

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 831 OF 2013****Reserved on : 06/04/2018****Pronounced on : 14/05/2018**

Sanjeev Dutta S/o Sidhdheshwar Dutta, aged about 26 years, R/o Sector-6,
LIG-1010 Housing Board Colony, Saddu, P.S. Pandri, Civil & Revenue District
Raipur (C.G.)

----Appellant**Versus**

State of Chhattisgarh Through P.S. Pandri, Distt. Raipur (C.G.)

---- Respondent**AND****Criminal Appeal No. 914 OF 2013**

1. Jitendra Kumar Chelak S/o Dharmendra Aged about 22 years,
Resident of village Murra Bhatthi Parwati Nagar-Gudhiyari, Police Station
Gudhiyari, Civil & Revenue District Raipur (C.G.).

2. Prem Kumar Soni S/o Jagdish Prasad Soni Aged about 29 years
Resident of Village near Bihari shop Murra-Bhatthi Gandhinagar, Police
Station Gudhiyari, Civil & Revenue District Raipur (C.G.).

---- Appellants**Versus**

State of Chhattisgarh through Police Station Pandri, Civil & Revenue District
Raipur (C.G.).

---- Respondent

For Respective Appellants : Mr. Sudhir Verma and Mr. Ravi Maheshwari,
Advocates
For State/Respondent : Mr. Ravindra Agrawal, Govt. Advocate
For Complainant/Objector : Mr. Praveen Das, Advocate

**Hon'ble Shri Pritinker Diwaker &
Hon'ble Shri Sanjay Agrawal, JJ.**

C A V Judgment

Per Sanjay Agrawal, J.

1. These appeals have been preferred by the appellants under Section 374(2) of the Code of Criminal Procedure, 1973, (hereinafter referred to as 'the CrPC') against the common judgment dated 08/08/2013 passed by the learned Fourth Additional Sessions Judge, Raipur (C.G.) in Sessions Trial No. 234/2011 whereby they have been convicted and sentenced as under :-

<u>Conviction</u>	<u>Sentence</u>
Under Section 120-B of the Indian Penal Code (for short 'the IPC')	Rigorous imprisonment for three years with fine of Rs. 100/- each, in default of payment of fine amount, additional simple imprisonment for three months each.
Under Section 449 IPC	Imprisonment for life with fine of Rs. 100/- each, in default of payment of fine amount, additional simple imprisonment for three months each.
Under Section 394 read with Section 398 IPC	Imprisonment for life with fine of Rs. 100/- each, in default of payment of fine amount, additional simple imprisonment for three months each.
Under Section 302 read with Section 34 IPC	Imprisonment for life with fine of Rs. 100/- each, in default of payment of fine amount, additional simple imprisonment for three months each.

In addition to above, appellants Jitendra Kumar Chelak and Prem Kumar Soni (Criminal Appeal No. 914/2013) have also been convicted and

sentenced as under :-

<u>Conviction</u>	<u>Sentence</u>
Under Section 25(1B-B) of the Arms Act	Rigorous imprisonment for three years with fine of Rs. 100/- each, in default of payment of fine amount, additional simple imprisonment for three months each.
Under Section 27 of the Arms Act	Rigorous imprisonment for three years with fine of Rs. 100/- each, in default of payment of fine amount, additional simple imprisonment for three months each.
All the sentences awarded to all the appellants have been directed to run concurrently.	

2. Since both these appeals arise out of a common judgment, therefore, they are being disposed of by this common judgment.
3. Briefly stated, the case of prosecution, is that, on 26/07/2011, from 9.30 A.M. to 5.30 P.M., some unknown person entered into the house of the deceased Smt. Meeta alias Sashmita Biswal in M.I.G., House No. 29 of Sector- 8 at Housing Board Colony, Saddu, Raipur and inflicted her with a knife on several parts of her body and thereby caused serious multiple injuries, as a result of which, she succumbed to injuries.
4. Based upon the aforesaid incident, an unnumbered Merg (Ex. P-25) was lodged by one E. Rajshekhar Rao on 26/07/2011 at 18.20 hours by narrating the aforesaid incident. *Dehati Nalishi* (Ex. P-24) and numbered Merg (Ex. P-32) was thereafter lodged by him on 26/07/2011 and based upon which, First Information Report (Ex. P-33) was registered on 26/07/2011 at 20.40 hours against unknown persons under Section 302 IPC. Inquest on the dead body of the deceased Smt. Meeta alias Sushmita Biswal was prepared on 27/07/2011 vide Ex. P-2 during which, a bunch of

hair was recovered from the left hand of the deceased vide seizure memo Ex. P-13. After inquest as such, it was sent for autopsy, where Dr. Shivnarayan Manjhi (PW-21) has conducted the postmortem of the dead body of the deceased Smt. Meeta alias Sushmita Biswal on 27/07/2011 and upon noticing several grievous injuries on her body, submitted his report vide Ex. P-34 opining that the death has occurred due to hemorrhage and shock, as a result of multiple stab and incised injuries to the body, which is homicidal in nature.

5. During the investigation, the place of incident was inspected by the Finger Print Expert on 26th and 27th of July, 2011, who found certain finger prints over there at the TV stand and also on the steel Almirah and marked the same as Article 'A' and Article 'B' respectively. After examining those finger prints (Article 'A' and 'B') with that of finger prints of suspicious accused persons namely Jitendra Kumar Chelak and Prem Kumar Soni, the finger print marked as Article- 'B' found matched with that of finger prints of accused- Jitendra Kumar Chelak vide its finger print report Ex. P-27. Disclosure statement (Ex. P-42) of appellant- Jitendra Kumar Chelak led to the recovery of Passbook of Bank Account of State Bank of India belonging to the deceased's husband, LIC Policy, ATM card of ICICI Bank and Kodak Camera vide seizure memo Ex. P-43. The knife and his full shirt and full pant was also recovered from him vide seizure memo Exs.P-46 and P-54 respectively. The camera so recovered was identified by the deceased's husband vide its test identification (Ex. P-17) and as per FSL report (Ex. P-62) blood was found on the recovered knife and clothes. During the investigation, *Gutkha Peek* which was seized from the toilet of the deceased vide Ex. P-3 was found matched with that of the blood sample of appellant-

Jitendra Kumar Chelak vide DNA report (Ex. P-65).

6. The disclosure statement (Ex. P-44) of appellant- Prem Kumar Soni led to the seizure of mobile phone and full pant from his house vide seizure memo Exs. P-45 and P-53, while knife, broken SIM card and a Suitcase near the boundary of Lafarge Cement Godown vide seizure memos Exs. P-47 & P-41 and, as per the FSL report (Ex. P-62), the blood was found on the recovered knife and clothes of appellant- Prem Kumar Soni. The bunch of hair so recovered vide Ex. P-13 at the time of inquest from the left hand of the deceased was found matched with blood sample of appellant- Prem Kumar Soni as per DNA report (Ex. P-65).

7. After usual investigation of the matter as such, the Station House Officer Pandari, Mova, District Raipur (C.G.) has submitted his final report on 06/09/2011 before the Chief Judicial Magistrate, Raipur, District Raipur against the appellants and that by including one Deepak Jain under Sections 302, 394, 450, 120-B, 34, 397 & 411 IPC and under Sections 25 & 27 of the Arms Act. The matter was, thereafter, committed to the Fourth Additional Sessions Judge, Raipur for its trial.

8. After considering the *prima facie* materials available on record, the trial Court has framed the charges against the appellant-Sanjeev Dutta under Sections 120-B, 449, 394 read with 398 and 302/34 IPC, while under Sections 120-B, 449, 394 read with 398 and 302/34 IPC together with Sections 25 (1B-B) & 27 of the Arms Act against the appellants- Prem Kumar Soni and Jitendra Kumar Chelak. The trial Court has also framed the charge under Section 411 IPC against the other accused- Deepak Jain. The appellants and said Deepak Jain have pleaded not guilty in connection with the aforesaid crime, as framed, and claimed to be tried.

9. In order to bring home the guilt of the appellants and said Deepak Jain, the prosecution has examined as many as 23 witnesses, while none was examined by the appellants in their defence.

10. After considering the evidence led by the prosecution, the trial Court by its judgment impugned dated 08/08/2013, has convicted and sentenced the appellants as aforesaid in relation to the crime in question. While convicting the appellants as such, the trial Court has convicted the other co-accused, namely Deepak Jain in relation to the offence punishable under Section 411 IPC and awarded him jail sentence for a period of rigorous imprisonment for three years and to pay fine of Rs.1000/- with usual default stipulations. It is stated by learned counsel for the State that said Deepak Jain has not chosen to file any appeal against his conviction under Section 411 IPC.

11. Being aggrieved, the appellants have preferred these appeals. Mr. Sudhir Verma and Mr. Ravi Maheshwari, learned counsels appearing for the respective appellants submit that the judgment under appeal as passed by the trial Court is apparently contrary to law as the same has been passed without considering the evidence in its proper perspective. They submit further that in absence of the eyewitness, the trial Court, based upon the weak circumstantial evidence, ought not to have convicted the appellants as such. In support, Mr. Verma placed his reliance upon the principles laid down in the matter of “**Manish Dixit and others v. State of Rajasthan and other**”, reported in **(2001) 1 SCC 596**.

12. On the other hand, Mr. Ravindra Agrawal, learned Government Advocate appearing for the State/respondent duly assisted by Mr. Praveen Das, learned counsel appearing for the complainant/Objector, submits that although there is no eyewitness in the case but the circumstantial evidence

like recovery of bunch of hair from the left hand of the deceased during inquest was found matched with the blood sample of appellant- Prem Kumar Soni as per DNA report (Ex. P-65) and, likewise, recovery of blood stains knife from the appellant- Jitendra Kumar Chelak were duly found established through FSL report (Ex. P-62). They submit further that the Finger Print Expert, vide its report (Ex. P-27), has found that the finger prints seized from the steel Almirah of the deceased's house marked as Article 'B' are duly found matched with that of the finger prints of appellant Jitendra Kumar Chelak and, *Gutkha Peek* seized vide Ex. P-3 from the toilet of the deceased was also duly matched with the blood sample of the appellant Jitendra Kumar Chelak vide DNA report Ex. P-65. In such circumstances, the trial Court has rightly convicted the appellants based upon these strong circumstantial evidences, which does not require to be interfered.

13. We have heard the learned counsel appearing for the parties and perused the entire record carefully.

14. Smt. Hemlata Kiran (PW-1), who is the neighbour and whose house is adjacent to the deceased's house, has stated in her evidence that on the fateful day, deceased's daughter, after returning from the school, had knocked the gate of her house but it was not opened. She has stated further that when it was not opened despite knocking the gate repeatedly by her also, then she called her father who came and entered his house while jumping from her house and saw his wife lying in the bedroom with pool of blood spread over the spot.

15. A. Ishwar Rao (PW-2), who is the witness of inquest (Ex. P-2) has stated that he was in his office when he received a phone call from his wife Kalpana who told that Mr. Biswal, the deceased's husband, was calling him.

He went to his house, where he saw the deceased with pool of blood in her bedroom. He along with her husband, took the deceased to the hospital where doctor has declared her dead.

16. E. Rajshekhar Rao (PW-17) stated to have lodged the reports (Exs. P-24 & 25) has stated in his evidence that when he reached the deceased's house, he saw her lying in the injured condition and has seen several injuries on her body then immediately took her to Balaji, Hospital where the doctor has declared her dead.

17. Nalinikant Biswal (PW-18) is the husband of the deceased and was in his office at the time of occurrence of the alleged incident. According to him, he received a phone call from his neighbour Manoj's wife that his daughter Nishita has returned from her school, but her mother (deceased) is not opening the door. Upon receiving the said information, he reached his house and somehow managed to enter his house by jumping from his neighbour's house and saw his wife lying near the door with pool of blood. He has seen several injuries on her body and his son Mohit Biswal (three years old) was crying while standing in front of her. He took his wife to the hospital, where the doctor had declared her dead. He has stated further that the ornaments like golden-chain, ear-rings and golden bangles, which she wore were missing from her body and it appears that so-called persons must have entered into his house with an intention to take away all those valuables. Upon searching the house, he could not find his Suitcase in which, material things like Passbook, ATM Cards, LIC Policy, some Mark-sheets, Certificates, relevant papers of house, PAN Card, Driving Licence, Cheque Book and Health Card of ICICI Bank were kept. He stated further that his Camera of Kodak Company and Samsung Mobile phone was also

stolen from his house. He identified his jewelries and alleged Camera vide its test identifications (Exs. P-16 &17). He is also the witness of spot map (Ex. P-19) prepared by *Patwari* Naresh Thakur (PW-12).

18. Manoj Kumar (PW-3) is the witness of seizure memo (Ex. P-3) by which, *Gutkha Peek* was seized from the toilet of the deceased's house and has thus, supported the case of the prosecution. Dhaneshwar Dhruv (PW-4), Ranjan Sarkar (PW-11), Lekhram Verma (PW-16) and Kalejan @ Kalinder Behra (PW-5) are all the formal witnesses.

19. Aishwarya Kumar Pathak (PW-6) has seen the appellant- Jitendra Kumar Chelak on the date of incident in the morning at 9.00 A.M. along with other accused persons, namely, Sanjeev Dutta and Deepak Jain near the house of the deceased. Amarchand Soni (PW-7) is a Constable, who deposited the seized Articles before the Laboratory for its examination and thus assisted the prosecution case. Vijay Kumar Sahu (PW-8) is a Tailor from whose shop the appellant- Prem Kumar Soni got his shirt stitched and a "sticker" printed with the name and style as Vijay Tailor, Raipur was seized from him vide seizure memo (Ex. P-11).

20. P. S. Rao (PW-9) is the witness of inquest (Ex. P-2) and in whose presence bunch of hair was recovered from the left hand of deceased Smt. Meeta alias Sashmita Biswal vide seizure memo Ex. P-13. This witness has thus supported the prosecution case. Likewise, Devanand Patnayak (PW-10) is also the witness of inquest (EX. P-2) and seizure memo (Ex. P-13). He has stated further that Jewelries and Camera were identified in his presence by deceased's husband Nalinikant Biswal vide Exs. P-16 and P-17. Santosh Kumar (PW-14) is also a witness of test identification of jewellery (Ex. P-16) while Jitendra Kumar (PW-15) is a witness of test

identification of Camera (Ex. P-17) and both these witnesses have supported the prosecution's case.

21. Naresh Thakur (PW-12) is the *Patwari* who prepared the spot map vide Ex. P-19. Motilal Sahu (PW-13) is a Constable who took the dead body of the deceased to Government Bhimrao Ambedkar Hospital at Raipur for its postmortem. Rajesh Jangde (PW-20) is the part of investigation, who registered the Merg intimations (Exs. P-24 & 25) and also the First Information Report (Ex. P-33) on the basis of the information furnished by one E. Rajshekhar (PW-17) and has thus assisted the prosecution's case.

22. S.K. Jain (PW-19) is the Finger Print Expert who inspected the place of incident on 26th and 27th of July, 2011 and found certain finger prints on the TV stand and also on the steel Almirah and marked the same as Article 'A' and Article 'B' respectively. According to him, he examined and compared those finger prints with that of suspicious accused persons, namely Prem Kumar Soni and Jitendra Kumar Chelak and opined that the finger prints on Article 'B' are matched with that of right hand finger prints of accused- Jitendra Kumar Chelak and accordingly submitted its report vide Ex. P-27. He was firm in his cross-examination.

23. Dr. Shivnarayan Manjhi (PW-21) has conducted the postmortem of the dead body of the deceased Smt. Meeta alias Sashmita Biswal on 27/07/2011 and after noticing so many grievous injuries on her body, has submitted its report (Ex. P-34) opining that the death was due to hemorrhage and shock, as a result of multiple stab and incised injuries, caused with sharp and hard object to the body, which is homicidal in nature. It was also opined by him vide its query report (Ex. P-37) that the alleged injuries could be caused with the seized weapon (knife).

24. Sankat Mochan Shukla (PW-22) is a milkman and also a vegetable vendor and often used to visit deceased's house for giving milk and vegetables. According to him, he has seen the appellant- Sanjeev Dutta along with other accused Jitendra Kumar Chelak in the house of the deceased on 26/07/2011 at about 11.30 A.M. and had a talk with them also. He is the witness of disclosure statements of accused persons and seizure memos and has supported the prosecution's case.

25. Sandhya Dwivedi (PW-23) is the Investigating Officer who has thoroughly investigated the matter and sent the seized articles belonging to the accused persons like knife, clothes, finger prints which were found on the spot, *Gutkha Peek* seized from the toilet of the deceased and, a bunch of hair seized vide Ex. P-13 from the left hand of the deceased at the time of inquest of her dead body for its chemical examinations and the reports (Exs. P-62 and P-65) submitted in this regard were duly certified by her. She has thus supported the prosecution's case.

26. Admittedly, as reflected from the aforesaid evidence, there is no eyewitness to the occurrence of the alleged incident and the entire case is completely based upon the circumstantial evidence. The main circumstantial evidence which emerges are, that :-

- (i) the deceased Smt. Meeta alias Sashmita Biswal was alone at home along with her minor son Mohit, aged 3 years old;
- (ii) at the time of inquest (Ex. P-2) of the dead body, a bunch of hair was seized from the left hand of the deceased vide seizure memo (Ex. P-13) and was

tallied with blood sample of appellant- Prem Kumar Soni as per DNA report (Ex. P-65);

(iii) the Gutkha Peek was seized from the toilet of the deceased vide seizure memo (Ex. P-3) and was tallied with blood sample of appellant-Jitendra Kumar Chelak vide DNA report (Ex. P-65).

(iv) the finger print (Article 'B') which was found by the Finger Print Expert from the steel Almirah of the deceased's house upon inspection made by him on 26th and 27th of July, 2011 immediately after the occurrence of the incident was got matched with that of finger print of appellant-Jitendra Kumar Chelak vide Finger Print Report (Ex. P-27).

(v) despite the establishment of their presence on the place of incident, the appellants (Prem Kumar Soni and Jintendra Kumar Chelak) have failed to rebut the same;

(vi) the appellant Sanjeev Dutta was seen near deceased's house according to Aishwarya Kumar Pathak (PW-6) and Sankat Mochan Shukla (PW-22) along with appellant Jitendra Kumar Chelak and other accused Deepak Jain, and, blood was found from his seized cloths vide seizure memo. (Ex. P-49).

27. The law relating to circumstantial evidence is well settled. There should

be no missing link in the case like this, yet it is not essential that everyone of the links must appear on the surface of the evidence adduced and some of these links may have to be inferred from the proved facts. In drawing these inferences or presumptions, the Court must have regard to the common course of natural events, and to human conduct and their relations to the facts of the peculiar case.

28. There are plethora of decisions in this regard. It is unnecessary to refer all of them and mention of some would be sufficient. In the leading case i.e. **Hanumant & another v. The State of Madhya Pradesh** reported in (1952) **SCR 1090** the Court has held thus:-

"In dealing with circumstantial evidence there is always the danger that conjecture or suspicion may take the place of legal proof. It is therefore right to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency, and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

29. Reverting back to the case in hand while keeping the aforesaid principles in mind, it is evident from the examination of the evidence that

during the course of inquest of dead body of the deceased Smt. Meeta alias Sashmita Biswal, a bunch of hair was seized from her left hand vide seizure memo Ex. P-13 and, *Gutkha Peek* was seized from the toilet of the deceased vide Ex. P-3. Both these articles were put in chemical examinations and upon its examination, it was found specifically vide DNA report (Ex. P-65) that the blood sample of appellant- Jitendra Kumar Chelak marked as 'R-2 (ID 5407)' has duly been matched with that of *Gutkha Peek* marked as Pocket 'D' (ID 5404), while blood sample of appellant- Prem Kumar Soni, marked as 'R-1 (ID 5406) has duly been matched with that of alleged bunch of hair, marked as Pocket 'H' (ID 5405).

30. Further examination of the prosecution's evidence would reveal that the Finger Print Expert namely, S.K. Jain (PW-19) has inspected the place of incident on 26th and 27th of July, 2011, immediately upon the occurrence of the alleged crime and found certain finger prints over there, precisely from the T.V. stand and steel Almirah, which were marked by him as Article 'A' and Article 'B' respectively. After collecting those finger prints from the place of incident, he (S.K. Jain) examined and compared the same with that of suspicious accused persons, i.e., appellants- Prem Kumar Soni and Jitendra Kumar Chelak and opined by submitting its report (Ex. P-27) that the alleged finger prints as found from the steel Almirah of the deceased's house marked as Article 'B' was duly matched with that of the finger prints of appellant- Jitendra Kumar Chelak. Consequently, the presence of both these appellants (Prem Kumar Soni and Jitendra Kumar Chelak) has duly been established by the prosecution. Thus, the initial burden of proof as required under the law was duly discharged by the prosecution, however, no evidence in its rebuttal, whatsoever, was placed by the appellants. Being

strangers, the burden was heavily upon them to show as to why they entered the house of the deceased, particularly, when she was alone in her house along with her minor child Mohit Biswal, aged about 3 years. In absence of any evidence adduced by them, it is difficult to hold that they are innocent with regard to the commission of alleged crime, as contended by their counsels.

31. Besides, the Passbook of the bank account of SBI, LIC Policy, ATM Card of ICICI Bank, Kodak Camera belonging to the deceased were seized at the instance of the appellant- Jitendra Kumar Chelak vide seizure memo Ex. P-43, *vis-a-vis*, the recovery of blood stained knife and clothes, vide seizure memos (Exs. P-46, P-54, P-47 and P-53), were found duly established by FSL report (Ex. P-62), which further corroborates their involvement in connection with the alleged crime.

32. In consequence, the appeal preferred by the appellants- (Jitendra Kumar Chelak and Prem Kumar Soni) being Criminal Appeal No.914 of 2013, therefore, liable to be and, is accordingly dismissed.

33. We, however, do not find any substantive piece of evidence regarding involvement of appellant- Sanjeev Dutta in the crime in question as he was just found to be seen along with the appellants on the date of incident by Aishwarya Kumar Pathak (PW-6) and Sankat Mochan Shukla (PW-22). Unless and until it is supported and corroborated by other cogent and reliable evidence, he cannot be held liable merely on this basis. The other evidence available against him was the recovery of air pistol, motorcycle and its registration book seized vide seizure memo Ex. P-52 on the basis of his disclosure statement (Ex. P-48) and, a full shirt and full pant were seized from him vide seizure memo Ex. P-49. However, upon examination

of the entire evidence, we do not find that these seized articles, like air pistol and motorcycle had any nexus with the offence committed on 26/07/2011. In so far as recovery of alleged blood stained clothes from him vide seizure memo Ex. P-49 is concerned, the same by itself cannot be held to be a substantive piece of evidence as held in **Manish Dixit** (supra), wherein the Hon'ble Supreme Court has observed at para-35 as under:-

“35.Shri Sushil Kumar Jain relied on the circumstance that a bloodstain was noted by the Forensic Science Laboratory on the motorcycle seized by the police pursuant to the information received from A-1 (Sharad Dhakar) during his interrogation. The said bloodstain was found to be of ‘O’ group. (The blood group of the deceased was also ‘O’.) We would assume that the said circumstance has been established by the prosecution, but that is not decisive enough to point to the involvement of that accused in the murder of the deceased. If there were other circumstances, apart from the recovery of some jewellery belonging to the deceased from the possession of this accused, perhaps the aforesaid circumstance (relating to the bloodstain found on the motorcycle) would have lent support to an inference against him. As it is, we find it difficult to reverse the order of acquittal passed in favour of A-1 (Sharad Dhakar) in respect of the major counts of offences. Appeal filed by the State against A-1 (Sharad Dhakar) is only to be dismissed.”

34. By applying the aforesaid principles in the case in hand, we do not find any cogent and reliable evidence by which the appellant- Sanjeev Dutta could be held liable in relation to the crime in question. The findings of the trial Court convicting him as such, therefore, deserve to be and are hereby

set aside. The appeal filed by the appellant- Sanjeev Dutta being Criminal Appeal No.831 of 2013 is accordingly allowed. The appellant- Sanjeev Dutta is hereby acquitted of the aforesaid charges framed against him. He shall be set at liberty forthwith if not required in any other case.

35. In the result, the appeal preferred by the appellants- Jitendra Kumar Chelak and Prem Kumar Soni being Criminal Appeal No.914 of 2013 is dismissed and the appeal preferred by the appellant- Sanjeev Dutta being Criminal Appeal No. 831 of 2013 is allowed.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Sanjay Agrawal)
Judge