

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Reserved on : 2.4.2019

Date of decision : 11.4.2019

1. CRA-D No. 937-DB of 2017 (O&M)

Nirmal Singh Appellant
versus
State of Haryana ... Respondent

2. CRA-D No. 1075-DB of 2017 (O&M)

Sehaj Ram Appellant
versus
State of Haryana ... Respondent

3. CRA-D No. 1122-DB of 2017 (O&M)

Jagdish @ Tipu Appellant
versus
State of Haryana ... Respondent

**Coram: Hon'ble Mr. Justice Rajiv Sharma
Hon'ble Mr. Justice Avneesh Jhingan**

Present Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja, Advocate, for appellant – Nirmal Singh.
Ms. Kanika Ahuja, Legal Aid Counsel,
for appellant – Sehaj Ram.
Mr. Ravinder Bangar, Advocate, for appellant- Jagdish @ Tipu.
Ms. Shubhra Singh, Additional Advocate General, Haryana.

Rajiv Sharma, J.

1. This judgment will dispose of three appeals bearing **CRA-D No. 937-DB of 2017** - Nirmal Singh vs State of Haryana, **CRA-D No. 1075-DB of 2017** - Sehaj Ram vs State of Haryana, and **CRA-D No. 1122-DB of 2017** - Jagdish @ Tipu vs State of Haryana, as common questions of law and facts are involved therein.

2. The present appeals are instituted against the judgment dated 31.7.2017 and order dated 1.8.2017, rendered by learned Additional

Sessions Judge (Exclusive Court for heinous crimes against Women and Children), Yamuna Nagar at Jagadhri, in Sessions Case No. 44 of 2013, by appellants Nirmal Singh, Sehaj Ram and Jagdish alias Tipu. They were charged with and tried for the offence punishable under Sections 452, 323, 302 read with Section 34 IPC. They were convicted and sentenced as under:-

<i>Under Section</i>	<i>Sentence imposed</i>
Section 452 IPC	To undergo rigorous imprisonment for a period of three years and to pay a fine of ₹ 1,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of ten days.
Section 323 IPC	To undergo rigorous imprisonment for a period of six months.
Section 302 IPC	To undergo life imprisonment and to pay a fine of ₹ 10,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of two months.

3. The case of the prosecution based on the statement dated 21.6.2013 (Ex.PD) of complainant- Usha Devi is that she has two children. They were having four acres of land for cultivation. Her husband had sold one acre of land in two parts about 1½ year back and remaining 2½ acres of land was also sold by him to one Nirmal Singh of village Jagdholi about 5/6 months back and in this regard a civil suit was pending between the parties. Nirmal Singh tried to take possession of the land, however, he could not succeed due to the resistance made by her and other villagers. Nirmal Singh also used to bring her husband Sehaj Ram with him and was making efforts to get the possession delivered to said Nirmal Singh. Sehaj Ram was not having any love and affection with her and her children as he was in relation with other girl, namely, Kusum Lata. On 21.6.2013, with an intent to take possession of the land, Nirmal Singh along with his companion, namely, Tipu and Sehaj Ram (husband of the complainant) entered her house at 10.00 P.M., when she was lying on a cot in the *verandah* of her house and

her children were sleeping on another cot, by climbing over the wall. Sehaj Ram and his companions abruptly picked her up. She was given beatings. Her clothes were torn. Nirmal Singh sprinkled kerosene on her and Sehaj Ram lit fire with the matchstick by saying that he will teach a lesson to her for becoming hurdle in sale of his land. Tipu had caught hold of her. She raised alarm. Inhabitants gathered on the spot. On her statement, Ex.PD, formal FIR, Ex.PCC, was registered. She died. The dead-body was sent for post-mortem examination. Investigation was completed and challan was put up after completing all the codal formalities.

4. The prosecution examined a number of witnesses in support of the case. The statements of the accused were also recorded under Section 313 Cr.P.C. They examined fifteen witnesses in their defence. They were convicted and sentenced, as noticed hereinabove. Hence, the present appeal.

5. Learned counsel appearing on behalf of the appellants vehemently argued that the prosecution has failed to prove its case. Learned counsel appearing for the State vehemently argued that the prosecution has proved its case beyond reasonable doubt and supported the judgment and order of the learned trial Court.

6. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

7. PW1 Mulak Raj has prepared the site plan, Ex.PA.

8. PW2 Chander Shekhar, Senior Scientific Assistant, In-charge, Mobile Forensic Science Unit, Yamuna Nagar, has proved the report, Ex.PB.

9. PW5 ASI Surender Kumar, deposed that on 20.6.2013, he along with ASI Jai Kishan was present at Mustafabad on patrolling in Government vehicle. ASI Jai Kishan received information from MHC, Police Station,

Chhappar that one Usha Rani was admitted in Government Hospital, Jagadhri, in burnt condition. They reached Government Hospital, Jagadhri. ASI Jai Kishan recorded her statement, Ex.PD, in his presence. It was signed and thumb marked by Usha Rani. ASI Jai Kishan handed over the same to him, on the basis of which FIR was registered. ASI Jai Kishan took into possession from the place of occurrence one bottle containing kerosene, one match-box, one burnt match-stick, soil, some broken pieces of bangles, some melted clothes (clothes in burnt conditions), vide memo, Ex.PF. In his cross-examination, he deposed that the information was received at about 12.10 a.m. (night) on 21.6.2013. They reached the hospital within about 15-20 minutes. Usha Rani was conscious at that time. In his cross-examination, he admitted that the age of daughter of Usha Rani was about 11 years and the age of her son was about 8-9 years. There was only one cot lying in the *verandah* on which Usha Rani was allegedly sleeping.

10. PW6 Dr. Radha Raman deposed that on 21.6.2013, Usha Rani wife of Sehaj Ram of Yamuna Nagar was admitted in PGI, Chandigarh. He was member of the team treating the patient. She was treated till 9.7.2013. She had sustained 55% thermal burn injuries. He prepared the death summary, Ex.PG. In his cross-examination, he deposed that the patient remained conscious from 2.7.2013 to 5.7.2013. The patient was brought with 55% burn injuries. Her condition was very bad.

11. PW8 Jatin Garg, Judicial Magistrate 1st Class deposed that on 21.6.2013, ASI Jai Kishan moved an application (Ex.PL) before him for recording statement of Usha Rani. He passed order, Ex.PL/1. He reached Civil Hospital, Jagadhri and took the opinion of Dr. Narender Kumar

Chhabra regarding fitness of injured and the doctor gave his opinion that patient is fit to make the statement vide Ex.PM. Thereafter, he passed the order, Ex.PM/1. He recorded the statement of Usha Rani in the presence of Dr. Narender Kumar, vide Ex.PN, which was thumb marked by Usha Rani. Thereafter, the doctor gave certificate that the patient remained fit during the period of recording the statement. Certificate is Ex.PO. After recording of the statement, the same was ordered to be sealed vide order, Ex.PO/1. Dying declaration is Ex.PN.

12. PW9 Dr. Narendera Kumar led his evidence by filing affidavit, Ex.PQ. He deposed that he had medically examined Usha Rani, vide MLR, Ex.PR. He gave certificate, Ex.PO, regarding fitness of the injured during the period her statement was recorded. The learned Magistrate had recorded the statement of the injured in his presence. After recording of statement, he gave certificate, Ex.PO, regarding fitness of injured during the period her statement was recorded.

13. PW11 Dr. Kumaran M., Junior Resident, Department of Forensic Medicine, PGIMER, Chandigarh, has led his evidence by filing affidavit, Ex.PU. According to him, superficial to deep thermal burns were present over whole of body except face, upper 1/3rd of front of chest, front of right side of abdomen, patchy areas over front of left side of abdomen, patchy area over back of chest and abdomen, upper 1/3rd of back of right arm, back of left arm and forearm, front of right thigh and right leg, patchy areas over left thigh and both soles. He proved post-mortem report, Ex.PX. According to him, the cause of death was septicemia consequent to infected thermal burns. The injuries were ante-mortem in nature. The probable time

elapsed between injury and death was about 2 to 3 weeks and between injury and death was 1 day and 1 hour.

14. PW13 Nirmala deposed that on 20.6.2013 at about 10.30 p.m., Usha Rani, who was living on the back side of her house, had caught fire and jumped in her house. She was crying and asking for help to put off fire. The alarm was raised and people gathered there. She made telephone call to the brother of Usha Rani. A car was arranged. She was taken to the hospital. The police visited the spot in her presence and recovered one kerosene bottle (Ex.MO/1), burnt cloth (Ex.MO/2), soil (Ex.MO/3), and one match-box (Ex.MO/4), vide recovery memo, Ex.PF. She was declared hostile by the learned Public Prosecutor and cross-examined. She deposed that the occurrence did not take place in her presence.

15. Des Raj brother of deceased Usha Rani appeared as PW14. He testified that on 20.6.2013, he received a message that some mis-happening had taken place with his sister Usha Rani. He reached the village and saw that his sister was lying in burnt conditions outside her house. He immediately asked his sister as to how it happened. She told that accused Nirmal, Jagdish and Sehaj Ram, present in the Court, had poured kerosene upon her turn by turn and put her on fire. They went to the hospital. The police was informed. The Magistrate also reached the hospital. He recorded the statement of deceased Usha Rani. The police took into possession the case property. After the post-mortem, the dead-body was handed over to him. Sehaj Ram was alcoholic.

16. PW15 ASI Jai Kishan deposed that in the intervening night of 20/21.6.2013, he received information regarding the fact that Usha Rani was

admitted in Civil Hospital, Jagadhri in burnt condition. He along with other police officials visited Civil Hospital, Jagadhri. He moved an application, Ex.PDD, and after taking opinion, Ex.PDD/1, of the doctor, he recorded the statement, Ex.PD. Usha Rani thumb marked the same. He completed the police proceedings. Thereafter, he moved application, Ex.PL, before the Judicial Magistrate 1st Class, Jagadhri, for recording the statement of injured Usha Rani. In his cross-examination, he admitted that he never joined in the investigation nor enquired regarding the incident from the children of the deceased Usha Rani.

17. The Forensic Science Laboratory, Haryana, Madhuban, report is Ex.PFF. According to report, kerosene residues were detected in exhibit-1 (burnt clothes), exhibit-2 (some blue coloured liquid approximately 1 litre stated to be kerosene) and exhibit-3 (burnt clothes).

18. The defence taken by accused Sehaj Ram was that on 19.6.2013, he got admitted his close relative Sandeep son of Gian Chand in R. K. Gupta Hospital, Yamuna Nagar. He remained present in the said hospital with effect from 19.6.2013 to 21.6.2013 till 5.00 AM and left the hospital only on 20.6.2013 with effect from 8.00 PM to 8.30 PM and that too for taking dinner in Zim Khana Club, Sector-17, HUDA, Jagadhri. In other words, accused Sehaj Ram has taken the plea of alibi. Similarly, accused Nirmal Singh has also taken the plea of alibi. According to him, at the alleged time of occurrence, he was present in his village Jagdhouli. He was handicap having iron rod in his leg. He could not climb the wall.

19. DW1 Dr. R. K. Gupta deposed that as per record, patient Sandeep son of Gian Chand, aged about 21 years, was admitted in his

hospital on 19.6.2013 at 11.00 PM. It was a case of diarrhea. He was treated in his hospital and was discharged on 21.6.2013 in the evening around 6.00 PM. In his cross-examination, he could not tell as to who got the said patient admitted in the hospital. He had no knowledge as to who had attended the patient during his hospitalization. He could not tell as to who visited the patient during his hospitalization.

20. DW2 Sandeep deposed that on 19.6.2013, he was suffering from diabetes. On that day, he was got hospitalized by Sehaj Ram. He remained with him in the hospital upto 8.30 P.M. on 20.6.2013. At 8.30 P.M., he left for taking meals and after taking dinner, he came back at 9.00 P.M. In his cross-examination, he deposed that accused Sehaj Ram is his maternal uncle. He was living in a locality near Gymkhana Club, Yamuna Nagar. However, he could not tell the address of the accused. He deposed that he was residing in the said area for about 2/3 years, again said for the last three years. Sehaj Ram was earlier running a Canteen in Indian Public School, Jagadhri and thereafter he started the business of finance. He had two children. He could not tell the names of the children of Sehaj Ram nor their age. He was suffering from diabetes since February, 2011. He was not taking allopathic treatment. He also admitted that he was taking Ayurvedic medicines. He also admitted that from Dr. R. K. Gupta, he took treatment from 19.6.2013 till evening of 21.6.2013. Except that period, he never took treatment from the said doctor.

21. DW3 Pal Chand deposed that he was Lambardar of village Jagdholi. He know accused Nirmal Singh. On 20.6.2013, a panchayat was held in the house of Ashok Mistri. Around 20-25 persons had attended that

panchayat. The panchayat was convened regarding false complaint of the sons of Ashok Kumar. It continued from 9.00 P.M. to 11.00 P.M. Accused Nirmal Singh was also present in that panchayat. They went to the office of Superintendent of Police, Yamuna Nagar, to tell that accused Nirmal Singh was present in the panchayat between 9.00 P.M. to 11.00 P.M. on 20.6.2013. In his cross-examination, he admitted that no resolution was passed by the panchayat. The distance between Kalawar and Jagdholi is about 2-3 kilometers.

22. DW4 Ashok Kumar deposed that he was a member panchayat of village Jagdholi. On 13.6.2013, a false FIR was got lodged against his sons Vikas and Sahil under Section 376 IPC. They 60-70 persons including accused Nirmal met Superintendent of Police, Yamuna Nagar on 14.6.2013. On 20.6.2013, a panchayat was convened at about 9.00 P.M. regarding false implication of his sons. The panchayat proceedings lasted upto 11.00 P.M. It was attended by accused Nirmal Singh. In his cross-examination, he deposed that the panchayat was held in the courtyard of his house. All the persons remained present in the panchayat from 9.00 P.M. to 11.00 P.M.

23. DW5 Lachhman Singh deposed that he was Ex-Sarpanch of village Jagdholi. On 20.6.2013, he was present in a panchayat convened by Ashok Mistri. At that time accused Nirmal Singh was also present in that panchayat. The panchayat proceedings continued from 9.00 P.M. to 11.00 P.M.

24. DW6 Darshan Lal deposed that on 20.6.2013, after closing shop, he was present in his house. There is a street between his house and house of Usha Rani. On that day, he was walking in the street in front of his

house alongwith his wife. At about 10.00, he heard noise of weeping from the house of Nirmala Devi, adjacent to the house of deceased Usha Rani. They saw that Usha Rani was burning in the house of Nirmala Devi. Nirmala Devi was putting off the fire. At that time, accused Nirmal Singh, accused Sehaj Ram and Tikku were not present there. He was walking in the street for the last 20-25 minutes. Usha Rani was telling that '*Aag Lag Gayi*', '*Aag Lag Gayi*'. In his cross-examination, he deposed that accused Tipu is his cousin.

25. DW7 Dr. M. S. Gupta, Raffels Hospital, Panchkula deposed that patient Nirmal Singh was admitted in their hospital on 20.2.2011. He had history of road side accident. He had posterior dislocation of right hip along with fracture of acetabulum of right side with posterior column and anterior column. He also had sciatic nerve palsy of right side due to fracture. He was operated on 21.2.2011. Plate and screws were put in his right hip. He was discharged on 23.2.2011.

26. DW8 Kulwant Singh deposed that he had attested affidavits, EX.DW3/A to Ex.DW3/Z and Ex.DW3/AA. Entries in this regard were made in the register maintained by him.

27. DW11 Dr. Vageesh Gutain deposed that he was posted as Medical Officer at District Jail, Yamuna Nagar. He had examined accused Nirmal Singh. It was a case of right side fracture/ dislocation of acetabulum (hip joint) with foot drop and secondary OA (Oestero Arthritic) with AVN (acute vascular necrosis) changes in right hip with restricted right hip joint movement, limping and difficulty in squatting, cross leg sitting and prolonged standing on the affected limb. He was provided regular medicines

in District Jail.

28. DW14 Dr. Deepender Sindhu deposed that on 5.10.2015, patient Nirmal Singh was examined for his disability. After clinical and radiological examination, the board had found 30% permanent disability on account of operated case of right side acetabulum (hip joint fracture).

29. DW15 Dr. Anup Garg deposed that accused Nirmal Singh, who was in custody in District Jail, Yamuna Nagar, was under treatment in PGI, Chandigarh. He was taken to PGI, Chandigarh, on 13.10.2015.

30. The case of the prosecution is that accused Sehaj Ram, husband of the complainant Usha Devi (since deceased) had sold his land to accused Nirmal Singh about 5/6 months back from the date of occurrence. A civil suit was pending between the parties. Accused Nirmal Singh tried to take possession of the land. He could not succeed in his attempts. Accused Sehaj Ram was also making efforts to get the possession delivered to accused Nirmal Singh. He was not having any love and affection with his family. On 21.6.2013, with an intention to take possession of the land, accused Nirmal Singh along with accused Tipu and Sehaj Ram entered the house of the complainant at 10.00 P.M, by climbing the wall. At that time, she was lying on a cot in the *verandah* of her house. Her children were also sleeping on another cot. Accused Sehaj Ram and his co-accused caught her and gave beatings. Accused Nirmal Singh sprinkled kerosene on her and her husband Sehaj Ram lit fire with the matchstick. Accused Tipu had caught hold of her. The statement (Ex.PD) of the deceased was recorded.

31. According to PW5 ASI Surender Kumar on 20.6.2013, he along with ASI Jai Kishan was present at Mustafabad on patrolling duty. On receiving the information, they reached in Government Hospital, Jagadhri.

ASI Jai Kishan recorded the statement (Ex.PD) of injured Usha Rani (since deceased) in his presence. The statement was signed and thumb marked by her.

32. PW15 ASI Jai Kishan deposed that in the intervening night of 20/21.6.2013, he received information regarding the admission of Usha Rani in Civil Hospital, Jagadhri in burnt condition. He along with other police officials visited Civil Hospital, Jagadhri. He moved an application, Ex.PDD, and after taking opinion, Ex.PDD/1, of the doctor, statement of Usha Rani was recorded. The same was thumb marked by her. After that he moved application, Ex.PL, before the Judicial Magistrate 1st Class, Jagadhri, who recorded the statement (Ex.PN) of Usha Rani.

33. According to PW8 Jatin Garg, Judicial Magistrate 1st Class, on 21.6.2013, on an application (Ex.PL), moved by ASI Jai Kishan before him for recording statement of Usha Rani, he passed order, Ex.PL/1. He reached the Hospital and after taking opinion of Dr. Narender Kumar Chhabra regarding fitness of injured, he recorded the statement (Ex.PN) of Usha Rani in his presence. It was thumb marked by Usha Rani. After recording the statement, the same was ordered to be sealed vide order, Ex.PO/1.

34. PW14 Des Raj is brother of deceased Usha Rani. He received information on 20.6.2013 that some mishap had taken place with his sister Usha Rani. He reached there and saw that his sister was lying in burnt condition outside her house. He has categorically stated that his sister had explained the manner in which accused Nirmal, Jagdish and Sehaj Ram put her on fire. According to the statement (Ex.PD) of deceased Usha Rani, which was recorded by ASI Jai Kishan, she was put on fire by the accused.

She has also narrated the manner in which the accused had put her on fire.

35. As per the post-mortem report, the cause of death was septicemia consequent to infected thermal burns. The injuries were ante-mortem in nature. The probable time elapsed between injury and death was about 2 to 3 weeks and between injury and death was 1 day and 1 hour.

36. According to the statement of PW6 Dr. Radha Raman, Usha Rani was admitted in PGI, Chandigarh on 21.6.2013. In his cross-examination, he has categorically stated that the patient remained conscious from 2.7.2013 to 5.7.2013. The patient was brought with 55% burn injuries.

37. PW9 Dr. Narendera Kumar led his evidence by filing affidavit, Ex.PQ. According to the averments made therein, he medically examined Usha Rani, vide MLR (Ex.PR). The statement of the deceased was recorded in his presence by the learned Magistrate. After recording of statement, he gave certificate, Ex.PO, regarding fitness of injured during the period her statement was recorded.

38. The plea of alibi taken by appellants Nirmal Singh and Sehaj Ram is not proved. They have taken the plea of alibi taking support from the statements of DW1 to DW15. We have already discussed their defence evidence. According to DW2 Sandeep, on 19.6.2013 as he was suffering from diabetes, he was got hospitalized by Sehaj Ram. He remained with him in the hospital upto 8.30 P.M. on 20.6.2013. As per DW1 Dr. R. K. Gupta patient Sandeep son of Gian Chand, was admitted in his hospital on 19.6.2013 at 11.00 PM. However, in his cross-examination, he could not tell as to who got the said patient admitted in the hospital. DW2 Sandeep admitted that he was not taking allopathic treatment, rather he was taking

Ayurvedic medicines. He also admitted that from Dr. R. K. Gupta, he took treatment from 19.6.2013 till evening of 21.6.2013 and except that period, he never took treatment from the doctor. In his cross-examination, he stated that accused Sehaj Ram is his maternal uncle, however, he could not tell his address.

41. Similarly, accused Nirmal Singh has also taken the plea of alibi by stating that he was not present at the place of occurrence. As per DW3 Pal Chand and other defence witnesses, on 20.6.2013, a panchayat was held regarding false complaint of the sons of Ashok Kumar. It continued from 9.00 P.M. to 11.00 P.M. It was also attended by accused Nirmal Singh. However, in his cross-examination, he admitted that no resolution regarding holding of panchayat was passed. There was no occasion for the panchayat to continue the meeting upto 11.00 P.M. This attempt has been made by the defence witnesses to over come the period of 10.30 P.M. when the deceased was put on fire by the appellants.

42. The plea of alibi is a double edged weapon. In case the accused fails to prove the plea of alibi, his presence at the spot cannot be ruled out. In order to prove plea of alibi, their Lordships of Hon'ble the Supreme Court in Binay Kumar Singh vs State of Bihar (1997) 1 SCC 283, have held that once the prosecution succeeds in discharging the burden, it is incumbent on the accused, who adopts the plea of alibi, to prove it with absolute certainty so as to exclude the possibility of his presence at the place of occurrence. Their Lordships have held as under :-

“22. We must bear in mind that an alibi is not an exception (special or general) envisaged in the Indian Penal Code or any other law. It is only a rule of evidence recognised in

Section 11 of the Evidence Act that facts which are inconsistent with the fact in issue are relevant. Illustration (a) given under the provision is worth reproducing in this context:

"The question is whether A committed a crime at Calcutta on a certain date; the fact that on that date, A was at Lahore is relevant."

23. The Latin word alibi means "elsewhere" and that word is used for convenience when an accused takes recourse to a defence line that when the occurrence took place he was so far away from the place of occurrence that it is extremely improbable that he would have participated in the crime. It is a basic law that in a criminal case, in which the accused is alleged to have inflicted physical injury to another person, the burden is on the prosecution to prove that the accused was present at the scene and has participated in the crime. The burden would not be lessened by the mere fact that the accused has adopted the defence of alibi. The plea of the accused in such cases need be considered only when the burden has been discharged by the prosecution satisfactorily. But once the prosecution succeeds in discharging the burden it is incumbent on the accused, who adopts the plea of alibi, to prove it with absolute certainty so as to exclude the possibility of his presence at the place of occurrence. When the presence of the accused at the scene of occurrence has been established satisfactorily by the prosecution through reliable evidence, normally the court would be slow to believe any counter-evidence to the effect that he was elsewhere when the occurrence happened. But if the evidence adduced by the accused is of such a quality and of such a standard that the court may entertain some reasonable doubt regarding his presence at the scene when the occurrence took place, the accused would, no doubt, be entitled to the benefit of that reasonable doubt. For that purpose, it would be a sound proposition to be laid down

that, in such circumstances, the burden on the accused is rather heavy. It follows, therefore, that strict proof is required for establishing the plea of alibi. This Court has observed so on earlier occasions (vide *Dudh Nath Pandey v. State of U.P.* 5; *State of Maharashtra v. Narsingrao Gangaram Pimple*.”

43. The statement of DW6 Darshan Lal does not inspire confidence. According to him, on 20.6.2013, he was walking in the street in front of his house along with his wife. At about 10.00, he heard noise of weeping from the house of Nirmala Devi, adjacent to the house of deceased Usha Rani. He should have gone inside the house immediately to enquire about the incident. It has also come in his statement that two cots were lying there. In his cross-examination, he admitted that accused Tipu is his cousin.

44. Learned counsel for appellant Nirmal Singh vehemently argued that accused Nirmal Singh was examined by DW14 Dr. Deepender Sindhu. According to him, the board had found Nirmal Singh having 30% permanent disability on account of operated case of right side acetabulum (hip joint fracture). The plea of learned counsel for appellant Nirmal Singh that appellant Nirmal Singh could not climb the wall, which was stated to be of more than 5 feet, cannot be accepted, as at the time of occurrence, he was accompanied by accused Sehaj Ram and accused Jagdish @ Tipu. He would have taken the support of his companions to climb the wall.

45. As far as role of accused Jagdish @ Tipu is concerned, he had caught hold of Usha Rani and accused Nirmal Singh sprinkled kerosene on her and Sehaj Ram lit fire with the matchstick, which resulted in her death. The statement (Ex.PD) recorded by ASI Jai Kishan and the statement (Ex.PN) recorded by PW8 Jatin Garg, Judicial Magistrate 1st Class, are

genuine.

46. The statement (Ex.PD) of Usha Rani (since deceased) is duly corroborated by medical evidence. The prosecution has proved the case against the appellants beyond reasonable doubt. There is no occasion for us to interfere with the well reasoned judgment and order recorded by the learned trial Court. Accordingly, the appeals are dismissed.

(Rajiv Sharma)
Judge

11.4.2019
vs

(Avneesh Jhingan)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No