Baloda Bazar, Thana - Baloda Bazar, P.O. - Baloda
Bazar, Distt. Baloda Bazar - Bhatapara C.G. Pin Code No.
493331

---- Appellant**Versus**

- State Of Chhattisgarh Through SHO, PS Baloda Bazar P.O. -
Baloda Bazar, Distt. Baloda Bazar - Bhatapara C.G. Pin No.
493331

---- Respondent

For Appellant	:	Smt. Fouzia Mirza, Advocate.
For Respondent/State	:	Shri Ravindra Agrawal, P.L.

Hon'ble Shri Justice Pritinker Diwaker**Hon'ble Shri Justice Ram Prasanna Sharma****CAV Judgment****Per Pritinker Diwaker, J**

This appeal arises out of the judgment of conviction and order of sentence dated 23rd July, 2013 passed by the First Additional Sessions Judge, Baloda-Bazar, Distt. Raipur in ST No.38/2011 convicting the

appellant under Sections 450 & 302 of IPC and sentencing him to undergo RI for 10 years, fine of Rs.2000/- and imprisonment for life, pay a fine of Rs.2000/- with default stipulations respectively.

02. In the present case, name of the deceased is Shivkumar. On 24.12.2009 at about 3.30 am FIR (Ex.P/16) was lodged by the deceased against the appellant alleging in it that in the night after having his meals he slept around 9-10 and his wife Sitabai was sleeping with him. At about 2 in the night the accused/appellant Tilak, brother of one Tarun Naik, entered his house after opening the door, picked up earthen lamp which was burning, poured its kerosene on his body, gagged his mouth and by saying that he (Shivkumar) has not voted for his brother (Tarun Naik) in the election, with intention to commit his murder, set him ablaze. It has been further stated that somehow he (Shivkumar) raised his cries, hearing the same his wife Sitabai (PW-3) and daughter-in-law Kumari Bai (PW-2) woke up and after seeing them, the appellant fled from the spot. His wife and daughter-in-law arranged a rickshaw for lodging the FIR. He has further stated that after hearing his cries, his neighbours also gathered there. Based on this FIR, offence under Sections 456 and 307 of IPC was registered against the appellant. The FIR bears the thumb impression of Shivkumar. Shivkumar was immediately shifted to hospital where he was medically treated on 24.12.2009 vide Ex.P/8 by PW-5 Dr. PK Tiwari, who noticed 80% burn and found the victim conscious. The doctor has stated that it was informed by Shivkumar that he was burnt by Tilak and one other person by pouring kerosene on him and that he advised for taking him to Medical College Raipur.

While sending Shivkumar for medical treatment it was mentioned in the memo that he has been allegedly burnt by the appellant by pouring kerosene on him. When injured Shivkumar was admitted in Medical College Hospital, Raipur, his dying declaration was recorded vide Ex.D/2 on 25.12.2009 by the Executive Magistrate (DW-1 Pulak Bhattacharya) at 1.17 am wherein he has stated that on the fateful night he had consumed liquor excessively, under the influence of liquor he poured kerosene on him and set himself on fire, at the relevant time his wife and other members were also there and that the fire was extinguished by his son Shyam Sunder. However, this document was not filed along with the Challan, but before the evidence could be started, an application was moved by the defence mentioning therein about the existence of such dying declaration and then upon direction of the trial Judge, the prosecution produced the said document and it was, accordingly, taken on record.

During treatment Shivkumar succumbed to his injuries on 25.12.2009 itself and after receiving information from the hospital, merg intimation Ex.P/11 was recorded. Inquest over the dead body was conducted vide Ex.P/2 on 26.12.2009 and thereafter the body was sent for postmortem which was conducted on the same day by PW-12 Dr. Shivnarayan Manjhi vide Ex.P/13. The autopsy surgeon noticed second to third degree burn which were sufficient to cause death in ordinary course of nature and in his opinion, the cause of death was cardio-respiratory failure as a result of burn and their complications. While framing charge, the trial Court framed charges under Sections 450 & 302 of IPC against the appellant.

03. So as to hold the accused/appellant guilty, the prosecution examined 15 witnesses in all. Statement of the accused was also recorded under Section 313 of Cr.P.C. in which he denied the circumstances appearing against him in the prosecution case, pleaded innocence and false implication. In defence, he examined one Pulak Bhattacharyan as DW-1.

04. The trial Court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgment convicted and sentenced the appellant as mentioned above.

05. Counsel for the appellant submits as under:

(i) that the contents of FIR lodged by the deceased have not been proved by the prosecution.

(ii) that the prosecution had deliberately not filed the dying declaration Ex.D/2 of the deceased recorded by the Executive Magistrate (DW-1) and therefore, presumption has to be drawn against the prosecution for false implication of the appellant.

(iii) that in case of multiple dying declaration, weightage has to be given to the dying declaration recorded by the Executive Magistrate as it stands on much higher footing than the one recorded by the police officer or the oral dying declaration.

(iv) that as per FIR lodged by the deceased, he was sleeping in his house whereas he states that after opening the door of his house the appellant entered, picked up earthen lamp and then after pouring kerosene, set him afire. When the deceased was sleeping, the

question of his seeing all these things does not arise.

(v) that as per contents of the FIR, the deceased was sleeping along with his wife (PW-3) but no burn injury was noticed on her body.

(vi) that most important witness of the prosecution PW-3 has not supported the prosecution case and has turned hostile.

(vii) that there is no reason for this Court to disbelieve the dying declaration Ex.D/2 of the deceased recorded by Executive Magistrate.

In support of her contention, she has placed reliance on the judgments in the matters of ***State of Gujarat Vs. Jayrajibhai Punjabhai Varu, (2016) 14 SCC 151; Kamla (Smt.) Vs. State of Punjab, (1993) 1 SCC 1; Gaffar Badshaha Pathan Vs. State of Maharashtra, (2004) 10 SCC 589; Mehiboobsab Abbasabi Nadaf Vs. State of Karnataka, (2007) 13 SCC 112; Samadhan Khudaka Koli Vs. State of Maharashtra, (2008) 16 SCC 705; Harish Kumar Vs. State of Haryana, (2015) 2 SCC 601; Dalip Singh and others Vs. State of Punjab, (1979) 4 SCC 332; and Kishan Lal Sethi Vs. Jagan Nath and others reported in (1990) 3 SCC 45.***

06. On the other hand, supporting the impugned judgment it has been argued by State Counsel that conviction of the appellant is strictly in accordance with law and there is no infirmity in the same. He submits that the FIR has been recorded by PW-14 Umesh Mishra who has proved the same. He further submits that once the dying declaration Ex.D/2 has been produced before the Court and the Court has considered the same, no prejudice has been caused to anyone and therefore, it cannot be said that this document was suppressed by

the prosecution and as such, the appellant is not entitled to derive any benefit out of this. Lastly he submits that though weightage can be given to the dying declaration recorded by the Executive Magistrate but it is not a thumb rule that the said declaration has to be accepted by the Court.

He has placed reliance on the judgments in the matters of ***Ramakant Mishra Vs. State of UP, (2015) 8 SCC 299; Lakhan Vs. State of M.P., (2010) 8 SCC 514; and Sudhakar Vs. State of M.P., (2012) 7 SCC 569.***

07. Heard counsel for the respective parties and perused the material on record.

08. PW-1 Shyam Sunder, son of the deceased before whom oral dying declaration was allegedly made by the deceased, has stated that on the fateful night he was sleeping in another room and in the night her mother Sitabai (PW-3) came to him crying and informed that his father Shivkumar has suffered burn injuries. By the time he reached there, the fire had already been extinguished by her mother (PW-3) and he put blanket on his father. He states that his father did not disclose anything to him, nor did he ask anything from his father. He has further stated that there was a rumour that it is the appellant who killed his father. After being declared hostile, in para-5 he has stated that at Raipur hospital only his father informed him that it is the appellant who burnt him by pouring kerosene on him in the kitchen. When he was confronted with his diary statement (Ex.D/1) he has admitted the fact that he did not inform that his father Shivkumar had disclosed to him at

Raipur that it is the appellant who burnt him by pouring kerosene on him.

09. PW-2 Kumari Bai, daughter-in-law of the deceased, has turned hostile. She is a witness to inquest. PW-3 Sitabai stated that in the night she heard the cries of Shivkumar coming out from the kitchen where she found him burning and then extinguished the fire. She was informed by him that under the influence of liquor he set himself afire by pouring kerosene on him. In para-4 she has denied the suggestion that she was informed by her husband Shivkumar while being taken to police station in rickshaw that it is the appellant who entered his room by jumping over the wall and set him on fire by pouring kerosene on him. She has also denied giving such statement (Ex.D/7) to the police. She has further stated that her husband died after half an hour of his statement recorded in the hospital.

10. PW-4 Ishaq Khan @ Jiblu, neighbour of the deceased, has stated that after coming to know about the incident when he went to the house of Shivkumar, he found him burnt and on being asked, Shivkumar told that out of tension he burnt himself by pouring kerosene on him. However, this witness has been declared hostile. PW-5 Dr. Pramod Kumar Tiwari medically examined Shivkumar on 24.12.2009 vide Ex.P/8 and found 80% burn and the victim conscious. The doctor has stated that it was informed by Shivkumar that he was burnt by Tilak and one other person by pouring kerosene on him and that he advised for taking him to Medical College Raipur. In cross-examination, the doctor has admitted the suggestion that if any person

sets himself ablaze by pouring kerosene on him, he sustains burn injuries like Shivkumar.

11. PW-6 Mahendra Kumar, Patwari, prepared the spot map Ex.P/9. PW-7 Birbal Jaiswal, PW-8 Ajuram Mehar and PW-9 Vijay Sahu, neighbours of the deceased, have not supported the prosecution case and have been declared hostile. PW-10 Dharmanand Shukla, Sub Inspector, PW-11 Ashwani Padwar, Head Constable and PW-13 BR Mandavi, Inspector, assisted in the investigation. PW-12 Dr. Shivnarayan Manjhi conducted postmortem on the body of the deceased on 26.12.2009 vide Ex.P/13 and noticed following injuries/symptoms:

“Burns

second to third degrees (according to Dupuytren classification) burns with reddish discoloration with infection, black carbon soots & epidermis peeled off at places following part of the body:-

On front – Face, neck, all over chest & abdomen all over, upper limbs hands are degloves, both lower limbs (except genitalia at u/w region, planter surface of foots & fingers healthy)

On back – Nape of neck to heels all over burns. Burns are antemortem in nature. Burns are dry (flame) dry burn. Burns are sufficient to cause death in ordinary course of nature.

In his opinion, the cause of death was cardio-respiratory failure as a result of burns and their complications.

12. PW-14 Umesh Mishra, investigating officer, has supported the prosecution case. He has stated that he had sent the request to the Executive Magistrate (DW-1) for recording dying declaration of the deceased, however, those documents could not be filed by him along with the Challan and then he has clarified that as he was transferred, he could not file the same. PW-15 Samaru, another son of the deceased, has also turned hostile.

13. DW-1 Pulak Bhattacharya is the Additional Tehsildar who recorded dying declaration of the deceased Ex.D/2 on 25.12.2009 at about 1.17 am. He has stated that he was called by the police at the government hospital, Raipur for recording dying declaration of the deceased where he recorded the same. He has stated that at the time of making such statement the deceased was in a fit state of mind and it was also certified by the doctor, which is there on the dying declaration vide Ex.D/2. He recorded the dying declaration in the question and answer form. The deceased stated that on 23.12.2009 he had consumed liquor excessively and under the influence of liquor he poured kerosene on him and set himself on fire at 2 in the night, which was extinguished by his son Shyam Sunder. The deceased stated that at the relevant time his wife, son and other family members were also present and further reiterated that he set himself on fire and nobody else set him on fire. This witness has stated that on the said dying declaration being read over to the deceased, he found it correct and put his thumb impression on it. In cross-examination, no question was put to this witness doubting the authenticity of the dying declaration or

that DW-1 was never called by the police to record the same.

14. Before dealing with the facts and evidence of the present case, it would be apposite to consider the legal position in respect of dying declaration, in particular multiple dying declarations.

15. In the matter of ***Jayrajbhai Punjabhai Varu (supra)*** the Hon'ble Supreme Court held as under:

“15. The courts below have to be extremely careful when they deal with a dying declaration as the maker thereof is not available for the cross- examination which poses a great difficulty to the accused person. A mechanical approach in relying upon a dying declaration just because it is there is extremely dangerous. The court has to examine a dying declaration scrupulously with a microscopic eye to find out whether the dying declaration is voluntary, truthful, made in a conscious state of mind and without being influenced by the relatives present or by the investigating agency who may be interested in the success of investigation or which may be negligent while recording the dying declaration.

16. In the case on hand, there are two sets of evidence, one is the statement/declaration made before the police officer and the Executive Magistrate and the other is the oral dying declaration made by the deceased before her father who was examined as PW-1. On a careful scrutiny of the materials on record, it cannot be said that there were contradictions in the statements made before the police officer and the Executive Magistrate as to the role of the respondent herein in the commission of the offence and in such circumstances, one set of evidence which is more consistent and reliable, which in the present case being one in favour of the respondent herein,

requires to be accepted and conviction could not be placed on the sole testimony of PW-1.

17. A number of times the relatives influence the investigating agency and bring about a dying declaration. The dying declarations recorded by the investigating agencies have to be very scrupulously examined and the court must remain alive to all the attendant circumstances at the time when the dying declaration comes into being. In case of more than one dying declaration, the intrinsic contradictions in those dying declarations are extremely important. It cannot be that a dying declaration which supports the prosecution alone can be accepted while the other innocent dying declarations have to be rejected. Such a trend will be extremely dangerous. However, the courts below are fully entitled to act on the dying declarations and make them the basis of conviction, where the dying declarations pass all the above tests.

18. The court has to weigh all the attendant circumstances and come to the independent finding whether the dying declaration was properly recorded and whether it was voluntary and truthful. Once the court is convinced that the dying declaration is so recorded, it may be acted upon and can be made a basis of conviction. The courts must bear in mind that each criminal trial is an individual aspect. It may differ from the other trials in some or the other respect and, therefore, a mechanical approach to the law of dying declaration has to be shunned.

19. On appreciation of evidence on record, we are of the considered view that the dying declarations of the deceased recorded by the police officer as well as the Executive Magistrate are fully corroborated and there is no inconsistency as regards the role of the respondent herein

in the commission of offence. From a perusal of the statement recorded by Bhiku Karsanbhai, P.S.O., the thumb impression of Rekhaben (since deceased) which had been identified by her father-Sri Vala Jaskubhai Suragbhai as also his cross-examination in which he admitted that police had already come there and he had identified her thumb impression and Mamlatdar had gone inside to record statement, there is no reason as to why Rekhaben would give names of her husband and her in-laws in the alleged statement given to her father. A dying declaration is entitled to great weight. The conviction basing reliance upon the oral dying declaration made to the father of the deceased is not reliable and such a declaration can be a result of afterthought. This is the reason the Court also insists that the dying declaration should be of such a nature as to inspire full confidence of the Court in its correctness. The Court has to be on guard that the statement of deceased was not as a result of tutoring, prompting or a product of imagination. The Court must be further satisfied that the deceased was in a fit state of mind after a clear opportunity to observe and identify the assailants. Once the Court is satisfied that the declaration was true and voluntary, undoubtedly, it can base its conviction without any further corroboration. It cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence.

20. The burden of proof in criminal law is beyond all reasonable doubt. The prosecution has to prove the guilt of the accused beyond all reasonable doubt and it is also the rule of justice in criminal law that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other towards his innocence,

the view which is favourable to the accused should be adopted.”

16. In the matter of ***Smt. Kamla (supra)*** it has been observed by the Apex Court as under:

5. It is well-settled that dying declaration can form the sole basis of conviction provided that it is free from infirmities and satisfies various tests, (vide [Khushal Rao v. The State of Bombay](#) 1958 SCR 552). The ratio laid down in this case has been referred to in a number of subsequent cases with approval. It is also settled in all those cases that the statement should be consistent throughout if the deceased had several opportunities of making such dying declarations, that is to say, if there are more than one dying declaration they should be consistent. If a dying declaration is found to be voluntary, reliable and made in fit mental condition, it can be relied upon without even any corroboration. In a case where there are more than one dying declaration if some inconsistencies are noticed between one and the other, the court has to examine the nature of the inconsistencies namely whether they are material or not. In scrutinising the contents of various dying declarations, in such a situation, the court has to examine the same in the light of the various surrounding facts and circumstances.

7. There is no dispute that when the deceased made these dying declarations she was in a fit mental condition. Ex.PB/2 is the earliest statement made before Dr. Rupinder Singh, P.W. 2 and which was reduced to writing. Apart from this the deceased made two more statements on 29.9.79. The second one is said to have been made before Dr. Jaison Chopra who was examined as C.W. 1. This statement is incorporated in the patient record and is

marked as Ex. DA. The third statement Ex.PJ made by her on that day was recorded by S.I. Vidya Sagar, C.W. 2 at about 8 P.M. in the presence of Satpal, examined as D.W.I and Kirpal Singh. Then the fourth dying declaration is said to have been made by her on 30.9.79 before a team of Doctors consisting of Dr. Abraham Thomas, P.W. 7, Dr. Bhupen Dass, P.W. 3 and Dr. Jaison Chopra, C.W. 1. The same is marked is Ex.PD. Both the courts below have relied on the earliest dying declaration ignoring the inconsistencies when compared to the other dying declarations. We think it is necessary to extract these dying declarations as found in the records. Ex.PB/2 a dying declaration recorded by Dr. Rupinder Singh, P.W. 2 reads as follows:

“Patient informed now that her mother-in-law sprinkled kerosene on her from behind and burnt her. Then, her husband came and caught her and dragged her outside. After that, she was brought to the hospital. There had been a fight in the morning between the mother-in-law and father-in-law and the patient.”

Ex. DA, another dying declaration recorded by Dr. Jaison Chopra, C.W.I, which is incorporated in the patient record, reads as follows:

“History of present illness:

Patient was alright before 8 A.M. when she claims to have got burnt by her clothes catching fire from a stove. She was brought to the hospital at 9.30 A.M. and admitted right away.”

The third dying declaration Ex. PJ was recorded at 8 P.M.

on the same day by S.I. Vidya Sagar, C.W. 2 and the relevant portion of it reads as follows:

“Somebody had put me on fire from behind. It can be possible that it might have been set in by my parents-in-law (mother-in-law and father-in-law). No injury or burning has been caused with the fire to my son Runnu. All the neighbors of vicinity had arrived at the spot, but on account of semi-unconsciousness, I could not tell anything to anybody. As my hand and most the entire body have been burnt, therefore neither I can append signatures nor thumb impression can be affixed.”

The fourth dying declaration Ex. PD made on the next day before a team of three doctors consisting of Dr. Abraham Thomas, P.W. 7, Dr. Bhupen Dass, P.W. 3 and Dr. Jaison Chopra, C.W.I, reads as follows:

“My father-in-law and mother-in-law used to fight with me ever since my marriage asking for more dowry. Yesterday morning they quarrelled with me again. It was late for food, so I went to the kitchen to cook chenas. I was turned to the store when I heard my father-in-law and mother-in-law talking behind me. Suddenly they poured Kerosene over me and there was a noise. I turned down to see what it was and a jug had fallen on the poor. At the same time they set fire on me and I was pushed. I do not know what happened afterwards.”

8. If we examine all these dying declarations one by one we notice glaring inconsistencies as to who exactly poured kerosene oil and set fire or whether she caught fire

accidentally. Suicide however is ruled out. In Ex. PB/2 recorded by P.W. 2 the deceased stated that her mother-in-law sprinkled kerosene oil from behind and burnt her. In the next statement Ex. DA recorded by Dr. Jaison Chopra, C.W. 1, she is alleged to have stated that her clothes got burnt catching fire from the stove, thereby indicating that it was an accident. In the third statement Ex. PJ recorded by C.W. 2 she was rather vague as to who exactly poured kerosene oil and set fire on her and she only stated that it could be possible that her mother-in-law and father-in-law might have set the fire after pouring kerosene oil. On 30.9.79 Ex.PD was recorded in the presence of three doctors, P.W. 7, P.W. 3 and C.W.I wherein she stated that she turned to the store and she heard her mother-in-law and father-in-law talking behind her and suddenly they poured kerosene oil and they set her on fire. The trial court and the High Court discarded the other statements and relied only on Ex.PB/2 recorded by P.W. 2 wherein she implicated only her mother-in-law. So far Ex. DA recorded by C.W.I is concerned, the High Court pointed out that C.W. 1 was also present when Ex.PD was recorded and that at any rate there was no occasion for C.W. 1 to record such statement and that he must have done the same at the instance of the accused. After having carefully examined the, record and facts and circumstances, we do not think that a remark of this nature against C.W. 1, a responsible doctor is called for. The mere fact that C.W. 1 Dr. Jaison Chopra was present when Ex. PD was recorded on the next day does not necessarily mean that he could not have recorded Ex. DA-on the previous day. As a matter of fact, even in Ex. PD recorded by a team of doctors, she implicated both mother-in-law and father-in-law whereas in Ex.PB/2 she implicated only her mother-in-law. This itself shows that she was bent upon implicating both of them at a later stage. In this context it is also noteworthy that D.W.

2, the husband of the deceased supported the plea of the accused. He deposed that both the accused namely his mother and father were away to Dandi Swami Mandir on the day of occurrence and that at about 8.15 A.M. he heard the shrieks raised by the deceased from the kitchen. He picked up a blanket and went running into the kitchen apprehending that she might have caught fire due to busting of the gas cylinder. He covered her with the blanket and brought her out and his clothes also caught fire and he became unconscious and regained consciousness in the hospital. In the cross-examination by the prosecution he denied the suggestion that he made a false statement with a view to save his parents. The deceased in all her dying declarations has clearly stated that her husband namely D.W. 2 came and rescued her. Therefore, D.W. 2's evidence cannot simply be brushed aside on the ground that he might have given such a version to save his parents and his evidence further shows that the occurrence could be due to accident. Viewed from this angle also the version given in the statement made before C.W. 1 in Ex. DA that it was due to accident, is not improbable. In Ex. PJ she only expressed a suspicion against both her mother-in-law and father-in-law. The accused examined D.W. 1 Satpal an attesting witness of the statement Ex. PJ. He supported the defence version. Thus it can be seen that there are glaring inconsistencies in these dying declarations. Both the courts below, however, held that P.W. 2 Dr. Rupinder Singh is a reliable and independent witness, therefore the statement recorded by him has to be accepted and accordingly convicted the appellant. We must observe that P.W. 2 simply recorded the statement of the deceased but the contents of that statement have to be subjected to a close scrutiny in the light of many other circumstances since the conviction has to be based on the sole dying declaration

Ex.PB/2. A dying declaration should satisfy all the necessary tests and one such important test is that if there are more than one dying declaration they should be consistent particularly in material particulars. Just like P.W. 2, P.W. 7, P.W. 3 and C.W.I are also respectable doctors and independent witnesses who spoke about the contents of Ex. PD in which she implicated both her father-in-law and mother-in-law specifically as having participated in the crime. Under these circumstances, the irresistible conclusion is that the dying declarations are inconsistent and in such a situation we just cannot pick out one statement namely Ex.PB/2 and base the conviction of the appellant on the sole basis of such a dying declaration. The courts have cautioned that in view of the fact that the maker of the statement cannot be cross-examined, the dying declaration should be carefully scrutinised. In the instant case the deceased was wavering for the reasons best known to her. The inconsistency between Ex.PB/2 and Ex. PD is enough to manifest the same. That being so, we do not think that either Dr. Jaison Chopra, C.W. 1 or S.I. Vidya Sagar, C.W. 2 who claimed to have recorded Ex. DA and Ex. PJ should be blamed. Having given our earnest consideration, we feel that under these circumstances it is highly unsafe to convict the appellant on the sole basis of the dying declaration Ex.PB/2 recorded by P.W. 2. In the result the conviction and sentence passed against the appellant are set aside and the appeal is allowed. If she is on bail, her bail bonds shall stand cancelled.”

17. In the case of ***Gaffar Badshaha Pathan (supra)*** it was held as under:

“5. Dr. A.U. Masurkar was the Chief Medical Officer of the hospital at the relevant time. The High Court has held

that the recording of the dying declaration and story stated therein apparently appears to be false and concocted for the various reasons noticed in the impugned judgment. It has to be borne in mind that the fact whether the dying declaration is false and concocted has to be established by the prosecution. It is not for the accused to prove conclusively that the dying declaration was correct and the story therein was not concocted. The fact that the statement of the deceased was recorded at about 9.00 p.m. by the Head Constable cannot be doubted though an attempt to the contrary seems to have been made by the prosecution. The statements of the prosecution witnesses (PW 5 and PW 11) also show that the statement was recorded by the Head Constable. According to PW 5, it was only a show made by the Head Constable of recording statement, since according to the said witness, the deceased was not in a position to speak at that time. Even PW 11, a doctor in the hospital, has deposed about the recording of the statement by the Head Constable though he has not formally proved the dying declaration but has certified the correctness of the endorsement of Dr. A.U. Masurkar on the dying declaration. PW 11 was shown the dying declaration. He has deposed that the certificate recorded on the dying declaration is in the handwriting of Dr. Masurkar, Chief Medical Officer of the hospital. He has further deposed that Dr. Masurkar is in the hospital since the last 12 to 15 years and that he had degree in MS and was estimated to be an honest and expert surgeon of the area. One of the reasons which had strongly weighed with the High Court in rejecting the dying declaration is that the endorsement of the doctor is only about the deceased lady being conscious and not that she was in a fit condition to make the statement. The High Court went into distinction between consciousness and fitness to make statement. On the facts of the present case, we are unable to sustain

the approach adopted by the High Court. It is one thing for an accused to attack a dying declaration in a case where the prosecution seeks to rely on a dying declaration against an accused but it is altogether different where an accused relies upon a dying declaration in support of the defence of accidental death. The burden on the accused is much lighter. He has only to prove reasonable probability. Under these circumstances, the dying declaration could not have been rejected on the ground that it does not contain the endorsement of the doctor of the fitness of the lady to make the statement as the certificate of the doctor only shows that she was in a conscious state. The endorsement of the doctor aforequoted is not only about the conscious state of the lady but is that she made the statement in a conscious state.”

18. In ***Mehiboobsab Abbasabi Nadaf (supra)*** while dealing with the case of multiple dying declarations it was held as under:

4. The deceased had made four dying declarations: two before the medical officers, one before the Executive Magistrate and one before the police officer. In her statements before the medical officers, she alleged that while she had been cooking in her house in the morning at 1100 hrs on 29-5-2004, accidentally, the stove burst and she sustained burn injuries. In her dying declaration recorded by Parappa Gurappa Thotagi, ASI, Doddawada Police Station on 30-5-2004 at about 8.30 a.m, she alleged:

“I have been married with Shri Mehbooba Saheb Mamadapur 6 years ago. I have three children. My husband is a driver. He was again and again troubling me, beating me. My mother-in-law, father-in-law and husband were forcing me to bring golden chain. They have been giving harassment to me in this manner.

On 29-5-2004, in the morning at about 9.30

when I was in the house again my father-in-law, mother-in-law and husband started abusing me. My husband thrashed me on my back. As soon as I fell down, they poured kerosene which was in the stove on my body and by lightening the matchbox they burnt me. I do not know what happened thereafter. Now I came to know that I have come to KLE Hospital and am availing medical treatment here. I came to know that my body has been fully burnt. As my husband, father-in-law and mother-in-law are responsible for pouring kerosene and burning me. I am giving this statement for getting appropriate punishment to my father-in-law, mother-in-law and to my husband and written on my telling and heard.”

6. We have been taken through the evidence of PW 13, Dr. Balappa Basappa Oni, PW 14, Dr. Rajashekara Chennabasappa Angadi and PW 16, Parappa Gurappa Thotagi before whom the aforementioned purported dying declarations were made. From a bare perusal of their depositions in regard to recording dying declarations of the deceased, it is evident that whereas in one, she attributed the incident to have taken place accidentally, in another, attributed the act of abusing and setting her on fire by her parents-in-law and only in one of the dying declarations she attributed the act of pouring kerosene and lighting the same leading to her death on all the accused.

7. Conviction can indisputably be based on a dying declaration. But, before it can be acted upon, the same must be held to have been rendered voluntarily and truthfully. Consistency in the dying declaration is the relevant factor for placing full reliance thereupon. In this case, the deceased herself had taken contradictory and inconsistent stand in different dying declarations. They, therefore, should not be accepted on their face value. Caution, in this behalf, is required to be applied.

9. In **Mohd. Arshad v. State of Maharashtra** [2006 12](#)

[SCC 293](#) this Court opined as under: (**SCC p. 299**, paras 21-23)

“21. So far as the appeal preferred by Mohammed Arshad is concerned, we are of the opinion that he is entitled to benefit of doubt. He was not named in the first two dying declarations. He was named only in the third dying declaration. No injury by stick was found on the back of the deceased. The motive ascribed as against him did not find place in the first information report. Evidently, the deceased made improvement in his third dying declaration before the police officer.

22. Keeping in view the backdrop of events, we fail to see any reason as to why appellant Mohammed Arshad would not have been named in the first or second dying declarations if the motive for his involvement was non-payment of a sum of Rs 60,000 as was disclosed by the deceased.

23. This Court in [Balbir Singh v. State of Punjab](#) 2006 12 SCC 283 relying upon several decisions of this Court including [State Of Maharashtra v. Sanjay S/O Digambarrao Rajhans](#) 2004 13 SCC 314 and **Muthu Kutty v. State** 2005 9 SCC 113 held: (Balbir Singh case, **SCC p. 291**, para 34)

‘34. We are of the opinion that whereas the findings of the learned Sessions Judge as also the High Court in regard to the guilt of Appellant 1 must be accepted, keeping in view the inconsistencies between the two dying declarations, benefit of doubt should be given to Appellant 2. We, however, uphold the conviction and sentence of both the appellants under Section 498-A IPC.’ ”

19. In the matter of ***Samadhan Khudaka Koli (supra)*** it has been held as under:

“12. A dying declaration made before a Judicial Magistrate has a higher evidentiary value. The Judicial Magistrate is presumed to know how to record a dying declaration. He is a neutral person. Why the prosecution

had suppressed the dying declaration recorded by the Judicial Magistrate is not known. Prosecution must also be fair to the accused. Fairness in investigation as also trial is a human right of an accused. The State cannot suppress any vital document from the court only because the same would support the case of the accused.

13. The learned Sessions Judge as also the High Court, in our opinion, committed a serious illegality in refusing to consider the said question in its proper perspective. The prosecution did not explain as to why the said dying declaration was not brought before the court. The learned Sessions Judge as also the High Court surmised about the contents thereof. Not only the contents of a dying declaration, but also the manner in which it is recorded and the details thereof play a significant role in the matter of appreciation of evidence.

14. The veracity of depositions of the parents of the deceased should be considered having regard to the entire backdrop of the case. In none of the dying declarations the deceased stated that her husband had poured hot tea on her body. If the relationship between the couple became strained from that time, it was expected that the same would have been stated by the deceased in her dying declaration. Why such a statement had been brought on record for the first time before the court by the parents of the deceased is difficult to comprehend. Only because such a statement was made by them, the same should not have been considered to be a circumstance against the appellant, particularly when no allegation about harassment meted out to her at an earlier point of time was made by the deceased herself.

15. Evidently, there are a few inconsistent and

contradictory dying declarations. The court while appreciating evidence on the basis of such dying declarations is required to take into consideration inconsistencies between two statements. In this case, the learned Sessions Judge and the High Court proceeded on the basis that out of the three dying declarations, in two of them the deceased did not make any allegation against her husband.

16. A judgment of conviction can be recorded on the basis of a dying declaration alone, but the court must have been satisfied that the same was true and voluntary. Indisputably, for ascertaining the truth as regards the voluntariness of making such a dying declaration, the court is entitled to look into the other circumstances but the converse may not be true.

18. Consistency in the dying declaration, therefore, is a very relevant factor. Such a relevant factor cannot be ignored. When a contradictory and inconsistent stand is taken by the deceased herself in different dying declarations, they should not be accepted on their face value. In any event, as a rule of prudence, corroboration must be sought from other evidence brought on record. . [In Mehiboobsab Abbasabi Nadaf vs. State of Karnataka](#) [2007 (9) SCALE 473] where four dying declarations were recorded, this Court opined:

"7 Conviction can indisputably be based on a dying declaration. But, before it can be acted upon, the same must be held to have been rendered voluntarily and truthfully. Consistency in the dying declaration is the relevant factor for placing full reliance thereupon. In this case, the deceased herself had taken contradictory and inconsistent stand in different dying declarations. They, therefore, should not be accepted on their face value. Caution, in this behalf, is required to be applied."

The court noticed that as the deceased attributed the acts primarily on her parents-in-law and they having been acquitted, it was difficult to hold that appellant alone was responsible for causing her death."

20. In ***Harish Kumar (supra)*** the Supreme Court observed as under:

"23. PW-1 Dr. M.L. Kalra, Medical Officer of Civil/General Hospital, Hansi, in his cross-examination, has stated as under: -

"The patient was brought to the hospital by her husband Harish Bhatia. She was not unconscious when she was brought to the hospital...."

In the examination-in-chief of this witness it has been stated by him, - "she gave history of accidental burn injuries". This fact recorded by PW-1 in the medico legal report (copy Annexure P-1) further corroborates the dying declaration recorded on the next day (on 14.9.1993) by the Naib Tehsildar. Needless to say that DW-1 Dr. Surender Singh and DW-2 Baru Ram, Naib Tehsildar, are not interested witnesses. Rather they are independent public witnesses who have discharged their duties after the police approached Tehsildar in response to memorandum (Ruqa) received from PW-1 Dr. M.L. Kalra.

24. Considering the above facts and circumstances, we find that the dying declaration dated 14.9.1993, made by the deceased, before Naib Tehsildar in the presence of Medical Officer, is voluntary and truthful. In *Surender Kumar v. State of Punjab*, (2012) 12 SCC 120, this Court has observed, in para 20, as under: -

"20. It is also not obligatory that either an Executive Magistrate or a Judicial Magistrate should be present for recording a dying declaration. It is enough that there is evidence available to show that the dying declaration is voluntary and truthful. There could be occasions when persons

from the family of the accused are present and in such a situation, the victim may be under some pressure while making a dying declaration. In such a case, the court has to carefully weigh the evidence and may need to take into consideration the surrounding facts to arrive at the correct factual position."

25. In *Nallam Veera Stayanandam and others v. Public Prosecutor, High Court of A.P.*, (2004) 10 SCC 769, in the similar facts and circumstances of the case, this Court, at the end of para 6, has observed as under: -

"6. ... In cases where there is more than one dying declaration, it is the duty of the court to consider each of them in its correct perspective and satisfy itself which one of them reflects the true state of affairs."

21. In the case of ***Dalip Singh (supra)*** it has been held as follows:

"8. There were two dying declarations of Ram Singh one oral and the other written which was recorded by the Assistant Sub Inspector of Police, PW 28 on 12-12-75. The oral dying declaration was made to PW 11 Tara Singh. Neither of the dying declarations was relied upon by the High Court because he had named Baldev Singh also. We may also add although a dying declaration recorded by a Police Officer during the course of investigation is admissible under [Section 32](#) of the Indian Evidence Act in view of the exception provided in Sub-section (2) of [Section 162](#) of the CrPC, 1973, it is better to leave such dying declaration out of consideration until and unless the prosecution satisfies the court as to why it is not recorded by a Magistrate or by a Doctor. As observed by this Court in [Munnu Raja and Anr v. The State of Madhya Pradesh](#) (1976) 3 SC 104, the practice of the Investigating Officer himself recorded a dying declaration during the course of investigation ought not to be encouraged. We do not mean to suggest that such dying declarations are always

untrustworthy, but, what we want to emphasize is that better and more reliable methods of recording a dying declaration of an injured person should be taken recourse to and the one recorded by the Police Officer may be relied upon if there was no time or facility available to the prosecution for adopting any better method.

9. There is a dying declaration of Teja Singh, Ext. PFF recorded by Harcharan Singh, PW 10. He was the Head Constable of the Police Post Chhenarta. At the direction of the Assistant Sub Inspector of Police PW 28 he recorded the statement of Teja Singh at the spot. This dying declaration has been relied upon by the High Court. It could not be rejected on the ground that it was recorded by a Police Officer as he was in a critical condition and no other person could be available in the village to record the dying declaration of Teja Singh. But we find that there is a difficulty in relying upon this dying declaration. Jetha Singh and Ram Singh were attacked by the appellants after having raised a Lalkara at the house of Teja Singh to murder them. No body actually saw them murdering either of them. The place where the said two persons were murdered was about a furlong away from the house of Tejasingh. Teja Singh in his statement recorded by PW 10 Ext. PFF which is also signed by the Assistant Sub-Inspector stated:-

Dalip Singh, Kundan Singh, sons of Vir Singh and Binder, son of Dalip Singh, who are from our brotherhood have caused injuries to me and the male and female members of my family and my elder brother Jetha Singh with Kirpans, and spears on account of dispute over the property of Jetha Singh. They have murdered Jetha Singh and Sucha Singh by inflicting injuries to them.

The dying declaration seems to be otherwise truthful but for the fact that it could not be within the

knowledge or vision of Teja Singh that Jetha Singh was murdered by the appellants. His saying so in the dying declaration makes his statement a bit doubtful. It is, therefore, safe to leave out of consideration this dying declaration. It is important to remember that if the dying declarations both oral and written of Ram Singh are discarded so also the dying declaration of Teja Singh, then no direct evidence remains on the record in regard to the murder of Jetha Singh and Ram Singh by the appellants. In all probability they had committed the murder of these two person also because after having raised the Lalkara they went towards the field where Jetha Singh and Ram Singh were. But in absence of a direct evidence on the point and also for want of conclusive chain of circumstantial evidence, legally it is not possible to hold that the three appellants were responsible for committing the murder of Jetha Singh and Ram Singh.”

22. In the matter of ***Kishan Lal Sethi (supra)*** it has been held as under:

“6. A perusal of the judgment of the Sessions Court shows that the learned Judge mainly relied on the particulars of the scene recorded by Dr. Chugh P.W. 14, the Inspector recovered a piece of skin sticking to the door of the bathroom and rubber band, wax and burnt hairs. The learned Sessions Judge also referred to the particulars of the bathroom and it was opined that the doors of the bathroom were bolted from outside and not from inside. Dr. Chugh in his observation report has also noted that the deceased was caught fire or was burnt in the bathroom and on the basis of these findings the trial court ruled out the theory of accident and also the theory of suicide. The learned Sessions Judge, as already noted, excluded the dying declaration and relying on these

circumstances held that the chain is complete and is sufficient to hold the accused guilty. The High Court dealt with the dying declaration elaborately and disagreed with the trial Judge that the deceased at the time of making the statement was under the influence of the accused. It held that the declaration was voluntary.

7. The dying declaration reads thus :

“I caught fire while preparing tea. I was preparing tea today the 28th June, 1983, at 6.30 A.M. None else was present in the kitchen. Nobody had put me ablaze. When I caught fire all had come to my rescue. My husband, my mother-in-law, and the sister of my husband had come. My mother-in-law etc. had brought me to the hospital. My Sarce had caught fire from the Stove. On catching fire when I raised shrieks all had reached there. I do not know if any neighbour had come or not.

I am making this statement with full senses and without any outside pressure.

Sd/-
Randhir Singh,
J.M.I.C. (Duty)
28.6.83 9 A.M.”

The statement is recorded by a responsible Judicial Officer. P.W.1, the Doctor deposed that when he was on casualty duty the deceased was brought to the hospital in a seriously burnt condition and she was followed by her husband, mother-in-law etc. He examined her and sent an intimation to the police. He also deposed that the Magistrate also came at about 9 A.M. The Magistrate, who is examined as P.W.3, deposed that he went to the casualty ward and recorded the dying declaration of the deceased in the presence of the Doctor and that before recording the dying declaration he obtained the opinion from the Doctor that the deceased was in a fit condition to

make a statement. In his cross-examination he also asserted that he was satisfied that the deceased made the statement voluntarily without any fear, persuasion or pressure.

9. Having examined the contents of the dying declaration carefully we are unable to see any reason to interfere with the findings of the High Court particularly this being an appeal against acquittal. The learned Sessions Judge excluded the dying declaration under the impression that it was made in a sense of fear. We do not find any basis for the same particularly in view of the evidence of the Magistrate referred to above. We find no merits in this appeal. It is therefore dismissed.”

23. Recently, in the matter of ***Mukesh and another Vs. State for NCT of Delhi and others*** reported in ***(2017) 6 SCC 1***, it has been observed as under:

“31. **Multiple Dying Declarations:** In cases where there are more than one dying declarations, the Court should consider whether they are consistent with each other. If there are inconsistencies, the nature of the inconsistencies must be examined as to whether they are material or not. In cases where there are more than one dying declaration, it is the duty of the Court to consider each one of them and satisfy itself as to the voluntariness and reliability of the declarations. Mere fact of recording multiple dying declarations does not take away the importance of each individual declaration. Court has to examine the contents of dying declaration in the light of various surrounding facts and circumstances. This Court in a number of cases, where there were multiple dying declarations, consistent in material particulars not being contradictory to each other, has affirmed the conviction. [Vide *Vithal v. State of Maharashtra* (2006) 13 SCC 54].

32. [In Amol Singh v. State of Madhya Pradesh](#) (2008) 5 SCC 468, while discarding the two inconsistent dying declarations, laid down the principles for consideration of multiple dying declarations as under:-

“13. Law relating to appreciation of evidence in the form of more than one dying declaration is well settled. Accordingly, it is not the plurality of the dying declarations but the reliability thereof that adds weight to the prosecution case. If a dying declaration is found to be voluntary, reliable and made in fit mental condition, it can be relied upon without any corroboration. The statement should be consistent throughout. If the deceased had several opportunities of making such dying declarations, that is to say, if there are more than one dying declaration they should be consistent. (See [Kundula Bala Subrahmanyam v. State of A.P.](#) (1993) 2 SCC 684). However, if some inconsistencies are noticed between one dying declaration and the other, the court has to examine the nature of the inconsistencies, namely, whether they are material or not. While scrutinising the contents of various dying declarations, in such a situation, the court has to examine the same in the light of the various surrounding facts and circumstances.”

33. [In Ganpat Mahadeo Mane v. State of Maharashtra](#) (1993) Supp.(2) SCC 242, there were three dying declarations. One recorded by the doctor; the second recorded by the police constable and also attested by the doctor and the third dying declaration recorded by the Executive Magistrate which was endorsed by the doctor. Considering the third dying declaration, this Court held that all the three dying declarations were consistent and corroborated by medical evidence and other circumstantial evidence and that they did not suffer from any infirmity.

34. [In Lakhan v. State of M.P.](#) (2010) 8 SCC 514, this Court considered a similar situation where in the first dying declaration given to a police officer was more elaborate

and the subsequent dying declaration recorded by the Judicial Magistrate lacked certain information given earlier. After examining the contents of the two dying declarations, this Court held that there was no inconsistency between two dying declarations and non-mention of certain features in the dying declarations recorded by the Judicial Magistrate does not make both the dying declarations inconsistent.”

24. Keeping in view the above principles of law, we now advert to examine the facts of the present case. Here, there are as many as three dying declarations made by the deceased. After sustaining burn injuries in the night intervening 23/24th December, 2009 Shivkumar (deceased) lodged FIR (Ex.P/16) wherein he states that *“on 24.12.2009 at around 9-10 pm he was sleeping in his house after taking meals and his wife Sitabai was also sleeping in his house. However, at about 2 am Tilak Naik, brother of one Tarun Naik who had contested election, entered his house, poured kerosene on him from the chimney burning in his house and after gagging his mouth set him afire with intent to kill him saying that as to why he did not cast vote in favour of his brother. When he (Shivkumar) somehow raised cry, his wife Sitabai and daughter-in-law Kumari Bai got up and seeing them, the appellant fled from there. Thereafter his wife and daughter-in-law arranged a rickshaw and brought him to police station for lodging report.”* After the death of Shivkumar, the FIR lodged by him can be treated as his first dying declaration.

The second dying declaration of the deceased is Ex.P/8 i.e. MLC written by PW-5 Dr. Pramod Kumar Tiwari wherein he has noted that

“the patient Shivkumar stated that he was burnt by Tilak Kumar (appellant) and one other person.”

However, the third dying declaration was recorded by Executive Magistrate Pulak Bhattacharya (DW-1) vide Ex.D/2 in question and answer form wherein Shivkumar has stated that *on 23.12.2009 as he had consumed liquor excessively, he poured kerosene on himself at 2 am and set himself ablaze. At that time, his wife and son as well as other members were present in the house. The fire was extinguished by his son Shyam Sunder. On being further questioned by the Executive Magistrate as to whether he has been burnt by someone else, he denied the same and reiterated that it is he who poured kerosene on his body and set himself on fire and has not been burnt by anyone else.*

25. From perusal of the dying declaration (Ex.D/2) recorded by the Executive Magistrate, it is evident that before recording such statement the Executive Magistrate (DW-1) had duly obtained certificate from the doctor regarding fitness of the mental condition of the deceased to make such statement. The said dying declaration bears the endorsement of the doctor that *“Patient at present fit for the statement”*. It is not in dispute that this dying declaration was recorded by the Executive Magistrate on being called by the investigating officer PW-14 Umesh Mishra who in para-5 of his deposition has stated that he had sent request to the Executive Magistrate (DW-1) for recording dying declaration of the deceased, however, those documents could not be filed by him along with the Challan and then he has clarified that as he

was transferred, he could not file the same. Further, the factum of recording of dying declaration by the Executive Magistrate has also been proved by PW-1 Shyam Sunder, son of the deceased, who in para-11 has stated that Tehsildar had come to the hospital at Raipur for recording statement of his father before his death and recorded his statement in the evening and that on the next day his father expired. This witness has further stated that there was no dispute between the appellant and the deceased in connection with the election.

26. Likewise, PW-3 Sitabai, wife of the deceased, in para-3 has stated that while her husband was admitted in Raipur hospital, his statement was recorded wherein he disclosed that he himself set him on fire by pouring kerosene on his body and that her husband did not tell her anything while he was being taken to Balodabazar in rickshaw and even at Balodabazar also he told her nothing. Further, PW-4 Ishaque Khan has also stated that upon coming to know of the incident when he went to the house of the deceased and inquired from him as to how he got burnt, the deceased told him that out of tension he poured kerosene on him and set himself ablaze.

PW-5 Dr. Pramod Kumr Tiwari who prepared MLC (Ex.P/8) has also admitted in cross-examination that if somebody sets himself on fire, he burns like Shivkumar (deceased).

27. If we see the motive attributed to the appellant for commission of the offence that he did so on account of deceased not casting vote in favour of his brother who had contested the election, it sounds a bit improbable and does not appeal to reason that anybody would commit

such a heinous offence over this kind of trivial issue.

28. Another important aspect of the case is that as per PW-1 Shyam Sunder, he was informed by his mother Sitabai (PW-3) that his father Shivkumar has suffered burn injuries and it is Sitabai who had extinguished the fire. In para-5 though he states that his father told him at Raipur hospital that he was burnt by the appellant but in cross-examination admitted the suggestion that his father did not tell him anything either in the house or in hospital or on the way from hospital to Raipur. However, as per statement of PW-3 Sitabai after hearing the cries of her husband Shivkumar for help emanating from kitchen when she went there she found him burning and then extinguished the fire. She also admits that at no point of time after the burn incident her husband disclosed her anything except that under the influence of liquor he set himself on fire by pouring kerosene. Whereas in the dying declaration (Ex.D/2) the deceased has stated that the fire was extinguished by his son Shyam Sunder.

29. Considering the law laid down by the Apex Court that dying declaration recorded by the Executive Magistrate bears more probative value and further keeping in view the fact that there is absolutely no evidence on record to show as to why the Executive Magistrate would record incorrect dying declaration or he was having any relation or link with the accused family and rather the prosecution witnesses including the investigating officer have admitted the factum of recording such statement by the Executive Magistrate on being called by the police, we are of the opinion that the dying declaration (Ex.D/2) recorded by

the Executive Magistrate is worth reliance.

30. Thus, regard being had to the overall facts and circumstances of the case, the inconsistency in the statements of the witnesses, their conduct as also the manner in which the investigation was carried out creates a reasonable doubt as to the culpability of the appellant and as such, the trial Court was not justified in holding the appellant guilty under Sections 450 & 302 of IPC on the basis of evidence adduced by the prosecution. Being so, the appellant is entitled to be acquitted of the charges by extending him benefit of doubt.

31. Resultantly, the appeal is allowed. The impugned judgment is hereby set aside acquitting the appellant of the charges under Sections 450 & 302 of IPC. He is reported to be in jail, therefore, he be released forthwith if not required to be detained in connection with any other offence.

Sd/
(Pritinker Diwaker)
Judge

Sd/
(R.P. Sharma)
Judge