

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

(I) CRA-D-732-DB-2010  
Reserved on: 12.09.2022  
Date of decision: 19.09.2022

**MAM CHAND AND ORS.** ...Appellants

Versus

**STATE OF HARYANA** ...Respondent

(II) CRA-D-1257-DB-2015

**DHARAMVIR @ DAPPU** ...Appellant

Versus

**STATE OF HARYANA** ...Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MR. JUSTICE N.S. SHEKHAWAT**

Present: Mr. Sanjeev Sharma, Legal Aid Counsel  
for the appellants.

Mr. Anmol Malik, AAG, Haryana.

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**SURESHWAR THAKUR, J.**

1. Criminal appeal bearing No.CRA-D-732-DB-2010, titled 'Mam Chand and others V. State of Haryana', and, criminal appeal bearing No.CRA-D-1257-DB-2015, titled 'Dharamvir @ Dappu V. State of Haryana' both arise from a common verdict of conviction, made by the learned Additional Sessions Judge, Ambala, on 04.06.2010, upon Sessions Case No.30 of 2006/2008. Thus, both the appeals are amenable for a common verdict being made thereons.

2. Through the impugned verdict (supra), the learned Additional Sessions Judge concerned, convicted the present appellants in respect of charges

drawn qua offences punishable under Sections 148, 149, 302 of the IPC. Moreover, through a separate sentencing order, drawn on 07.06.2010, he in respect of a charge drawn under Section 148 of IPC, imposed upon each of the convicts the substantive sentence of rigorous imprisonment extending upto a tenure of two years. Moreover, in respect of offences punishable under Sections 302, 149 of IPC he imposed upon each of the convicts the sentence of life imprisonment, besides imposed upon each of them sentence of fine comprised in a sum of Rs.10,000/- each, and, in default of payment of fine amount, he sentenced them to undergo rigorous imprisonment for a further period of one year each. All the above sentence(s) were directed to run concurrently. However, the period spent in custody by the convicts during investigations, and, trial of the case was in terms of Section 428 of the Cr.P.C., ordered to be set off against the above imposed substantive sentence of imprisonment. As above stated all the convicts are aggrieved from the above made verdict of conviction, and, consequent therewith sentence(s) (supra). Thus, they constituted the appeals (supra) before this Court.

### **FACTUAL BACKGROUND**

3. The genesis of the prosecution case is embodied in the FIR to which Ex.PC/1 is assigned, therein, it is narrated that on 19.8.2006 at about 8.05 a.m. a telephone call was received in Police Station Shahzadpur. The telephone call was that of Resham Singh Sarpanch of village Naggal Gharauli. The call was attended by Inspector Mool Chand who at that time was S.I./SHO, Police Station Shahzadpur. Resham Singh told Inspector Mool Chand that one person was lying dead in the school ground of village Naggal Gharauli. On getting this information, Inspector Mool Chand alongwith HC Naresh Kumar, HC Munni Lal, Constable Parmod Singh and HC Harnek Singh proceeded towards village

Naggal in their govt. vehicle. When they reached near the fields of Avtar Singh @ Guddu, PW Raj Kumar met him and got his statement Ex.PC recorded. Raj Kumar stated that he was running a scooter repair shop at Shahzadpur and his maternal uncle was residing in village Naggal Gharauli. On 18.8.2006 he had gone to village Naggal Gharauli to attend the Guga Mari fair. His cousin Anil who was working as a driver at Dera Bassi had also come to village Naggal Gharauli for the same purpose. At about 8.00 p.m. Raj Kumar and Anil Kumar went to Guga Mari fair and came back at about 9.00 p.m. At about 10.00 p.m. accused Rinku (nephew of Ajmer) and Labhu son of Parkash came to their house and called Anil. Anil went with them. After ten minutes Des Raj who was the maternal uncle of Raj Kumar, asked Raj Kumar to accompany him to the fields for starting the tube-well. When they were coming back from the fields after starting the tube-well and had reached near the fields of Guddu, Des Raj was ten paces ahead of Raj Kumar and Raj Kumar was following Des Raj. Suddenly from the opposite side i.e. from the side of the village Ajmer, Rinku, Labhu @ Labh Singh, Dharamvir, Sukhbir, Lal Chand and Mam Chand came and raised a lalkara that both of them should also be killed. All accused caught hold of Des Raj and attacked him with knives, gandasis etc. Raj Kumar turned back and ran for his life. Two/three accused chased him up to two-three acres but could not succeed. Raj Kumar hid himself in the fields and kept on waiting there throughout the night. When he came out in the morning and went to the spot where the accused had caused injuries to his uncle Des Raj he found that Des Raj had died due to the injuries suffered by him and his dead body was lying in a pool of blood. Thereafter, he went to the village and came to know that Anil Kumar had also been murdered and that his dead body was lying in the school ground. He stated that Anil Kumar had also been murdered with sharp edged

weapons. He further stated in the complaint that there was an old enmity between the two sides. Earlier Des Raj had been involved by the accused in a case of eve teasing. The matter was, however, amicably settled in the Panchayat. Prior to that Ajmer Singh and other had tried to burn Des Raj by turning the gas burner open.

### **INVESTIGATION**

4. On recording the statement of Raj Kumar, ruka (information) Ex.PC/3 was prepared which was sent to the police station and on the basis of which formal FIR Ex.PC/1 was registered. Photographer was called who took the photographs of the place of occurrence and the dead bodies. Rough site plan Ex.PAA was prepared. Inspector Mool Chand first inspected the place where the dead body of Des Raj was lying. The blood stained soil and sample of soil from near the dead body were collected. Two separate sealed parcels were prepared. Thereafter, he went to the place where the dead body of Anil Kumar was lying. The blood stained soil underneath the dead body and sample of soil from near the dead body were lifted. Two separate parcels were prepared. During inspection he also found that blood was also present on the inner side of the boundary wall of the school. Thereafter he went to the street which was leading to the house of Ajmer Singh. On inspection he found that blood drops were lying in the street up to the house of accused Ajmer Singh. All blood samples were taken and sealed vide memos Ex.PBB, Ex.PCC and Ex.PDD. Inquest proceedings were conducted on the dead bodies of Anil Kumar and Des Raj (Ex.PJ and Ex.PN respectively). Postmortem was conducted. Clothes of the deceased etc. were taken into possession vide seizure memo Ex.PB. On 20.8.2006 search for accused persons were made. On 23.8.2006 when the police officials were in search of the accused persons and the police party was

proceeding from village Naggal gharauli towards village Santokhi, PW Raj Kumar met them and was joined in to investigation. At bus stop Karasan, secret information was received that accused Ajmer Singh, Mam Chand and Rinku were present near the bus stand Saha. They immediately reached at bus stand Saha. Raj Kumar identified the accused who were arrested. They were interrogated. Mam Chand disclosed during investigation that he alongwith other co-accused had committed the murder of Anil Kumar and Des Raj on 18.8.2006 at about 10.00/11.00 p.m. He further disclosed that the Gandasi which he had used had been concealed by him near the T-point Naggal Gharauli in the bushes. Disclosure statement is Ex.PT. Gandasi was recovered vide memo Ex.PU/1. Gandasi is Ex.P25. The investigation was taken over by ASI Balwan Singh. On 23.8.2006 accused Sukhbir Singh, Lal Chand and Labh Singh were arrested from the general hospital Ambala City where Sukhbir Singh was admitted and Lal Chand and Labh Singh were present near the main gate. Sukbir Singh suffered disclosure statement Ex.PV. In pursuance to his disclosure statement knife was recovered. Lal Chand also suffered disclosure statement Ex.PX. In pursuance to his disclosure statement a lathi was recovered. Scaled site plan Ex.PE was got prepared from the Halqa Patwari. Statements of the witnesses were recorded. On completion of the investigation, final report under Section 173 Cr.P.C was prepared by S.I./SHO Mool Chand of Police Station Shahzadpur.

### **COMMITTAL PROCEEDINGS**

5. Since the afore offences were exclusively triable by the Court of Session, thus vide committal order dated 27.11.2006 the learned Judicial Magistrate Ist Class, Ambala, committed the accused to face trial before the Court of Session.

**TRIAL PROCEEDINGS**

6. The prosecution examined as many as 13 witnesses and, subsequently, the public prosecutor closed prosecution evidence. After the closure of the prosecution case the learned trial Judge drew proceedings under Section 313 Cr.P.C., wherein, the accused pleaded innocence, and, claimed false implication. However, they did not choose to lead any defence evidence.

**SUBMISSIONS OF LEARNED COUNSEL FOR APPELLANTS**

7. The learned counsel for the appellants has argued that PW-10 who is claimed by the prosecution to be an ocular witness to the occurrence cannot be believed. He further submits that thus, no credence can be assigned to the disclosure statement of the accused concerned, besides also to the consequent therewith recoveries as made at their respective instances, to the investigating officer concerned.

8. Contrarily, the learned State counsel has argued that, the verdict challenged before this Court is well merited, and, does not warrant its becoming interfered with, by this Court.

**ANALYSIS OF THE STATEMENT OF PW-10 CLAIMED BY THE PROSECUTION TO BE AN OCULAR WITNESS TO THE OCCURRENCE**

9. PW-10 is the star prosecution witness. He is also an ocular witness to the occurrence. In his deposition comprised in his examination-in-chief he has supported the prosecution version, as carried in the FIR, to which Ex.PC/1 is assigned. It is apparent on a reading of his testification that he had witnessed the accused to make an assault with knives, and, gandas upon Des Raj. However, he deposed that on account of fear he ran backwards, but yet some of the accused chased him upto 2/3 acres yet they could not succeed in nabbing him.

Moreover, he testifies that throughout night he had hidden himself in the fields, and, that when in the morning he visited the crime site, then he noticed that the injuries caused upon his uncle Des Raj had resulted in his demise. Moreover, he also deposed that when he had gone to the village then he came to know that Anil Kumar had also been murdered, and, that his dead body was lying in the school ground. He attributes the demise of Anil Kumar to the accused causing lethal injuries upon his person through user of sharp edged weapons. The motive for the crime is stated by him to arise from an old enmity of his deceased uncle Des Raj with Ajmer etc. Moreover, he proceeded to testify that even prior to the relevant incident Ajmer Singh and others had tried to set ablaze his uncle Des Raj by burning the gas burner open.

10. However, merely upon his above echoings occurring in his examination-in-chief no clinching finding of guilt can be recorded against the convicts. Necessarily, an incisive reading of his cross-examination is also required. The above is required to determine whether in his examination-in-chief, he had grossly improved or embellished upon his previous statement recorded in writing or he has in his cross-examination contradicted the version spelt in his examination-in-chief qua the crime occurrence.

11. However, an analysis of his cross-examination, does not disclose that either any suggestions became put to him by the learned defence counsel, to erode the trite factum of his not witnessing the occurrence nor obviously any answer favourable to the defence became elicited from him. Moreover, even if he did not in his examination-in-chief state that he eye-witnessed the convicts to murder one Anil Kumar, but yet when he has stated therein, that since at about 10 p.m., of the ill-fated day Rinku (nephew of Ajmer), and, Labu son of Parkash had come to their house for calling Anil Kumar, and, that then Anil Kumar had

gone with them. Moreover, when on the next day he was apprised that Anil Kumar had died, thus he was led to make a statement that Anil Kumar was also murdered by the accused through theirs using sharp edged weapons. Therefore, when the defence has not been able to bely his testification in his examination-in-chief, that on the asking of Rinku (nephew of Ajmer), and, Labu son of Parkash, deceased-Anil Kumar had gone with them. Thus his above testification comprises evidence of deceased Anil Kumar being last seen by PW-10 to accompany both the above. Resultantly, when the above testification remains unbelied, therefore, when on the next day PW-10 testifies that even Anil Kumar was found dead, does beget a conclusion that he was murdered by the accused.

12. In consequence evidentiary creditworthiness can be assigned to the testification of PW-10.

### **DISCLOSURE STATEMENT**

13. During the course of the custodial interrogation of accused Mam Chand he made a signed disclosure statement as comprised in Ex.PT, contents whereof become extracted hereafter.

“xxx

#### **Disclosure statement of accused Mam Chand**

*In the presence of following witnesses above accused Mamchand who is in police custody, on my investigation himself disclosed that on 18.8.06 at about 10/11 PM, he along with his father Ajmer Singh and brothers Lal Chand, Sukhbir, Dharamvir, Ravinder @ Rinku and Labh Singh @ Labhu s/o Parkash has murdered Anil Kumar S/o Madan Mohan R/o Naggal Ghadoli in the school ground of village Ghadoli by causing injuries with Gandasi. And after that he along with his abovesaid colleague has murdered Des Raj S/o Bihari Lal R/o Naggal Ghadoli on link road near the rice fields of Avtar Singh @ Guddu S/o Mehar Singh by causing injuries with Gandasi. I have concealed that Gandasi in the bushes standing on the turn of National Highway and Naggal Ghadoli. This fact is not known to*

*anyone except me. I can get recover the Gandasi by demarcation. On which above disclosure statement of abovesaid accused Mamchand recorded. Accused Mamchand and witnesses has signed the disclosure statement.*

*Witness: Raj Kumar S/o Madan Lal Caste: Khatri, R/o Sontli Sd/- (English)*

*Witness: CH Gian Chand NO.374, PS Sahazadpur Sd/- (English)*

*Accused: Mamchand Sd/- (Hindi)*

*Sd/- (Hindi) SHO, PS: Sahazadpur Dt. 23.8.06”*

A reading of the above extracted signed disclosure statement as made by accused Mam Chand, reveals that he had therein not only confessed his guilt, but had also disclosed that he can ensure the causings of recovery of gandasi Ex.PU/1, to the investigating officer concerned, from the place of his hiding, and, concealing it, the same being exclusively known to him. Since in pursuance thereof through a recovery memo Ex.PU/1, he caused the recovery of gandasi. Thus evidentiary vigor is to be assigned to the above memos, as he has not been able to either deny his signatures as occur on Ex.PT, or on Ex.PU/1, nor has been able to prove the apposite denial. Moreover, since he has also not been able to bring forth tangible evidence to suggest that the recoveries are either contrived or invented. Thus, evidentiary sanctity is to be assigned to the above drawn memos. Resultantly, corroboration therethroughs is acquired by the credible ocular account rendered qua the crime event by PW-10.

14. During the course of the custodial interrogation of accused Sukhbir he made a signed disclosure statement as comprised in Ex.PV, contents whereof become extracted hereafter.

“xxx

*Disclosure Statement of Accused Sukhbir Singh @ Sukha*

*Today on my investigation in the presence of following witnesses in the police station accused Sukhbir Singh @ Sukha*

*abovesaid disclosed that on the night of 18/19-8-06, I along with my family members Ajmer, Mamchand, Ravinder @ Rinku, Lal Chand @ Labhu, and Dharamvir had murdered Anil Kumar @ Neela and Des Raj by getting them injured. The knife I used for causing injuries to them, I have concealed in the bushes standing on T-point of N.H.No.73 and Naggal Ghadoli. No body except me know about this. I can get recover the same by demarcation. Disclosure statement of accused reduced into writing. Accused and witnesses has put their signatures. Disclosure statement of accused prepared.*

*Witness No.1: Raj Kumar Sd/- (English)*

*Witness No.2: C Dharamvir No.943 Sd/- (English)*

*Accused: Sukhbir Thumb Impression*

*Sd/- English (ASI) PS: Sahazdpur Dt. 23.8.06”*

A reading of the above extracted signed disclosure statement as made by accused Sukhbir, reveals that he had therein not only confessed his guilt, but had also disclosed that he can ensure the causings of recovery of knife Ex.PY/1, to the investigating officer concerned, from the place of his hiding, and, concealing it, the same being exclusively known to him. Since in pursuance thereof through a recovery memo Ex.PY/1, he caused the recovery of knife. Thus evidentiary vigor is to be assigned to the above memos, as he has not been able to either ably deny his signatures as occur on Ex.PV, nor has been able to prove the apposite denial. Moreover, since he has also not been able to bring forth tangible evidence to suggest that the recoveries are either contrived or invented. Thus, evidentiary sanctity is to be assigned to the above drawn memos. Resultantly, corroboration therethroughs is acquired by the credible ocular account rendered qua the crime event by PW-10.

15. During the course of the custodial interrogation of accused Lal Chand he made a signed disclosure statement as comprised in Ex.PX, contents whereof become extracted hereafter

“xxx

*Disclosure Statement of Accused Lal Chand*

*Today in the presence of following witnesses accused Lal Chand named above during the police custody on inquiry disclosed that in the night of 18/19-8-06, I along with Sukhbir Singh, Labh Singh @ Labhu, Ajmer, Mamchand, Ravinder @ Rinku and Dharamvir being consented with each other killed Anil Kumar and Des Raj after giving injuries. Lathi which I had been having that Lathi I have concealed in the pits of grass etc. near Highway T-point of Ghadoli. Which I can get recovered on demarcation. Disclosure statement of which was got recorded in the police station compound. Memo was signed by accused and witnesses. Disclosure statement of which was prepared.*

*Accused: Lal Chand Sd/- Hindi*

*Witness: Raj Kumar @ Raju Sd/- (English)*

*C Dharamvir No.943 Sd/- English*

*Sd/- English (ASI) PS: Sahazdpur Dt. 23.8.06”*

A reading of the above extracted signed disclosure statement as made by accused Lal Chand, reveals that he had therein not only confessed his guilt, but had also disclosed that he can ensure the causings of recovery of lathi Ex.PZ/1, to the investigating officer concerned, from the place of his hiding, and, concealing it, the same being exclusively known to him. Since in pursuance thereof through a recovery memo Ex.PZ/1, he caused the recovery of lathi. Thus evidentiary vigor is to be assigned to the above memos, as he has not been able to either ably deny his signatures as occur on Ex.PX, nor has been able to prove the apposite denial. Moreover, since he has also not been able to bring forth tangible evidence to suggest that the recoveries are either contrived or invented. Thus, evidentiary sanctity is to be assigned to the above drawn memos. Resultantly, corroboration therethroughs is acquired by the credible ocular account rendered qua the crime event by PW-10.

**MEDICAL EVIDENCE (POST MORTEM REPORT)**

16. The post mortem upon the bodies of deceased Anil Kumar, and, upon the body of deceased Des Raj was conducted on 09.08.2006 by PW-9, and, by Dr. S.K. Sehgal. PW-9 has proven qua his, and, Dr. S.K. Sehgal authoring Ex.PG, as relates to the autopsy as made upon the body of deceased Anil Kumar, besides has also proven the post mortem report Ex.PL, as relates to the autopsy made upon the body of deceased Des Raj.

17. Moreover, he has proven that the cause of death of deceased Anil Kumar was asphyxia along with shock, and, hemorrhage arising from ante mortem injuries, as became noticed on the body of deceased Anil Kumar. The relevant ante mortem injuries as noticed by PW-9 on the body of deceased Des Raj are extracted hereinafter.

*“1. An incised wound on the front of the neck gaping widely. Irregular in shape just below the mandible, starting from 4cm below the lower end of right ear, going forward and laterally towards the left extending upto 3 cm below the lower end of left ear. The trachea, esophagus, major vessels, nerves, muscles and cartilages were cut with semi digested food material coming out of cut end of the esophagus.*

*2. An incised wound 4cm x 3 cm on posterior aspect of lower half of the right arm just above the elbow, sub cutaneous tissue deep.*

*3. An abrasion 3 cm x 0.5 cm just medial to injury no.2.*

*4. Three incised wounds of varying scapular region, sub cutaneous tissue deep.*

*5. A few abrasions of varying sizes (1 to 2 x .5 cm) over the front of the chest and abdomen.”*

Moreover, he has also in his examination-in-chief deposed that the cause of death of deceased Des Raj arise from shock, and, hemorrhage owing to ante mortem injuries to major vessels in the neck region, and, kidney region, and, that they were sufficient in ordinary

course of nature to cause death. The relevant ante mortem injuries as noticed by PW-9 on the body of deceased Des Raj are extracted hereinafter.

- “1. An irregular in shape incised wound 6 cm x 2.5 cm with 6 cm depth, below the angle right mandible, going in front upto the midline and on exploration the underline major vessels were cut.*
- 2. An incised wound 9 cm x 2 cm. Below injury No.1, in front of the neck, sub cutaneous tissue deep with clotted blood present.*
- 3. An incised wound 2.5 cm x 1 cm with depth 3 cm. On right side of the neck in supra clavicular region.*
- 4. A vertical incised wound 2.5 x 1 cm. On anterior part of neck just below the left end of injury No.2 with depth 3 cm going medially and downwards.*
- 5. An incised wound vertical 3 cm x 1 cm on lower 1/3<sup>rd</sup> of front of left arm.*
- 6. An incised wound oblique 3 cm x 1 cm on middle of front of left forearm.*
- 7. An incised wound 1.5 cm x 0.5 cm on back of middle of left forearm lying horizontally.*
- 8. An incised wound vertical 5 cm x 1 cm on back of left forearm medial to injury No.7.*
- 9. incised wound 4 cm x 2 cm vertical and parallel to injury No.8.*
- 10. An incised wound oblique 3 cm x 1 cm. On right side of chest near the lower border of ribcage.*
- 11. An incised wound 2 cm x 1 cm with depth 1 cm on top of the right shoulder.*
- 12. An oblique incised wound 3 cm x 1 cm just below towards the right of umbilicus with depth 5 cm going laterally into the abdominal wall.*
- 13. An incised wound 3 cm x 1 cm on middle of right scapular region.*
- 14. An incised wound vertical 3 cm x 1 cm just to the right of mid line on the back, 6 inches below and left to injury No.13.*
- 15. An incised wound horizontal 3 cm x 1 cm in the right renal region just below the ribcage.”*

18. In his examination-in-chief he has also firmly deposed that the above stated opinion was a sequel of the weapons of offence being produced before him. Therefore, the relevant incriminatory weapons of offence are but to be concluded to result in the demise of death of Des Raj, and, of one, Anil Kumar. Resultantly, through the deposition of PW-9 the prosecution has been able to corroborate credible ocular account rendered in respect of the crime event by PW-10. Moreover, through the deposition of PW-9 the prosecution has also been able to assign evidentiary vigor to the memos (supra).

19. Though blood stain incriminatory items besides the blood stained incriminatory weapons of offence became transmitted through memo No.534-DSP dated 30.08.06 to the FSL concerned. However, as revealed by the report of FSL to which Ex.PHH is assigned, on their respective examinations, resulted in the hereinafter extracted opinion.

***“Forensic Science Laboratory, Haryana Madhuban (Karnal)***

*Report (Opinion) No.FSL(H) 06/S-3771      Dated 21/5/07*

*FIR No.77      Dated 19.08.06*

*U/S 148/149/302 IPC      P.S. Shahzadpur*

*Results of serological analysis of blood*

| <u>Sr. No.</u> | <u>Name of exhibit</u>        | <u>Origin</u>          |
|----------------|-------------------------------|------------------------|
| 1.             | Blood Stained Earth           | Material disintegrated |
| 3.             | Blood stained earth           | Human                  |
| 5.             | Blood stained earth & grass   | Human                  |
| 6.             | Blood stained earth & grass   | Human                  |
| 7.             | Cotton wood swab              | Material disintegrated |
| 8.             | Cotton wool swab              | Material disintegrated |
| 9a.            | T-shirt                       | Material disintegrated |
| 9b.            | Pants                         | Material disintegrated |
| 9c.            | Banian                        | Material disintegrated |
| 9d.            | Underwear                     | Human                  |
| 10a.           | Shirt                         | Material disintegrated |
| 10b.           | Pants along with leather belt | Material disintegrated |

|      |                |                               |
|------|----------------|-------------------------------|
| 10c. | <i>Kachha</i>  | <i>Human</i>                  |
| 10d. | <i>Shoes</i>   | <i>Material disintegrated</i> |
| 10f. | <i>Glove</i>   | <i>Human</i>                  |
| 11.  | <i>Shirt</i>   | <i>Material disintegrated</i> |
| 12.  | <i>Gandasi</i> | <i>Material disintegrated</i> |
| 14.  | <i>Knife</i>   | <i>Material disintegrated</i> |
|      |                | <i>Sd/-</i>                   |
|      |                | <i>S.S. Chandna 21/5/07”</i>  |

20. Though, in the wake of the prosecution cogently establishing, the charges drawn against the convicts, through the stepping into the witness box of a credible eye-witness to the occurrence. Moreover, also though the prosecution has been able to prove the charge through validly drawn memos (supra), besides from the medical evidence (supra). However, the result of the examinations, as made on the blood stained items sent to the FSL concerned, may have also lent further fortifying corroboration to the evidence (supra), as became adduced by the prosecution. However, the above extracted results, as made upon the blood stained items as sent to the Serologist concerned, rather are inapt for establishing that the blood stains carried on the relevant items belonging to the blood group of the deceased concerned. Thus, there is no conclusivity of opinion by the Serologist about the human blood carried on the relevant items belonging to the blood group of the deceased concerned. The above inconclusivity of opinion may have been overcome only if the investigating officer concerned, had been more apt through his ensuring the collection, of the respective FTM cards, from the family members of the deceased concerned, so that they could have been sent along with the relevant blood stained items, to the Serologist concerned, for his making the best apposite comparisons thereof. It is only in the wake of the above ineptitude of investigations that the above event occurs, that too, despite the above investigational infirmity becoming earlier also highlighted by this Court.

21. Be that as it may, it is also apparent on a reading of the report of the FSL concerned, that some of the items as sent to the FSL, for their respective examinations could not be subjected to an able analysis nor any able opinion could be made rather only for the reason that the relevant items/materials had disintegrated. The above is a result of either delays in the despatches of the relevant sample cloth parcels to the FSL concerned, or is a result of tardiness of examinations being made upon them at the FSL concerned.

22. The FSLs provides the best forensic evidence to the Courts of law. Therefore, if there is any delay on the part of the laboratories concerned, to make analysis on the items sent there for examinations, it is for the Director of the FSL concerned, to assign responsibility to the Serologist concerned.

23. For ensuring that the investigating officers concerned hereafter, donot omit to collect the relevant FTM cards from the family members of the deceased or of the injured concerned, besides they do not omit to forthwith send the said FTM cards hence along with the blood stained relevant recoveries, to the FSL concerned. Thus, it is deemed fit to direct the Director General of Police, Haryana to draw batch wise training sessions for the investigating officers in the State of Haryana. The trainings be imparted, in the above regard, and, also with regard to all the relevant despatches being promptly to the FSLs concerned. Consequently, the Registry of this Court is directed to forthwith circulate a copy of this verdict to the Director General of Police, Haryana. Compliance qua the above directions be ensured to be communicated to the Registry of this Court, on a bimonthly basis by the Director General of Police, Haryana.

24. In addition, the Director of FSL Madhuban, is also directed to ensure that there is the promptest examinations made on the materials

despatched to the FSL concerned, by the Experts working there, so that ever hereafter no report is made that there is any disintegration of the materials/items sent to the FSL Madhuban.

25. In sequel, since in the disclosure statement as made by the declarants above, there is not only confession of guilt by the declarants but also there is assignments of guilt to the other co-accused. Moreover since the relevant recoveries also became validly effected, besides became efficaciously proven. Therefore, even in respect of those accused, who did not either make any signed disclosure statement nor caused any recovery, yet this Court is constrained to draw a verdict of conviction even qua them.

### **FINAL ORDER**

26. In consequence, the impugned verdict of conviction, and, also the consequent therewith order of sentence, as becomes respectively recorded, and, imposed, upon each of the convicts by the learned trial Judge concerned, does not suffer from any gross perversity, or absurdity of gross mis-appreciation, and, non-appreciation of the evidence on record. In consequence, there is no merit in the appeal, and, the same is dismissed. If the accused are on bail, thereupon the sentence, as imposed upon each of them be ensured to be executed by the learned trial Judge concerned, through his forthwith drawing committal warrants qua them. Case property if any be dealt with in accordance with law, but only after expiry of period of limitation for the filing of an appeal.

27. Records be sent down forthwith.

**(SURESHWAR THAKUR)**  
**JUDGE**

**19.09.2022**  
Ithlesh

**(N.S. SHEKHAWAT)**  
**JUDGE**

|                                                                                                 |                                                                  |                                |
|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------|--------------------------------|
| ITHLESH KUMAR<br>2022.09.20 15:41<br>I attest to the accuracy and<br>authenticity of this order | <b>Whether speaking/reasoned:-</b><br><b>Whether reportable:</b> | <b>Yes/No</b><br><b>Yes/No</b> |
|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------|--------------------------------|