

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CRA-D-1051-DB-2009
Reserved on: 13.12.2022
Pronounced on: 16.12.2022

Sukhwinder Singh @ BittuAppellant

Versus

State of PunjabRespondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Ms. Nidhi Garg, Advocate
for the appellant.

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. The instant appeal is directed by the convict, against the verdict of conviction, made on 06.08.2008, by the learned Additional Sessions Judge, Tarn Taran, upon Sessions Case No. 11 of 2007, wherethrough, in respect of charges drawn for offences punishable under Sections 302, 376-2(f) IPC, and, under Section 201 of the IPC, he made a finding of conviction against the accused.
2. Moreover, through a separate sentencing order drawn on 06.08.2008, the learned trial Judge proceeded to impose upon the convict (supra) both sentence(s) of imprisonment as well as of fine, but in the hereinafter extracted manner :-

Under Section 376-2 (f) IPC	Rigorous imprisonment for 10 years and to pay fine of Rs.5000/-. In default of payment of fine to undergo further R.I. for one year.
Under Section	Rigorous imprisonment for 2 years and to pay fine

201 Part I IPC	of Rs.1000/-. In default of payment of fine to undergo further R.I. for three months.
Under Section 302 IPC	Imprisonment for life and to pay fine of Rs.10000/-. In default of payment of fine to undergo further R.I. for two years.

3. All the sentence(s) were ordered to run concurrently, but the period spent in custody by the convict during the pendency of investigation and trial of the case, was, in terms of Section 428 Cr.P.C., ordered to be set off against the above imposed substantive sentence(s) of imprisonment.

4. The convict becomes aggrieved from the verdict of conviction (supra), besides become aggrieved from the above imposed sentence(s), thus, is led to cast thereagainst the instant appeal before this Court.

Factual background

5. The genesis of the prosecution case becomes encapsulated in the appeal FIR to which Exhibit PK/2 is assigned. The present FIR was lodged at the instance of the father of the deceased child Simarjit Kaur. The informant Gurbachan Singh, has made narrations therein that he is a resident of Jhabal and is a labourer having three daughters and one son. He was getting his house repaired by engaging a mason. The previous day, on 9.11.2005 at about 6 pm his eldest daughter Simaranjit Kaur aged 8 years told her mother that she was going to answer the call of nature and left the house. When she did not turn up for 20 minutes he along with his wife started searching their daughter but they could not. Then the complainant along with co- villagers gave information to the Police station. On that day also since morning they were searching for the missing girl along with other persons of

neighbourhood and brotherhood. At about 3 p.m the dead body of Simaranjit Kaur was found in the water of village pond. Her Salwar was lying on the bank of the pond. The complainant believed that some unkonwn person or persons after kidnapping, raped his daughter and thereafter killed her and threw her dead body in the water of the pond, so as to conceal the same and prayed for taking legal action. On the basis of his statement FIR was registered and special reports were sent to the officers concerned.

Investigation proceedings

6. The investigation was put into motion. Post mortem on the dead body of Simaranjit Kaur was got conducted. The cause of death in this case was asphyxia owing to smothering of the victim leading to cardiorespiratory arrest. From the spot moulds of the foot print(s), were taken into possession, and, the same were sent to the Forensic Science Laboratory, Chandigarh. The Rough site plan of the place of occurrence was prepared. The statements of the witnesses were recorded.

7. After completion of investigations by the investigating officer concerned, into the FIR (supra), he instituted an affirmative report under Section 173 Cr.P.C., before the learned Committal Judge concerned.

Committal proceedings

8. Finding the offences punishable under Sections 302, 201 and 376 IPC, to be exclusively triable by the Court of Session, thus the learned committal Court vide order dated 01.03.2006, committed the case for trial to the Court of the learned Additional Sessions Judge, Tarn Taran.

Trial Court Proceedings

9. On finding a prima facie case, charges under Sections 302/376/201 of the IPC became framed, against the accused, to which he pleaded not guilty, and, claimed trial.

10. In support of the prosecution case, the prosecution examined thirteen witnesses. After completion of recording of the depositions of the prosecution witnesses, the learned Additional Sessions Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused claimed false implication, and, pleaded innocence. In his defence, the accused examined four witnesses Ratan Kumar as DW-1, Raghbir Singh as DW-2, Dr. Amarjit Singh, Medical Officer, Surgeon, Civil Hospital, Tarn Taran as DW-3 and Jarnail Singh as DW-4.

11. After conclusion of the trial, as, became entered upon the FIR (supra), by the learned Additional Sessions Judge, Tarn Taran, the latter proceeded to make the afore verdict of conviction, and, also made the consequent therewith sentence(s) (supra), upon, the present appellant.

Submissions of the learned counsel for the convict-appellant.

12. The learned counsel appearing for the convict-appellant has submitted with much force before this Court, that the impugned judgment suffers from a gross vice of gross mis-appreciation, and, non appreciation of evidence germane to the charge. Therefore, she prays that the instant appeal be allowed and the accused be acquitted of the charges as became framed against him.

Submissions of the learned State Counsel

13. On the other hand, the learned State counsel has argued that the appreciation of evidence as made by the learned Convicting Court, is merit-worthy, and, that it does not require any interference being made by this Court.

Circumstantial based evidence case.

Deposition of the informant, the father of the deceased child Simarjit Kaur, who stepped into the witness box as PW-5.

14. PW-5, Gurbachan Singh, on his stepping into the witness box, has completely supported the genesis of the prosecution version, as set forth in his previously recorded statement, to which Exhibit PK is assigned. Exhibit PK resulted in the registration of an FIR in respect of the apposite penal occurrence, whereto, Exhibit PK/2 has been assigned. Though, PW-5 in his statement, as embodied in his examination-in-chief, does not make speakings about his being an eye witness to the relevant crime event. However, he has in his examination-in-chief testified that, on 10.11.2005, the day subsequent to his making a futile search to locate his deceased daughter Simarjit Kaur, hence his alongwith the co-villagers discovering the body of the deceased child in the village pond. He also deposes that her *salwar* was lying outside the pond. The *chuni* of the deceased child, which became allegedly used by the accused to smother the deceased child, leading to her demise hence occurring through asphyxia, was produced in Court. The said *chuni* was stated by PW-5, to be recovered, at the instance of the accused to the investigating officer concerned. Moreover, the said *chuni*, as became taken into police possession through recovery memo Exhibit PL, also became produced in Court, and was shown to PW-5, resulting in his further testifying, that it was the very same *chuni*,

which became recovered by the convict to the investigating officer concerned. Nonetheless, in his cross examination, though he has voiced about his deceased child wearing a salwar and kameez of yellow colour, and, that the *dupatta* which she was wearing at the relevant time was also of the same colour, but on his becoming confronted with his previous statement recorded in writing, there was no speaking therein that the colour of the *chuni*, as became taken into police possession through recovery memo Exhibit PL, rather was also yellow. However, yet the above minimal digression or improvement, as made by PW-5, in his examination-in-chief, from his previous statement recorded in writing before the police, does not for the reasons assigned hereinafter, detract from the efficacy of the other hereinafter alluded potent incriminatory pieces of evidence, as became adduced, by the prosecution, to prove the charge drawn against the convict.

Theory of last seeing of the accused and the deceased together, as spoken by PW-11.

15. PW-11 is the mother of the deceased child. In her examination-in-chief, she has spoken that the repairs to their house were effected on 09.11.2005. At about 4 P.M., on 09.11.2005, she speaks that she had gone outside to answer the call of nature. She continues to testify that the convict whom she identified in the Court, had come to her house, and had asked whether the masons had stopped the work, and to which she replied that they had stopped the work on the said day. Moreover, she testifies that when she was standing at the door of the house, that she then witnessed that the accused went towards the same side to which side her daughter had proceeded to, and, that thereafter both did not return. The searchings made for

discovering the deceased child are testified by her to be completely futile.

16. However, for the reasons to be assigned hereinafter, the theory of the last seeing of the deceased and the accused together, as becomes spoken by PW-11, is a completely frail incriminatory link, in the chain of incriminatory circumstances, as becomes erected by the prosecution.

17. The said spoken fact by PW-11 in her examination-in-chief is unveiled in her cross examination, to be not occurring, in her previously made statement in writing to the police officer concerned. Therefore, as but a natural corollary, the said spoken fact in her examination-in-chief, is a dire improvement or embellishment vis-a-vis her previous statement made before the police officer. Therefore, the said theory of last seeing of the accused and the deceased together, rather in proximity to the time of discovery of the body of the deceased child, hence becoming effected from the relevant site, does not carry any evidentiary credit worthiness, nor on its anvil, the prosecution can succeed in establishing the guilt of the convict.

**Signed disclosure statements of the convict respectively
carried in Exhibit PM and Exhibit PN.**

18. Be that as it may, during the course of investigations being made into the crime event, by the investigating officer concerned, the convict made a duo of signed disclosure statements. The apposite disclosure statements are respectively embodied in Exhibit PM, and, in Exhibit PN. The contents of Exhibit PM are ad-verbatim extracted hereinafter.

“In the presence of following witnesses, accused Sukhwinder Singh @ Bittu above noted on my through interrogation confessed that the chunni with which I had shut the mouth of Simarjit Kaur, I have kept concealed in the pond under the booti (weeding) and I can get the same recovered on pointing out the same as I know about it only. Memo of confession prepared accordingly.

*Sd/-
Sukhwinder Singh*

*Witnesses:-
Sd/- ”*

19. In pursuance to the drawing of the signed disclosure statement, as becomes embodied in Exhibit PM, the accused ensured the recovery of *chuni* of yellow colour from the location of its hiding and keeping, to the investigating officer concerned.

Conclusions from the above signed disclosure statement embodied in Exhibit PM and consequent therewith recovery of *chuni* through memo Exhibit PL.

20. A reading of the contents of Exhibit PM, discloses that therein the convict had not only confessed his guilt, in using the *chuni* to smother the mouth of the deceased child Simarjit Kaur, but had also evinced his readiness and willingness to ensure its' recovery to the investigating officer concerned, from the location of its hiding and keeping, as the said location was known only to him.

21. Moreover, since in pursuance to the drawing of Exhibit PM, the convict also caused the recovery of the incriminatory *chuni* to the investigating officer concerned, and, when the same was taken into police possession through recovery memo Ex. PL. Furthermore, when the above drawn disclosure statement, when evidently became signed by the convict, and when the convict-accused neither ably denied his signatures, as carried thereons, nor ably proved the apposite denial. Further, when the apposite disclosure statement also led to the

makings of recovery of the incriminatory *chuni* at the instance of the convict, to the investigating officer concerned. Therefore, the cumulative effect of the above, is that, utmost evidentiary solemnity is to be assigned to the disclosure statement (supra). Moreover, the said disclosure statement also does not become a simpliciter or bald confession of guilt, as subsequent thereto, the accused did cause, the valid recovery of the incriminatory *chuni*, to the investigating officer concerned, and the same was validly taken into police possession through recovery memo Exhibit PL. Moreover, since the recovery of the incriminatory *chuni* which became confessed by him to become used by him to smother the deceased child, has not been proven to be either an engineered or a concocted or even a invented recovery at the instance of the investigating officer concerned. Therefore, evidentiary vigor is also to be assigned to the recovery of the incriminatory *chuni*, as became caused through recovery memo Ex.PL., but subsequent to the making of an apposite valid signed disclosure statement carried in Ex.PM.

Disclosure Statement Exhibit PN.

22. Moreover, in pursuance to the drawing of the signed disclosure statement, as becomes embodied in Exhibit PN, the accused also ensured the recovery of his *jutti*, which he had worn at the relevant time, hence from the location of its hiding and keeping, to the investigating officer concerned. The contents of Exhibit PN are ad-verbatim extracted hereinafter.

“In the presence of following witnesses, accused Sukhwinder Singh @ Bittu above noted on my through interrogation confessed that I have kept concealed the jutti (open shoes) which I had worn at the time of occurrence

under the earth/soil where the plants are being planted in the vacant place of the road near Dera Radha Swami about which I know only and can get the same recovered on pointing out the same. On this memo of confession was prepared accordingly.

*Sd/-
Sukhwinder Singh*

Witnesses:-

Sd/- ”

23. Subsequent to the recovery of the footwear of the accused which he was wearing at the relevant time, and, as became effected through recovery memo Exhibit PO, the investigating officer concerned, also collected from the crime site, through a memo embodied in Exhibit PU, the right foot mould *jutti* mark, and, thereafter he sent both in cloth parcels through constable Rajbir Singh, No. 4526, to the FSL concerned. The contents of the said cloth parcels, respectively carrying therein, the right footwear mould, as become collected from the crime site, by the investigating officer concerned, through recovery memo (supra), and the footwear of the convict-accused, became subjected to inter-se comparisons hence by the expert concerned. The result, of the inter-se comparisons or of the inter-se matchings inter-se the right footwear mould as became lifted from the crime site, by the investigating officer concerned, rather with the *chappals* of the accused, as became recovered through recovery memo Exhibit PO, becomes extracted hereinafter.

“Result of Examination

The impression of right footwear on crime mould 'C' is from the right fellow AR of pair of test footwear of the suspect, contained in parcel 'A' as referred above.”

Conclusions from the results of the examinations made upon the above.

24. A reading of the above extracted result of the above comparisons, as made at the FSL concerned, though does comprise, the best scientific evidence, and also though does vividly pronounce the presence of the convict, at the relevant time, at the crime site.

25. However, for the reasons to be assigned hereinafter, no evidentiary vigor is garnered by Exhibit PZ/3. The reason(s) for the making of the said inference, becomes comprised in the factum, that in the relevant hereinafter extracted portion of Exhibit PZ/3, there is a narration, that one unmarked sealed parcel though became received at the FSL concerned. Moreover, though the expert concerned, after affirmatively tallying the sealed impressions carried thereons hence with the specimen sealed impressions, rather took to open the parcel concerned, and, whereafter he made the apposite affirmative inter-se matchings. Subsequently, on the said sealed unmarked cloth parcels, the expert concerned, made thereons the seals of the FSL concerned. However, Ex. PZ/3 also speaks about one footwear mould, as became collected from the crime site, through memo Exhibit PU, becoming also received at the FSL concerned, but in an unsealed and unmarked condition. If so, the collection of the right footwear mould(s), from the crime site, by the investigating officer, through memo (supra), rather cannot be said to be sent to the FSL concerned, in the required untampered and unspoiled condition. Thus, the affirmative inter-se tallings' therewith, with the footwear of the convict, as became recovered through Ex.PO, does not yet clinch, the necessary factum qua the accused rather being at the relevant time hence available at the

crime site nor the above extracted result of the apposite inter-se affirmative examinations, foster any inference, that therethrough the charge against the accused becoming unflinchingly proven.

“ Date of receipt :

i) In office : 5.12.2005

ii) In division : 5.12.2005

Mode of receipt : through const. Rajbir Singh No. 4526

Articles received : 1) One parcel unmarked was received sealed. The seal impression tallied with the specimen seal impression forwarded.

2) One mould is received unsealed and unmarked.....”

26. In addition the report of the scientific officer concerned, is not perse admissible in evidence as he is not one amongst the experts/specialists, who are mentioned in Section 293 of the Cr.P.C., provisions whereof become extracted nor he has been disclosed in the apposite notification, to become declared as an expert for the relevant purpose. In consequence, it does not hold the requisite evidentiary vigor, which rather it may hold in case the author of Exhibit PZ/3, after stepping into the witness box, had proven Exhibit PZ/3.

293. Reports of certain Government scientific experts.

(1)Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

(2)The Court may, if it thinks fit, summon and examine any such expert as to the subject- matter of his report.

(3)Where any such expert is summoned by a Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if

such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.

(4) This section applies to the following Government scientific experts, namely:-

- (a) any Chemical Examiner or Assistant Chemical Examiner to Government;
- (b) the Chief Inspector of- Explosives;
- (c) the Director of the Finger Print Bureau;
- (d) the Director, Haffkeine Institute, Bombay;
- (e) the Director¹, Deputy Director or Assistant Director] of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;
- (f) the Serologist to the Government.

For the reasons assigned hereinafter, even if this Court does not assign any evidentiary vigor to Exhibit PZ/3, yet this court would proceed to yet draw verdict of conviction against the convict.

27. The confession of guilt, as made by the convict in his signed disclosure statement embodied in Exhibit PM, when for reason (supra), did result in the causing of recovery of the incriminatory *chuni*, rather through Ex. PL, to the investigating officer concerned. Therefore, when for above stated reasons, the said confession of guilt has been assigned credence, as it is not a simpliciter or bald confession of guilt, nor attracts thereons the ousting mandate of Section 25 of the Indian Evidence Act, 1872, given the consequent therewith recovery through Ex.PL, of the incriminatory *chuni*, rather also becoming caused to the investigating officer concerned. Resultantly irrespective of, for the reasons (supra), qua any infirmly made inter-se matchings, occurring inter-se the footwear of the accused, as became recovered through Ex.PO, with the moulds of the right foot of the convict, which purportedly existed at the crime site, yet does not at all override nor benumbs the confession of guilt, as made by the convict, in his uncontested signed disclosure statement, to which Exhibit PM is assigned.

28. Importantly when reiteratedly the convict has neither contested his signatures as carried therein nor has proven the said contest through his adducing the best evidence.

29. Reiteratedly also when an efficacious recovery of incriminatory *chuni* also became caused at his instance to the investigating officer concerned, through memo Exhibit PM and besides when its possession was taken through recovery memo Ex.PL. Therefore, the above validly drawn memos, do completely negate and override, the effect if any of any purported inefficacious collections of the right foot moulds, as became purportedly made from the crime site.

Post mortem report.

30. The post mortem report, to which Ex. PA/1 is assigned. Ex. PA/1, has been proven by its author, who stepped into the witness box as PW-1. In his testification, he has made echoings that on his making an autopsy on the body of the deceased child, his observing thereons, the hereinafter extracted injuries.

“1. A lacerated wound 1 x 0.5 cm. In size present on the middle of left upper lid.

2. A lacerated wound 0.5 x 0.5 cms. in size present on the left side of face, just below the margin of left lower eye lid.

3. A lacerated wound 1 cm. X 0.5 cm. Present on the musosa of angle of mouth on right side.

4. A lacerated wound 1 cm. X 0.5 cm in size on the musosal of surface of angle of outh on left side.

5. A lacerated wound 0.5 x 0.5 cm in size on the front surface of right thigh in its lower part 2 cms above the right knee joint.”

31. Moreover, he voices that on receipt of the chemical examiner report Ex.PB, and on the basis of report of the Gynocolgist,

he made an opinion, that the cause of the demise of the deceased child was axphyxia arising from smothering which ultimately led to fatal cardiorespiratory arrest, and, also spoke that the said smothering was sufficient to cause death in the ordinary course of nature. The above made opinion about the cause of demise of the deceased child, does connect, the convict not only with the validly drawn disclosure statement Exhibit PM, but also connects him with the consequent therewith recovery of *chuni* as became caused through Ex. PM. Therefore, too when the causal connection inter-se the cause of death of the deceased with the incriminatory user of *chuni* at the instance of the accused, does become convincingly established. Resultantly the prosecution has unflinchingly proven the charge drawn against the convict.

Evidence and proof of offence under Section 376-2(f) IPC.

32. PW-4, made a gynaecological examination on the body of the deceased. She has upon stepping into the witness box as PW-4, has spoken that the result of the said examination sequed the hereinafter extracted opinion.

“On the basis of local examination again said on examination secondary sexual characters were found not well developed and axillary hairs were absent.

Local Examination:

'Pubic hairs absent, vaginal mecosa inflamed, hymen was absent. Two vagina swabs were taken first from lower vagina admitted little finger. Service and uterus infertile.'

33. The conclusions which are to be drawn from the above extracted results of the gynaecological examination, as made by PW-4 upon the body of the deceased child, are that, the noticeable thereins symptoms qua inflammation being caused to the vaginal *mecosa*, besides

qua the hymen being absent, and, when it is also echoed therein, that the lower vagina admitted the little finger, they rather lead to a natural inference, that the deceased child was subjected to forcible sexual intercourse. Moreover, since through recovery memo Exhibit PP, the broken bangles of the deceased child were also recovered, at the instance of the convict. Therefore, when the said preparation of the above memo, has not been disputed, by the convict through his making an efficacious cross examination, upon, the investigating officer concerned. Thus, credence has to be assigned to the collections as made at his instance of the broken glass bangles of the deceased child from the apposite location. As but a natural corollary, the above drawn inference also begets the resultant consequence, that it was only during the course of convict subjecting the deceased child to forcible sexual intercourse, that the glass bangles which she was wearing at the relevant time rather did get broken. Therefore, even the charge drawn against the convict for an offence punishable under Section 376-2 (f) IPC too become unflinchingly proven.

34. PW-4, though during the course of her examination-in-chief has spoken, qua upon his making a gynaecological examination upon the deceased child, hers preparing the apposite vaginal swabs, and, had inserting the same in sealed cloth parcels, and, whereafter they were sent to the chemical examiner concerned. However, the latter after making an examination of the vaginal swab cloth parcels, which became received by him in an untampered, and, unspoiled condition, has not made any voicing therein, that any spermatozoa was detected in the contents of the vaginal swabs, as became enclosed in sealed cloth

parcels, as became sent, and, also became received in an untampered and unspoiled sealed cloth parcels, at the laboratory concerned. The report of the Chemical Examiner has been assigned Exhibit PG.

Argument of the learned counsel for the convict on the above.

35. On the above echoing occurring in Exhibit PG, the learned counsel for the convict-accused has made a submission, that it results in an inference that the charge drawn against the accused convict under Section 376-2 (f) IPC rather does falter.

36. Moreover, she also makes a submission that the above extracted resulted of the examinations, as made by PW-4, on the body of the deceased, does becomes completely frail.

Reasons for rejecting the above submission.

37. However, for the reasons assigned hereinafter, the above made submission is outrightly rejected. The echoing in Exhibit PG qua no spermatozoa being detected in the vaginal swabs of the deceased child, can never benumb the above extracted results, of the gynaecological examination, as made upon the deceased child by PW-4, as therein it becomes uncontestedly voiced, given no cross examination in respect thereof becoming conducted upon PW-4, qua their occurring symptoms of inflammation of the vaginal *mecosa*, and, qua the hymen being absent, besides qua the lower vagina admitting the little finger. If so, naturally the above symptoms would occur only when the deceased was put to coitus by the convict.

Validity of conviction recorded under Section 201 IPC.

38. For determining the validity of the above made conviction, it is necessary to extract the provisions carried in Section 201 IPC. Provisions whereof are extracted hereinafter.

Section 201 IPC reads as under :-

201. Causing disappearance of evidence of offence, or giving false information to screen offender.—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false; if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life.—and if the offence is punishable with 1[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; if punishable with less than ten years' imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both. Illustration A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.”

39. A deep reading of the above provisions, underscores the factum, that the trite rubric for attracting the mandate thereof, become comprised, in evidence emerging qua the inculpated person, provenly “knowing of having reasons to believe that an offence has been committed.” Therefore, the signification to be assigned to the coinage

“Whoever, knowing or having reason to believe that an offence has been committed” is but naturally, that the person to be tried for an offence under Section 201 IPC, and, also to be convicted for the said offence, is required to be not the principal offender who commits the offence, but is required to be a person who knows or has reasons to believe that an offence has been committed. Since the accused was the principal offender, or was the principal in first degree besides was the person who committed the offence. Therefore, there was no occasion to implicate him, on the premise, that he yet knew or he had reason to believe, that an offence has been committed, and, that his taking to screen the apposite incriminatory evidence in the manners enshrined in provisions (supra).

Final Order

40. In consequence, the appeal is partly allowed and the impugned verdict, and, consequent therewith sentence(s) (supra), as imposed upon the convict, is modified, to the extent that the impugned verdict of conviction, and, consequent therewith sentence(s), imposed upon the convict, qua an offence punishable under Section 201 IPC, is set aside.

41. However, there is no merit qua the challenge cast to the impugned verdict, and consequent therewith sentence(s) (supra), as imposed upon the convict, qua offences punishable under Section 302 IPC and under Section 376-2(f) IPC. Therefore, the impugned verdict and consequent therewith sentence(s) (supra), qua offences (supra), is maintained and affirmed.

42. The case property, if any, be dealt with in accordance with law after the expiry of period of limitation for the filing of an appeal. The records be sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

16.12.2022
kavneet singh

(KULDEEP TIWARI)
JUDGE

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