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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPEAL NO.514 OF 2019

Radheshyam s/o Dashrath Naitam,
Aged about 28 years, occupation : labourer,
R/o Umri, tahsil Ramtek, district : Nagpur,
(at present detained in Central Jail,
Nagpur, convict No.C-9999). **Appellant.**

:: V E R S U S ::

The State of Maharashtra,
Through its Police Station Officer,
Police Station Deolapar,
District : Nagpur **Respondent.**

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Shri S.G.Joshi, Counsel Appointed for the Appellant.
Shri T.A.Mirza, Additional Public Prosecutor for the State.

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CORAM : ROHIT B.DEO & URMILA JOSHI-PHALKE, JJ.

JUDGMENT RESERVED ON : 22/11/2022

JUDGMENT PRONOUNCED ON : 15/12/2022

JUDGMENT (Per : Urmila Joshi-Phalke, J.)

1. By this appeal, the appellant challenges judgment and order dated 16.3.2018 passed by learned Additional Sessions Judge-4, Nagpur in Sessions Trial No.433/2015 whereby he is convicted for offence punishable under Section 302 of the Indian Penal Code and sentenced him to suffer imprisonment for life and to pay fine Rs.500/- and in default of payment of the fine amount to suffer rigorous imprisonment for two months. The appellant is also

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given set-off under Section 428 of the Indian Penal Code since he was in jail.

2. Heard learned counsel Shri S.G.Joshi appointed for the appellant and learned Additional Public Prosecutor Shri T.A.Mirza for the State.

3. The material on the case of the prosecution unfolds as under:

on 22.4.2015, informant Ganesh Manu Kodwate had lodged report at Deolapur Police Station, district Nagpur contending that he is serving in Defence as Constable and posted at Arunachal Pradesh. His family members i.e. wife, mother, deceased brother Manoj and wife of Manoj are staying at Junewani. On 14.4.2015, he came to Junewani on leave for 45 days. It is alleged by him in the First Information Report that on 22.4.2015 he had been to village Deolapar and returned at about 11:15 a.m. to Junewani. After returning home, his wife informed him that a quarrel had taken place between his brother Manoj and Radheshyam, the appellant (for short, the accused). It is further alleged by him that when he was taking lunch, one Anil Uike came to his house and informed him that the accused had given a knife blow on the person of Manoj. He immediately rushed to Umri and visited the house of the accused,

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but he came to know that the incident occurred at Junewani. When he was returning, his wife informed him that the alleged incident had occurred at the house of one Kawadu Kokode. The informant immediately rushed towards the house of said Kawadu and saw that his brother Manoj was lying in an injured condition and sustained injuries on chest, shoulder, and cheeks. He immediately removed Manoj to the Government Hospital, but he was declared dead. It is alleged that his one of brothers namely Manohar is staying at the house of the accused. The quarrel was taken place as Manoj had brought daughter of Manohar at his house.

4. On the basis of the said report, the crime was registered vide Crime No.20/2015. After registration of the crime, Investigating Officer has visited the alleged spot of the incident and drawn the spot panchnama. The incriminating article knife was seized from the spot of incident during the investigation. The blood stained clothes of the deceased as well as blood stained clothes of the accused were seized. The incriminating articles were forwarded to Chemical Analyzer. The Investigating Officer had collected the postmortem notes and Chemical Analyzer's Reports and after completion of investigation, submitted chargesheet against the accused.

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5. Learned Magistrate committed the case to the Court of Sessions. The charge was framed against the accused vide Exhibit-5. The accused pleaded not guilty and claimed to be tried.

6. To substantiate the charge, the prosecution examined in all 9 witnesses, as mentioned below:

1.	Ganesh Manu Kodwate	(PW1)	Exh.9	Informant
2.	Shatrughan Dharmuji Dhurve	(PW2)	Exh.12	pancha on spot
3.	Mankar Dataram Naitam	(PW3)	Exh.16	pancha on spot and seizure of knife
4.	Vanita Manoj Kodwate	(PW4)	Exh.17	wife of deceased
5.	Purushottam Babulal Kokode	(PW5)	Exh.18	pancha on seizure on blood stained clothes of accused
6.	Pratibha Hemraj Kokode	(PW6)	Exh.24	who has seen the accused fleeing from house of Dhanraj Kokode;
7.	Dhanraj Kawaduji Kokode	(PW7)	Exh.25	eyewitness
8.	Dr.Netradeep Dilipkumar Katkar	(PW8)	Exh.28	Medical Officer
9.	Deepak Atmaram Salunke	(PW9)	Exh.34	Investigating Officer.

7. Besides oral evidence, the prosecution also relied upon oral report (Exhibit-10), First Information Report (Exhibit-11), spot panchanama (Exhibit-13), seizure memo (Exhibit-14), inquest panchanama (Exhibit-15); seizure memo of clothes of the accused (Exhibit-20), seizure memo of clothes of the accused (Exhibit-21),

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memorandum statement and discovery panchanama (Exhibit-22), and the postmortem notes (Exhibit-29), letter to medical officer (Exhibit-30), opinion of Medical Officer (Exhibit-31), seizure of clothes, samples of the accused (Exhibit-36), seizure memo of clothes, samples of the deceased (Exhibit-37), letter to Tahsildar for drawing map (Exhibit-38), letter to Chemical Analyzer (Exhibit-41), arrest panchanama (Exhibit-51), arrest panchanama (Exhibit-51), and Chemical Analyzer's Reports (Exhibit-52 to 54).

8. Learned counsel Shri S.G.Joshi for the appellant submitted that there is no consistent evidence on record in order to hold the accused being author of the assault caused on the deceased. Though the prosecution relied upon PW7 Dhanraj, the sole eyewitness, his evidence shows that in fact he is not eyewitness and has not witnessed the incident. The recovery of blood stained clothes at the instance of the accused is not trustworthy. The blood group on the clothes is not determined. Thus, the evidence on record does not conclusively prove that the accused is the perpetrator of the crime.

9. On the other hand, learned Additional Public Prosecutor Shri T.A.Mirza for the State supported the judgment and order of conviction impugned in the appeal pointing out the evidence of PW8

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Dr. Netradeep Dilipkumar Katkar and the inquest report. He submitted that homicidal death of the deceased is proved by the prosecution. He further pointed out the evidence of PW7 Dhanraj who witnessed the incident corroborated by PW6 Pratibha who saw the accused fleeing from the spot of the incident. The direct evidence is further corroborated by the circumstances that blood stained clothes of the accused are seized at his instance and Chemical Analyzer's Reports show that blood stained found on the clothes of the accused are of Blood Group "A" i.e. of the deceased. The incriminating circumstances are put to the accused for which the accused has not rendered any explanation. Thus, the prosecution has proved the case beyond reasonable doubt against the accused.

10. In the instant case, the prosecution completely relied upon sole eyewitness i.e. PW7 Dhanraj. The law is settled that there is no legal impediment in convicting a person on the sole testimony of a single witness. But, if there are doubts about the testimony, the Courts will insist on corroboration. It is for the Court to act upon the testimony of the witnesses. It is not the number, the quantity, but the quality is material. The principle is that the evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible, trustworthy is

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to be seen. Keeping in mind these principles, the evidence on record is to be assessed.

11. To prove the homicidal death, the implicit reliance placed by the prosecution is on the evidence of PW8 Dr.Netradeep Dilipkumar Katkar examined vide Exhibit-28. He testified that at the relevant time he was attached to the Government Hospital at Deolapar. He conducted the postmortem on 22.4.2015 itself. On external examination of the dead body, he found total 5 external injuries including abrasions and deep cut wounds. The injuries are mentioned as follows for reference:

- "1. linear abrasions 2 cms length seen at the left mandible angle area;
2. right side of face incised wound seen 9 cms in length from above the right eyebrow up to mastoid prominence;
3. right side of chest at the clavicle area superficial wound, circular in shape 2 cms in diameter and 0.5 cm deep;
4. deep cut wound seen at chest area on left side 2 cms lateral to the oepoid process oval in shape 3.5 cms x 1.5 cms in size at left 6th and 7th intercoastel space area; and
5. old wound with stitches in situ at left forearm, ventral aspect 6-8 cms above the wrist, three stitches seen in situ."

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He further testified that injury Nos.1 to 4 are antemortem in nature, whereas injury No.5 is not a fresh wound. He further narrated about the internal injuries. As per his evidence or examination, pericardium which was seen torn at the base of heart on right side. On examination of heart, right atrium, right atrioventricular septum and right ventricle seen lacerated and cut of length 6 cms approximately, *superior* vena cava, inferior vena cava and descending aorta intact. No injury seen to the major vessels. mediastinum seen filled with 1.5 2.0 liters of blood. The doctor opined that the cause of death is injury to the vital organ i.e heart causing hemorrhagic shock and circulatory failure. Accordingly, he prepared the postmortem Notes (Exhibit-29). He further opined that the injuries are possible by the weapon as the weapon was referred by reference letter (Exhibit-30). The description of the weapon was knife having length 52 cms excluding wooden handle having sharp edges and sharp tip. He opined that injuries can be caused by this weapon and such injuries are sufficient to cause death. He further opined that probable time of death should be 4 to 6 hours before the postmortem examination. During his cross-examination, he admitted that injury Nos.1 to 3 mentioned in clause No.17 of the postmortem Notes do not in normal course cause death of a person. He denied that the death of the deceased was only caused because of excessive blood loss. He also denied the

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suggestion that as the deceased had not received the timely treatment, he succumbed to death. Thus, the defence of the accused was that injuries mentioned in the postmortem Notes are not possible by the weapon which is before the Court at Article-8. But, the Medical Officer had denied the same.

12. Besides the evidence of the Medical Officer, the prosecution also relied upon the inquest panchanama which is at Exhibit-15. The recitals of the inquest panchanama also shows that the deceased had sustained injuries on his cheeks, chest and on clavical region.

13. It is submitted by learned counsel for the appellant that injury Nos.1 to 3 are not sufficient to cause death. The injuries mentioned and the weapon (Article-8) are not corroborating to each other. These injuries are not possible by the weapon like Article-8. Thus, the prosecution failed to prove that injuries are sustained by Article-8, the knife.

14. The Medical Officer was cross-examined by the defence. The Medical Officer denied the suggestion of the defence that these injuries are not possible by the weapon (Article-8). The weapon was referred to the Medical Officer and his opinion was

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sought. He specifically opined that these injuries can be caused by the weapon like Article-8 and the death by inflicting the injuries by this weapon is possible. Besides, the medical opinion by the Medical Officer as regards the deceased, the Medical Officer had an opportunity to see injuries while conducting the postmortem over the person of the deceased.

15. A medical witness who performs a postmortem examination is a witness of fact, though he also gives an opinion on certain aspects of the case. This proposition of law has been stated by the Honourable Apex Court in the case of **Smt. Nagindra Bala Mitra and vs. Sunil Chandra Roy and another**, reported at **1960 SCR (3) 1** wherein the Honourable Apex Court observed that "*the value of a medical witness is not merely a check upon the testimony of eyewitnesses; it is also independent testimony, because it may establish certain facts, quite apart from the other oral evidence. If a person is shot, at close range, the marks of tattooing found by the medical witness would show that the range was small, quite apart from any other opinion of his. Similarly, fractures of bones, depth and size of the wounds would show the nature of the weapon used. It is wrong to say that it is only opinion evidence; it is often direct evidence of the facts found upon the victim's person.*" Thus, the testimony of medical witness is very important and it can be safely

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accepted. The evidence adduced by the Medical Officer corroborated by the inquest panchanama shows that the deceased died homicidal death.

16. The entire prosecution case is based on sole eyewitness i.e. PW7 Dhanraj. It is not disputed that the alleged incident had occurred on 22.4.2015. It is also not disputed that the alleged spot of the incident is the house of PW7 Dhanraj. Though the prosecution examined PW1 informant Ganesh who is the brother of the deceased, his evidence is only to the extent of lodging of the First Information Report after witnessing his brother injured. PW1 Ganesh testified that he came to know about the earlier quarrel between the deceased and the accused from his wife. He came to know about the incident from one Anil Uike and, therefore, he went at the spot and saw his brother in an injured condition who subsequently succumbed to death and, therefore, he lodged the report Exhibit-10 and the First Information Report is at Exhibit-11. Thus, his evidence is not direct evidence. During his cross-examination, only the fact which came on record is that he had two brothers Manohar and Manoj. Manohar is not residing with them and is residing at the house of the accused at village Umri. It also came on record that there was no cordial relations between the

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deceased Manoj and Manohar and, therefore, Manohar was staying at Umri.

17. Another witness examined by the prosecution is PW4 Vanita, who is the wife of the deceased. Her evidence discloses that on the day of the incident the deceased had brought daughter of Manohar namely Akshara at home from Umri and, therefore, the accused came to their house and threatened them and tried to take Akshara and there was hot exchange of words between the deceased and the accused. Her evidence further shows that the accused took Akshara along with him by threatening them. After some time, she received a message from PW6 Pratibha that her husband was assaulted by the accused by means of knife and was lying at the house of Dhanraj and, therefore, she went there and saw that her husband was lying in an unconscious state. During her cross-examination, she admitted that there was no previous quarrel or enmity between the accused and the deceased. Except this cross-examination, no other material is elicited from the cross-examination. Admittedly, PW4 Vanita is also not eyewitness, but only the witness on earlier quarrel which took place between the deceased and the accused at the house of the deceased.

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18. Besides the evidence of these two witnesses, main witness, on which the prosecution is relied upon, is the sole eyewitness of the incident PW7 Dhanraj, who testified that on the day of the incident he was sleeping in the house. He heard the noise and woke up and saw that accused Radheshyam was assaulting the deceased by means of knife. He made hue and cry and people gathered there. He further testified that the accused thrown the knife on the spot and fled away from the spot. In this assault, Manoj sustained bleeding injury. The brother of Manoj taken Manoj to the hospital, but he succumbed to death. He has also identified the knife (Article-8) and deposed that the accused had assaulted the deceased by the said knife. The presence of the accused at the spot of the incident was also witnessed by PW6 Pratibha, who testified that on the day of the incident she was present in the house. She heard a loud noise of Dhanraj and therefore, she came out of the house and saw that accused Radheshyam was fleeing from the house of Dhanraj and, thereafter, she went to the house of Dhanraj and saw Manoj in a pool of blood in the house of Dhanraj. Therefore, she went at the house of the deceased and informed the incident to the wife of the deceased.

19. To falsify versions of PW6 Patibha and PW7 eyewitness Dhanraj, they are cross-examined at length. During cross-

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examination of PW6 Pratibha tried to bring on record that she was not having any opportunity to witness the accused running away from the house of Dhanraj. During cross-examination, she admitted that Dhanraj is her brother-in-law. Their houses are adjacent to each other. She admitted that there is a boundary wall between her house and the house of Dhanraj. She also admitted that from her house the veranda of the house of Dhanraj is not visible. But, she denied that she has not seen Radheshyam i.e the accused fleeing from the house of Dhanraj. In fact, it is nowhere her evidence that she has witnessed the accused from her house when the accused was fleeing from the house of Dhanraj. She specifically testified that after hearing shouts, she came out of the house and at that time she saw the accused fleeing from the house of Dhanraj and, therefore, the cross-examination to the extent that the veranda of the house of Dhanraj is not visible from her house is not useful to the defence. As she has specifically stated that she witnessed the accused, when she came out of the house, the cross-examination that there was a boundary wall between her house and the house of Dhanraj is also not useful to the defence.

20. Now, it has to be seen whether the evidence of PW7 Dhanraj is cogent and reliable. As it is already observed that there is no legal impediment in accepting the evidence of the sole

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eyewitness, if it is found truthful, cogent and reliable. It is well settled principle that the evidence of sole eyewitness is to be accepted if it is found truthful and credible. The Honourable Apex Court in the case of Jagdish Prasad and others vs. State of Madhya Pradesh, reported at AIR 1994 SC 1251 held that as a general rule the Court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Indian Evidence Act, 1872. But, if there are doubts about the testimony, the Courts will insist on corroboration. It is for the Courts to act upon the testimony of witnesses. It is not the number, quantity, but the quality that is material. The above position was also highlighted in the case of Sunil Kumar vs. State of NCT of Delhi, reported at 2003 (11) SCC 367.

21. In the light of the above principle, the evidence of eyewitness PW7 Dhanraj is to be scrutinized. PW7 Dhanraj is cross-examined and he admitted that when he was sleeping, he was not aware who had come to his house. But, he denied that when he got woke up, he only saw that Manoj was lying on the spot. Thus, from his cross-examination, it is attempted to show that he has not

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witnessed the accused giving blow to Manoj. He has specifically denied the suggestion that he has not witnessed anything.

22. The alleged incident had taken place in the house of PW7 Dhanraj. This fact is also corroborated by the evidence of PW2 Shatrughna, who acted as pancha on spot panchanama. He testified that the spot of the incident was the house of Dhanraj. The police had verified the spot of the incident in his presence and collected the knife and blood stains from the spot of the incident. Accordingly, panchanama was drawn which is at Exhibit-13. He further testified that the police prepared the seizure memo of knife separately. Thus, the substantial evidence of PW2 Shatrughna also shows that the spot of incident was the house of PW7 Dhanraj. Thus, not only the evidence of PW7 Dhanraj, but circumstantial evidence that blood stains are found in the house of Dhanraj and the weapon of the offence was also seized from the house of Dhanraj has come on record.

23. Another circumstance on which the prosecution relied upon is the evidence of PW3 Mankar Naitam who acted as pancha on the seizure of knife, but he has not supported the prosecution initially. His evidence is to the extent that he was called by the police in the house of Dhanraj and the police had collected one

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blood stained bed sheet and a knife from the spot. During cross-examination, he admitted that he is not aware about the contents of panchanama, but he denied that the police have shown him a knife and a quilt outside the house of Dhanraj.

24. The seizure of clothes of the accused at his instance, is proved by the prosecution by examining PW5 Purushottam Kokode. As per his evidence, he was called by the police in the police station. The accused was present there. The accused had made a voluntary statement that he will show the place where he concealed the clothes at the time of the incident. The said statement was reduced into writing. Thereafter, the accused led them at this father-in-law's house and produced one blue white coloured shirt. Accordingly, the police have drawn the panchanama as well as seizure memo. During cross-examination, this witness admitted that the accused had not narrated before him that he acted in a hit of anger. This cross-examination was taken on inadmissible portion of the said statement. It is specifically come on record that vehicle was stopped near the house of the accused. The rest of the cross-examination is only in denial form. To prove seizure of clothes of the deceased and the accused, PW9 Investigating Officer Deepak Salunke was also examined. The evidence of PW5 Purushottam and PW9 Investigating Officer Deepak Salunke state about the recovery

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at the instance of the accused that is of blood stained clothes. This recovery is further corroborated by the Chemical Analyzer Report. The Chemical Analyzer Report (Exhibit-54) shows that blood detected on Exhibit-1 dupatta, Exhibit-2 underwear, Exhibit-3 half t-shirt, Exhibit-4 baniyan, Exhibit-5 jeans pant, Exhibit-6 hankerchief, Exhibit-7 dupatta, Exhibit-8 sword, Exhibit-9 earth, Exhibit-11 quilt, Exhibit-13 full pant, Exhibit-14 baniyan, Exhibit-16 full-shirt and Exhibit-17 full-shirt are stained with human blood. It further shows that except the sword and the earth, Blood Group "A" was determined on above these articles. Thus, on the clothes of the accused Blood Group "A" was determined. Whereas, blood group found on sword and earth was not determined. The Chemical Analyzer Report (Exhibit-52) shows that blood group of the accused as well as blood group of the deceased were determined as "A". The specific question was put to the accused in statement under Section 313 of the Code of Criminal Procedure i.e. question No.88 that what he has to say about the Chemical Analyzer Report, he merely answered that it is false. Thus, he had not explained the incriminating circumstance i.e. blood stains appearing on his clothes.

25. So far as the recovery under Section 27 of the Indian Evidence Act is concerned, evidence of PW5 Purushottam is

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material. He testified that the police called him to act as pancha. In his presence, the accused made a memorandum statement that he will show the place where he concealed the clothes which were on his person at the time of the incident. Accordingly, his memorandum statement had recorded and the accused had produced his clothes by leading them to his house as well as from the house of his father-in-law. Though he is cross-examined at length, most of cross-examination is on inadmissible part of the said memorandum statement. Rest of the cross-examination is in denial form. The evidence regarding blood stained clothes is also supported by the Chemical Analyzer Report (Exhibit-54). As per the said Chemical Analyzer Report, Articles-16 and 17, full-shirts of the accused, are stained with Blood Group "A". As per Exhibits-52 and 53, blood groups of the deceased and the accused are of "A". The incriminating portion, regarding the Chemical Analyzer Report, is put to the accused, but he has not explained the said circumstance. The presence of the blood on his clothes is not at all explained by the accused. The circumstance finding of blood stains on clothes belongs to the accused is the strongest circumstance appearing against the accused. It is well settled that in a case of circumstantial evidence, when the accused offers no explanation regarding the incriminating circumstance, such as blood stains

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found on his clothes and no evidence that the said blood stains are of his blood, is the strongest circumstance against the accused.

26. The another circumstance is the blood stained weapon which was thrown as per the prosecution witnesses on the spot of the incident. Here, in the present case, only an eyewitness is Dhanraj on which the prosecution relied upon. He specifically stated that the accused fled from the spot by throwing the knife on the spot. The spot panchanama and the evidence of PW2 Shatrughna show that at the time of drawing of the spot panchanama, a knife, having blood stains on it, was seized. Presence of PW7 Dhanraj at the spot is a natural as the spot of the incident is his own house. Their evidence is also supported by the medical evidence as PW8 Medical Officer Dr.Netradeep Katkar deposed that injuries mentioned in the postmortem report are possible by weapon like knife (Article-8) which is before the Court. The involvement of the weapon in the alleged offence is further established by the Chemical Analyzers' Reports as the human blood is detected on the said sword which was found on the knife. It is well settled that mere absence of evidence regarding the blood group is not fatal to the prosecution. The Honourable Apex Court in the case of Kishore Bhadke vs. State of Maharashtra, reported at 2017 ALL MR (Cri) 1316 (SC) held that presence of human blood on

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clothes recovered at the instance of the accused and mere absence of the blood group cannot be fatal to the prosecution. Thus, the evidence of eyewitness is not only supported by the medical evidence, but it is also supported by the Chemical Analyzer's Reports and by the evidence of PW5 Purushottam who acted as pancha on the seizure of the blood stained clothes. On the basis of voluntarily statement made by the accused in his presence incriminating articles clothes are recovered.

27. As far as recovery of blood stained clothes is concerned, evidence of PW5 Purushottam is cogent and reliable. So far as the ingredients of Section 27 of the Indian Evidence Act is concerned, only requirement is that discovery of some facts should be consequent to the information given by the accused. What is essential is, discovery of some facts. In other words, the fact discovered must be one which was not within the knowledge of the police and knowledge of the fact was for the first time derived from the information given by the accused. What is essential is that his information has led to the discovery of the fact which is direct outcome of such information.

28. The privy Council in the case of Pulukuri Kottaya and others vs. Emperor, reported at AIR (34) 1947 Privy Council 67 has

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observed that Section 27, which is not artistically worded, provides an exception to the prohibition imposed by the preceding section and enables certain statement made by a person in police custody to be proved. The condition necessary to bring the section into operation is that discovery of a fact in consequence of information received from a person accused of any offence in the custody of a police officer must be deposed to, and thereupon so much of the information to relate distinctly to the fact thereby discovered may be proved. The doctrine, therefore, if founded on the principle that if any act is discovered after the search is carried out on the search on any information obtained from the prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true. In this view of the matter, there is sufficient evidence in the nature of oral evidence of PW5 Purushottam and evidence of PW9 Investigating Officer Deepak Salunke corroborated by the circumstances that is the opinion of the medical officer and blood stains found on the weapon as well as blood stains found on the clothes which connect the accused with the alleged offence. There is sufficient evidence to connect the weapon of the offence with the crime.

29. In the case in hand, there is ample evidence in the form of evidence of PW7 Dhanraj who is eyewitness and PW6

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Pratibha who saw the accused fleeing away from the spot of incident. The evidence of PW4 Vanita proving the earlier quarrel between the deceased and the accused is corroborated by the circumstances that the recovery of the blood stained clothes showing the Blood Group "A" on the said clothes for which no explanation is put forth by the accused. The evidence further corroborates the evidence of PW7 Dhanraj that the accused has thrown the weapon at the spot of the incident which was seized by the police during the spot panchanama. The blood stains of human blood are found on the weapon which connects the accused with the alleged crime. The sole testimony of the PW7 Dhanraj is sufficient to prove the guilt of the accused.

30. On analysis the factual scenario, on applying the principles of law, and the evidence available on record, no perversity appears in the findings recorded by learned Judge below in the judgment and order impugned in the appeal. Hence, the appeal must fail and it is liable to be dismissed. Hence, we proceed to pass following order:

ORDER

(1) The criminal appeal is **dismissed**.

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(2) The judgment and order dated 16.3.2018 passed by learned Additional Sessions Judge-4, Nagpur in Sessions Trial No.433/2015 stands confirmed.

(3) The record and proceedings be sent back to the Trial Court.

(4) As is permissible in law, fees to be received by learned counsel Shri S.G.Joshi appointed for the appellant from the High Court Legal Services Sub Committee at Nagpur are quantified.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B.DE0, J.)

!! BrWankhede !!