

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

CRA-D-920-DB-2013

Sanjay KohliAppellant

Versus

State of HaryanaRespondent

AND

CRA-D-987-DB-2013

Mohd. Aarif

Versus

State of Haryana

Date of Decision: 12.11.2020

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Mr. Ashwani Bhardwaj, Advocate,
for the appellant(s).

Mr. Vivek Saini, Additional Advocate General, Haryana,
for the respondent-State.

PANKAJ JAIN, J.

By this judgment, we shall dispose of two appeals i.e. CRA-D-920-DB-2013 and CRA-D-987-2013.

The appellants herein jointly faced trial for having committed offences punishable under Section 302/34 of the Indian Penal Code pertaining to case registered vide FIR No.114 dated 18.12.2010, registered at Police Station GRP Panipat.

The FIR was registered on the statement of Jagdish son of

Narain Dass, which reads as under:-

“Stated that I am resident of aforesaid address and do the work of painter. My father and my maternal uncle Ram Saran are two brothers and I am having two aunts (Bua). The elder bua is married in village Samely Distt. Alwar and youngest to her Ram Devi was married in village Bajhera, Distt. Alwar, who had been living at Panipat for the last 20/25 years. Husband of Ram Devi had expired about 30 years ago. Four sons of Ram Devi are Pappu, Om Parkash, Prem @ Bittu and Vijay. Pappu resides at Hissar, second one Om Parkash is confined at Distt. Jail, Karnal. Third one was deceased Prem @ Bittu who was residing at Panipat alongwith his mother. Youngst one Vijay resides at Sonapat. One daughter Kamlesh is married in village Bhasada. Today I have received a telephonic message that Prem @ Bittu as expired. This information was given to me by my younger brother Vinod from Panipat. I have come at railway station, Panipat and identified the dead body which is of the son of my Bua namely Prem @ Bittu s/o Gurdayal Caste Oad, Rajpoot r/o Bajhera, P.S. Ramgarh, Distt. Alwar (Rajasthan). There are injuries marks on the neck of deceased Prem @ Bittu. It appears that some unknown person has inflicted injuries with some blunt weapon and committed murder of Prem @ Bittu. Legal action be taken against the unknown person who has committed murder.”

On the basis of the aforesaid statement, FIR No.114 dated 18.12.2010 under Section 302/34 IPC was registered. On the postmortem examination, the doctors opined that “the cause of death is shock due to injury to major vessels i.e. common carotid (sic. carotid) and internal jugular is neck because of penetrating wound (sic. wound) in neck. The injuries are ante mortem (causing massive bleeding) and sufficient to cause death.”

During investigation appellant Mohd. Aarif was arrested on 23.01.2011. On 24.01.2011, he suffered disclosure statement (Ex.PF/1). On the basis of which accused Sanjay son of Prem Chand was arrested on 28.01.2021. He suffered disclosure statement (Ex.PJ). The other appellant

namely Sanjay Kohli was arrested on 31.01.2011. He also suffered disclosure statement (Ex.PK) and on the basis of his disclosure statement, knife was recovered vide recovery memo (Ex.PK/1). Challan was presented against all the aforesaid three accused and they were tried for offence punishable under Section 302/34 IPC. The trial Court after analysing the evidence came to the conclusion as under:-

41. As a sequel thereto, it is concluded that, the prosecution has utterly failed to bring home the guilt against accused Sanjay son of Prem Chand beyond shadow of doubt through cogent and convincing evidence. Accordingly, benefit of doubt is extended to accused Sanjay son of Prem Chand. Consequently, he is acquitted of the charge framed against him. He is on bail. His bail and surety bonds are discharged.

42. The prosecution has succeeded in establishing the chain of circumstances through impeccable evidence against accused namely; Mohd. Aarif alias Badshah son of Nasir and Sanjay Kohli son of Budh Singh Kohli. The circumstances, discussed above and proved as such, if taken collectively, unerringly point the guilt of accused- Mohd Aarif alias Badshah son of Nasir and Sanjay Kohli son of Budh Singh Kohli. There is no other conclusion except that; the murder of Prem alias Bittu has been committed by these two accused. Consequently, the charge under section 302 IPC read with Section 34 IPC has been proved against both these two accused.

We have heard the learned counsel for the parties and have carefully pursued the record of the case.

Whole of the case is based upon circumstantial evidence as there is no eye-witness account available on the record. The case put forth by the prosecution hinges on the testimony of PW9-Ram Devi widow of Gurdial Singh, i.e. mother of Prem alias Bittu, the deceased. Apart from the statement of PW9- Ram Devi, trial Court has heavily relied upon disclosure statement suffered by accused Sanjay Kohli and recovery of knife i.e. the

weapon used in the offence in pursuant thereto. The trial Court has put Section 27 of the Evidence Act in aid to derive guilt against appellant Sanjay Kohli.

For the decision of the present appeal, it is necessary to reproduce the statement suffered by PW9-Ram Devi which reads as under:-

“I had four sons and one daughter. My son Om Parkash, Prem and Vijay were residing with me at Panipat. My son Prem was a labourer by profession. He used to pull the Rickshaw during spare time. On 10.12.2010, my elder son Pappu came to me. I had gone to Railway Station to see off my son Pappu. When I alongwith my son Prem was coming back to my house, meanwhile, Bhasha alias Mohd. Aarif, present in the court alongwith his brother-in-law met us. Mohd. Aarif demanded money from my son Prem. On this, my son Prem replied that he had recently come back from the prison and I will give the money after sometime. A scuffle took place between my son Prem and accused Mohd. Aarif. I put them apart. After that brother-in-law of Mohd. Aarif extended threats that he would have killed you if you were not accompanied by your mother. I know accused Bhasha alias Mohd. Aarif as he is residing in my neighbourhood. After the third day of this incident, I arranged a Rickshaw for my son Prem. For two days, my son Prem pulled the Rickshaw and on the third day he was murdered before the liquor vend shop. I had seen my son Prem in the company of Bhasha alias Mohd. Aarif and his brother-in-law. I had seen my son Prem in the company of many persons who were offering liquor to my son alongwith accused Mohd. Aarif. My statement was recorded by the I.O. I had not seen other two accused, present in the court with my son Prem on the intervening night when he was murdered.

At this stage, the Ld. P.P. states that the witness is concealing the truth about the identification of other two accused present in the court. The Ld. P.P. further requests that she may be declared hostile. Heard. Request allowed.

XXXXXXXXXX by the Ld. P.P. for the State.

It is correct that both the other accused were also present with my son when I had seen them lastly with my son Prem consuming liquor.

XXXXXX by the counsel for all the accused.

Only one case was registered against my son Prem in which he had earned acquittal. He had earned acquittal six days prior to the present occurrence. There was no case of theft registered against my son Prem. My elder son Pappu was residing at Hissar for the last many years. It is correct that my another son namely Om Parkash was confined in District Jail, Karnal at the time of alleged occurrence in an excise case. It is correct that my youngest son Vijay was residing at Sonapat at the time of alleged occurrence. It is incorrect to suggest that my deceased son Prem alias Bittu was involved in criminal activities, and due to this reason, my other sons namely Vijay and Pappu used to live in other cities i.e at Hissar and Sonapat. I do not remember the exact date when I alongwith my deceased son Prem went to Railway Station to see off my other son namely Pappu who has also since expired. The scuffle took place at 10/11.00 P.M. outside the Railway Station, Panipat and I myself saw the scuffle. That scuffle was between Bhasha alias Mohd. Aarif and his brother-in-law on one hand and my deceased son Prem on the other hand. My son Prem died on the intervening night of 17/18.12.2010 and we came to know about his death in the morning at about 6.00 A.M. On knowing about the death of Prem, I alongwith Ram Saran, Jagdish and my son from Sonapat reached at the Railway Station, Panipat and found that the dead body of my son Prem was lying in front of the Police post, Railway station, Panipat. The police was also there. My statement was also recorded by the police on the same day. I narrated the entire story to the police which I am deposing today in the court. The police told me not to visit them again. I also have not met the police officials after 18.12.2010 till date. The brother-in-law of accused Bhasha alias Mohd. Aarif had threatened my son Prem of dire consequences in case they saw Prem again. I have not named Sanjay Kohli son of Budh Singh and Sanjay son of Prem Chand Kashyap to the police. Both these persons have been named by accused Bhasha alias Mohd. Aarif. I have seen Sanjay son of Prem Chand and Sanjay son of Budh Singh when they used to come to my house. It is correct that I did not make any complaint regarding the scuffle between my son Prem and Mohd. Aarif. It is incorrect to suggest that I have not seen both Sanjay in the company of my son Prem on the intervening night of incident. It is also incorrect to suggest that no scuffle took place between deceased Prem and accused Mohd. Aarif on 12.12.2010. It is also incorrect to suggest that there

was no enmity between Sanjay son of Prem Chand and Sanjay son of Budh Singh and deceased Prem. It is also incorrect to suggest that my supplementary statement was not recorded by the police. It is incorrect to suggest that accused were falsely implicated in this case on my instance. It is incorrect to suggest that I am deposing falsely.”

From the aforesaid statement made by PW9-Ram Devi, it has been proved that there was a dispute between deceased Prem alias Bittu and Mohd. Aarif. Further, she is categorical in her statement that she had seen her son Prem alias Bittu in the company of accused Mohd. Aarif and they were consuming liquor on the fateful day. So far as the two other accused i.e. Sanjay son of Prem Chand and Sanjay Kohli son of Budh Singh Kohli are concerned PW9-Ram Devi in her cross-examination has admitted that she knew both of them earlier but they were not then present. It is established preposition of law that if the prosecution on the basis of reliable evidence establishes that the missing person was seen in the company of the accused and was never seen thereafter, it is obligatory on the part of the accused to explain the circumstances in which the missing person and the accused parted company. Reliance for the same can be placed on law laid down by the Supreme Court in **Dharam Deo Yadav Vs. State of Uttar Pradesh, (2014) 5 Supreme Court Cases 509.**

“19. It is trite law that a conviction cannot be recorded against the accused merely on the ground that the accused was last seen with the deceased. In other words, a conviction cannot be based on the only circumstance of last seen together. The conduct of the accused and the fact of last seen together plus other circumstances have to be looked into. Normally, last seen theory comes into play when the time gap, between the point of time when the accused and the deceased were seen last alive and when the deceased is found dead, is so small that

possibility of any person other than the accused being the perpetrator of the crime becomes impossible. It will be difficult in some cases to positively establish that the deceased was last seen with the accused when there is a long gap and possibility of other persons coming in between exists. However, if the prosecution, on the basis of reliable evidence, establishes that the missing person was seen in the company of the accused and was never seen thereafter, it is obligatory on the part of the accused to explain the circumstances in which the missing person and the accused parted company. Reference may be made to the judgment of this Court in *Sahadevan v. State*. In such a situation, the proximity of time between the event of last seen together and the recovery of the dead body or the skeleton, as the case may be, may not be of much consequence.”

Mohd. Aarif having failed to rebut the last seen theory established against him cannot succeed in appeal.

So far as the other accused Sanjay Kohli is concerned, the trial Court heavily relied upon the disclosure statement suffered by him and the recovery of knife in pursuance thereto. In order to prove recovery of knife and the disclosure statement, prosecution has examined PW11-HC Sat Pal and PW15-I.O i.e. SI Nayaz Mohammad. PW11-HC Sat Pal stated that:-

“On 18.12.2010, I was posted as Constable in GRP, Panipat. On that day, I was associated with the I.O. in the investigation of this case. On that day, the I.O. carried out the proceedings under section 174 of Cr.P.C. on the dead body of Prem alias Bittu. On 23.1.2011, accused Mohd. Aarif alias Badhsha was arrested by the I.O. at bus stand, Panipat and he demarcated the place of occurrence vide memo Ex.PF. On 24.1.2011, accused Mohd. Aarif suffered disclosure statement Ex. PF/1 in my presence (objected to being inadmissible in evidence). On 28.1.2011, accused Sanjay son of Prem Singh was arrested by the I.O. in my presence. Accused Sanjay was interrogated by the I.O. in my presence. During the course of interrogation, accused suffered disclosure statement Ex.PJ. Accused Sanjay also demarcated the place of occurrence vide memo Ex.PJ/1.

On 31.1.2011, accused Sanjay Kohli was arrested

by the I.O. in my presence. During the course of interrogation, accused Sanjay Kohli suffered disclosure statement Ex.PK inter-alia stating therein he could get recovered the offending knife from the plot of one Kaki In pursuance of his disclosure statement, accused Sanjay Kohil recovered knife from underneath the heap of bricks Knife was got converted into a sealed parcel by the I.O. and seal after use was handed over to me. The knife was seized vide memo Ex.PK/1 by the I.O. Rough sketch of the knife is Ex.PK/2. All the memos bear my signatures. Accused Sanjay Kohli also got demarcated the place of occurrence vide memo Ex.PK/3. My statement was recorded by the I.O. The accused are present in the court.

(At this stage, a sealed parcel is opened and knife is taken out. Ex.P1 is the same knife which was got recovered by accused Sanjay Kohli.

XXXXXX by the counsel for all the accused.

I had received the information regarding the dead body of Prem alias Bittu at 10.10 A.M. The distance between P.S. GRP, Panipat and the place of occurrence is about twenty meters. The said written information was sent to the Police Station, GRP, Panipat by the Railway Department, Panipat. The said written information is not on the judicial file. I alongwith SI/SHO Niyaz Mohammad and ASI Surender No.1015 went to the place of occurrence at 10.15 A.M. The dead body of Prem alias Bittu was lying at the foot-path near Maal Godwon Road, Railway, Panipat. When we went near the dead body, public persons were coming and going. Railways quarters are at the distance of five meters from the place where the dead body of Prem alias Bittu was lying. The I.O. had called the neighbourers from that locality where the dead body was lying but no one was present there. The dead body was identified at about 1:30 P.M. on the same day.

On 24.1.2011, we received the secret information at about 11.00 A.M. regarding the presence of accused Aarif alias Basa. I along with the SHO reached at bus stand, Panipat at about 11.30/11.45 A.M. and arrested accused Aarif alias Basa at about 12.00 Noon. Accused Aarif alias Basa was sitting on a booth inside the Bus Stand, Panipat. The said booth was meant for sitting of the passengers. He was sitting on the booth from where the bus leads to Merrut. Public Persons and Roadways employees were present there at the time of arrest of accused Aarif alias Basa. The I.O. had tried to join some public persons and Roadways employees in the investigation but they showed their inability to join the investigation. I cannot tell the names of those persons

who had refused to join the investigation. I do not remember whether the I.O. had written the names and addresses of those persons who had refused to join the investigation in case diary or not. I do not remember whether the I.O. had taken any action against those persons who had refused to the investigation or not. It is correct that the office of G.M. Haryana Roadways, Panipat is situated at bus stand itself. We stayed at bus stand, Panipat for about three hours. The disclosure statement Ex.PF/1 of accused Mohd. Aarif was reduced into writing in my presence which was made by him at GRP, Panipat. I do not remember at what time, he gave the disclosure statement. He suffered the disclosure statement on the next day of his arrest. I do not remember whether the I.O. had called any independent witness at the time of recording disclosure statement of accused Aarif. It is correct that we visited the place of occurrence on 18.12.2010, prior to the arrest of the accused persons. It is incorrect to suggest that accused Aarif never suffered any disclosure statement in my presence.

At this stage, the witness has stated that he is suffering from high fever and is unable to give the evidence.

The further cross examination of the witness is deferred at the request of the witness.

Recalled for further cross examination.

XXXXXX by the counsel for all the accused.

The place of occurrence was already in the knowledge of the police. It is incorrect to suggest that all the accused never made any disclosure statement in my presence. It is further incorrect to suggest that the I.O. obtained the signatures of the accused on blank papers and later on the same have been converted into disclosure statement only to strengthen the case of the prosecution. It is further incorrect to suggest that the Investigating Officer of this case carried out the police proceedings while sitting in the police station.

I was present with the I.O. when he had arrested accused Sanjay Kohli from his house. Perhaps, the house of accused Sanjay Kohli is situated in Vikas Nagar, Panipat near Govt. Primary school. The main gate of house of accused Sanjay Kohli is towards the eastern side. I had entered into the house of Sanjay Kohli accused. There are two rooms in his house. The doors of both the rooms are towards eastern side. Accused Sanjay Kohli was apprehended from first room. The knife was recovered from the house of Neelo alias Kaki wife of

Chattar Singh. I do not remember the name of the colony where the house of Neelo alias Kaki is situated. The house of Neelo alias Kaki was constructed within about 250/300 square yards. Three rooms along with latrine and bath room were constructed in the house of Neelo. I do not remember about the remaining construction. I do not know how many members were residing in the house of Neelo alias Kaki. The house of Neelo alias Kaki was having two main gate. One of them was towards eastern side and the other was towards the western side. We entered into the house of Neelo alias Kaki from eastern gate and at that time, the gate was open. The gate was made of iron and wood and was not in a position to be bolted. Neelo alias Kaki was not available at her house when we reached there. The I.O. did not confirm the ownership of the said house. I never visited the house of Neelo alias Kaki prior to that time. I do not remember the time when we reached the house of Neelo alias Kaki. We went to the house of Neelo alias Kaki in a day time. I also cannot tell it was before noon or afternoon. We stayed at the house of Neelo alias Kaki for about 30/45 minutes. The house of Neelo alias Kaki is surrounding by the residential area. No public person came at the house of Neelo alias till we remained in the house of Neelo alias Kaki. The street in which the house of Neelo alias Kaki was was a thoroughfare. My statement was recorded by the I.O. in the house of Neelo alias Kaki. The knife was also sealed by the I.O. in the house of Neelo alias Kaki. Recovery memo of knife bears my signatures as well as of Surinder police official, I have seen memo Ex.PK/1. It was prepared by the I.O. at the place of recovery of knife and the same was signed by me and Surinder Singh. The recovered knife was sealed with the seal of NS in my presence. It is correct that accused Sanjay Kohli was neither residing on rent in the house of Neelo alias Kaki nor he was owner of that house. Neelo alias Kaki was never joined in the investigation of this case in my presence. It is wrong to suggest that nothing was recovered from the possession of accused Sanjay Kohli It is wrong to suggest that accused Sanjay Kohli was falsely implicated in this case by the police. It is wrong to suggest that knife sealed with the seal of NS was not deposited in the concerned Malkhana. It is wrong to suggest that I am deposing falsely.”

Statement of PW15-SI Nayaz Mohammad.

“On 18 12 2010, I received memo Ex.PN from

Station Master, Railway Station, Panipat. Thereafter, I conducted proceedings under Section 174 of Cr.P.C. Ex. PM/2. Thereafter, recorded statement of complainant Jagdish son of Narain Dass Ex.PE. Police proceedings Ex.PN/1 was prepared and sent the same to the Police Station for registration of FIR through ASI Ved Parkash. Thereafter, I got conducted postmortem examination on the dead body of deceased Ex.PM/1. After postmortem examination on the dead body of the deceased, the doctor handed over to me one parcel sealed with the seal of PKG along with copy of PMR which were taken into possession vide memo Ex.PG. When I conducted report under Section 174 of Cr.P.C., I also got the place of occurrence photographed vide photographs Ex.PA/1 to Ex.PI/1. On the same day, a rickshaw was taken into possession vide memo Ex.PN/2. On the same day, I prepared receipt regarding handing over of dead body of deceased Prem to Jagdish son of Narain Dass vide memo Ex.PN/3. On the same me day, I recorded the statement of Sushil Kumar. On the same day, I took four samples of blood from the place of occurrence which were converted into parcels and sealed with the seal of MP and taken into possession vide memo Ex.PA. On 23.1.2011, accused Mohd. Aarif was arrested and he got demarcated the place of occurrence vide memo Ex.PF which bears thumb impression of accused Mohd. Aarif and signatures of EHC Surinder, Constable Sat Pal and myself. On 24.1.2011, accused Mohd. Aarif suffered a disclosure statement Ex.PF/1 which bears thumb impression of accused Mohd. Aarif and same set of witnesses. On 28.1.2011, accused Sanjay was arrested in the present case and he got the place of occurrence demarcated vide Ex.PJ/1 which bears signatures of accused Sanjay, EHC Joginder, Constable Sat Pal and myself. On the same day, during interrogation, accused Sanjay suffered a disclosure statement Ex.PJ which bears signatures of accused Sanjay and same set of witnesses. On 31.1.2011, accused Sanjay Kohli suffered disclosure statement Ex.PK which bears signatures of accused Sanjay Kohli EHC Surender, Constable Sat Pal and myself. In pursuance of his disclosure statement, accused Sanjay got recovered knife which was converted into parcel and sealed with the seal of NS and was taken into possession vide memo Ex.PK/1. The rough sketch of knife Ex.PK/2 was also prepared prior to converting the same into parcel. The rough sketch Ex.PK/2 bears signatures of EHC Surender, Constable Sat Pal and myself. On the same day, accused Sanjay Kohli got the place of

occurrence demarcated vide memo Ex.PK/3 which bears signatures of accused Sanjay Kohli, Constable Sat Pal and myself. On the same day, I prepared rough sketch of recovery Ex.PN/4 on the demarcation of accused Sanjay Kohli which bears my signature. I recorded the statements of the prosecution witnesses as per their participation the investigation. Knife Ex.P1 is the same knife which was got recovered by accused Sanjay Kohli and the same was taken into possession by me vide memo Ex.PK/1. The wearing apparels of the deceased Ex.P2 to Ex.P5 are the same which were handed to me by the doctor who conducted the postmortem on the dead body of the deceased. The accused are present in the court and the case property is present in the court.

Recalled for cross examination:

XXXXX by Shri S.R.Sharma, Advocate, counsel for accused Sanjay Kohli, Shri S.C.Saini, counsel for accused Sanjay and Ms. Tamanna Sethi, counsel for accused Mohd. Aarif.

“XXX XXX

....It is incorrect to suggest that accused Mohd. Aarif had not disclosed the name of accused Sanjay Kohli in his disclosure statement. Accused Sanjay disclosed about having of knife with accused Sanjay Kohli. Mohd Aarif disclosed that knife is with accused Sanjay. It is correct that there were several people present at the platform when I recorded the disclosure statement of accused Mohd Aarif in the Police Station GRP. Panipat.

On 29.1.2011, I recorded disclosure statement of accused Sanjay at about 8.30 A.M. in the police station, GRP Panipat. I did not join any public person during recording of disclosure statements of accused persons Mohd. Aarif and Sanjay. I did not investigate where accused Sanjay had kept the knife for one day prior to deliver the same to other accused. I did not investigate about the time when accused Sanjay Kohli got knife from accused Sanjay. Accused Sanjay Kohli was arrested on 31.1.2011 from his house at about 7:00 A.M. On the same day, I recovered knife from the conscious possession of accused Sanjay Kohli. At the time of arrest, I interrogated accused Sanjay Kohli. The place of recovery of knife is surrounded by residential houses/area. The place of recovery is a plot of measuring about 150 square yards having two rooms on it. The doors of rooms open towards southern side. Public persons could not come at the place of recovery and

arrest due to terror of owner of the plot. There was no connection of accused Sanjay Kohli with the place of recovery directly or indirectly on the basis of tenancy or ownership. The place of recovery was in open yard. I had sealed the knife at the spot with the seal of NS. It is incorrect to suggest that no knife sealed with the seal of NS was either deposited in Malkhana or sent to FSL, Madhuban. We went in the official vehicle at the house of Sanjay Kohli in order to arrest him. Likewise, we were in official vehicle while going to the place of recovery in order to effect the recovery. It is incorrect to suggest that accused Sanjay Kohli was not involved in the alleged offence and that no recovery of knife was effected from him. It is correct that I had not put any specific mark on the alleged knife at the time of recovery.”

Undoubtedly the recovery of knife has been made after about 13 days of the incident. The question arises whether the aforesaid recovery of knife pursuant to the disclosure statement suffered by Sanjay Kohli alone can be held sufficient to prove crime against accused Sanjay Kohli. The recovery of knife has been made from a place which is a residential house of one Neelo @ Kaki. Admittedly accused Sanjay Kohli has no relation with the said Neelo @ Kaki or her house. The accused was not in possession of the said house in any capacity. Prosecution failed to make any attempt to join Neelo @ Kaki in the investigation. It has also come on record that the said house is situated in a residential colony. Non-joining of possessee or owner of the residential house from which the recovery has been made, raises serious question on the story of prosecution. The recovery of knife thus alone cannot be held sufficient to hold accused Sanjay Kohli guilty of offence punishable under Section 302 IPC. The fact of recovery on the basis of alleged disclosure statement itself being surrounded by suspicious circumstances when weighed in the light of statement of PW9-Ram Devi

raises ample doubt. In our view the benefit of the same must go in favour of Sanjay Kohli.

Keeping in view the aforesaid facts and circumstances, we allow the appeal i.e. CRA-D-920-DB of 2013 filed by Sanjay Kohli and the appeal i.e. CRA-D-987-DB of 2013 preferred by Mohd. Aarif stands dismissed.

**(AJAY TEWARI)
JUDGE**

**(PANKAJ JAIN)
JUDGE**

12.11.2020
adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No