

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

(1) CRA-D-873-DB OF 2018

Date of decision: September 9,2022.

Manish

.....Appellant

Vs.

U.T. Chandigarh

.....Respondent

(2) CRA-D-932-DB OF 2018

Akash

.....Appellant

Vs.

U.T. Chandigarh

.....Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

**Present:- Mr. Vivek Aggarwal, Advocate for the appellant in
CRA-D-873-DB of 2018**

**Mr. SPS Chakkal, Advocate for the appellant in
CRA-D-932-DB of 2018 and**

**Mr. Abhinav Gupta, Additional Public Prosecutor for
Union Territory, Chandigarh.**

Nidhi Gupta,J.

This common order shall dispose of the abovesaid two Criminal

Appeals arising out of case FIR No. 173 dated 31.7.2016 registered under

Sections 302, 201, 392, 411 read with Section 34 IPC, at Police Station Manimajra culminating into conviction and sentence of the appellants, named below, by trial Court; as under:

Appellant Manish

Sr.No.	Offence	R.I.	Fine in Rupees	R.I., in default of payment of fine
1	302 read with Section 34 IPC	Imprisonment for life	5,000/-	Six months
2	397 IPC	Imprisonment for Seven years	-	-

Appellant Akash

Sr.No.	Offence	R.I.	Fine in Rupees	R.I., in default of payment of fine
1	302 read with Section 34 IPC	Imprisonment for life	5,000/-	Six months
2	397 IPC	Imprisonment for Seven years	-	-

Brief facts leading to the present appeals are as follows:

As per the statement of Complainant Vicky Anand made to the police (on basis of which FIR was filed), it has been stated that he, Complainant Vicky Anand was working as Security Officer in Uppal Marble Housing Society, Manimajra and he was posted on duty from 8.30 pm of 30.7.2016 till 8.30 am of

31.7.2016. At about 11.25 pm of 30.7.2016 he heard some noise and saw one vehicle parked outside the gate of the said Society, and he saw that one person came out of the car from the driver seat and three other persons came from the other side of the car; and then the said three persons started beating the other person who had come out from the Driver side. At this, complainant Vicky Anand went to his office and called the police at No. 100; and when he came back, he saw that a person was lying behind the vehicle and the three persons had fled away from the spot on a motorcycle. Thereafter, the PCR vehicle reached the spot and took the injured person to the hospital.

The case of the prosecution is that on the intervening night of 30/31.7.2016 at about 11.25pm, SI Rohit Kumar, who was Emergency Duty Officer, Police Station Manimajra received a wireless message that a quarrel had taken place near Housing Board, Uppal Marble House Building Society, Manimajra. SI Rohit Kumar reached the spot where a vehicle make XUV-500 bearing no. CH-01-BA-4440 was found and he was informed that the injured had been shifted to PGI, Chandigarh in PCR vehicle. He remained at the spot and at about 1.05 a.m., he received a telephonic message from Police Station, Manimajra that the said injured person had been declared brought dead in PGI, Chandigarh and intimation in this regard had been sent to Inspector Harminderjit Singh, SHO, PS Manimajra. Inspector Harminderjit Singh, I.O., reached PGI where he came to know that unknown person was declared brought dead and he obtained the ruqa in this regard from the Doctor on duty, and got the dead body photographed by police photographer, then dead body was moved to the PGI Mortuary. Thereafter, Harminderjit Singh, I.O., along with other police officials reached the spot of occurrence where SI Rohit Kumar and other police party were already present. Photographer, Videographer and Mobile Forensic Team were

called to the spot. Complainant Vicky Anand met the IO at the spot of occurrence and got his statement recorded, as noticed above.

On the basis of the said statement, formal FIR No.173 dated 31.7.2016 under Section 302 read with Section 34 IPC was registered. On 31.7.2016, in course of further investigation, rough site plan of the place of occurrence was prepared; FSL team lifted finger prints from the vehicle no. CH-01-BA-4440, one blood sample on gauze, blood-stained grass, two empty cigarette packs, five Chutki, one Elaichi packet, were taken from the spot, and handed over to IO Inspector Harminderjit Singh, who converted the same into parcel and sealed the same with the seal 'H.S.' Finger print on three cards were put in separate envelope and sealed with the seal of 'H.S.' Sample seal was prepared and handed over to HC Jitender Kumar. Police photographer clicked photographs of the spot and the spot was also video graphed. Vehicle No. CH-01-BA-4440 was taken into possession and seizure memo prepared. Upon verification said vehicle was found to be owned by one Vineet Trehan/deceased resident of H.No.5421/2, MHC, Chandigarh. Thereafter, SI Inder Singh was instructed to guard the spot and the Investigating Officer along with other police officials returned to PGI Trauma Center where the Doctor handed over gold ornaments and watch etc. which were found from the dead body of deceased to the I.O., who kept them in a sealed envelope and converted into a sealed parcel with the seal 'H.S.' Devika, wife of deceased Vineet Trehan met the I.O., outside the Trauma Centre and identified the dead body. SI Rohit Kumar was instructed to shift the dead body from PGI to General Hospital, Sector 16, Chandigarh to get the post mortem of the dead body done. On 31.7.2016 SI Rohit Kumar requested the duty Doctor at GMSH, Sector 16, Chandigarh for conducting the post mortem examination on the dead body of Vineet Trehan whereupon the Medical Board was constituted; post mortem was conducted and post mortem

report obtained. Thereafter the dead body of deceased Vineet Trehan was handed over to his relatives against receipt. The tower location and call details of snatched mobile of deceased were also obtained.

During the course of further investigation on 21.8.2016, I.O. Harminderjit Singh along with HC Jitender, HC Satish Kumar, Constable Ajay Kumar and Volunteer Kadam were patrolling in the area near Fauzi Dhaba when at about 12.30 a.m., PW-20 Prem Singh met the I.O., and told him that on 20.8.2016 at about 11.30 pm three boys namely Manish, Akash and Aamir came to him i.e. Prem Singh at his house and started weeping and made extra judicial confession that they were drug addicts and had committed the offense of the case in hand on the intervening night of 30/31.7.2016, near Uppal Marble Housing Society, Manimajra. PW-20 Prem Singh therewith produced all the three accused namely Manish, Akash and Aamir before the I.O. and they were arrested vide personal search memos Ex.PAA to PAC respectively. On 22.8.2016 accused Manish suffered disclosure statement Ex.PR that he had kept concealed the clothes, I-Card of Vineet, pen drive and axe near railway crossing in Indira Colony and that he could get the same recovered and accordingly he took the police party and got recovered the blood-stained clothes, axe, I-card and pen drive Kingston from hidden place in the bushes near railway crossing in Indira Colony. Those articles were taken into police possession vide memo Ex.PW. On the same day i.e. on 22.8.2016, accused Aakash suffered disclosure statement Ex.PS that he had kept concealed the axe, clothes, pen drive and documents in the bushes near School, Housing Board Chowk, Mauli Jagran and that he could get the same recovered and accordingly, he took the police party and got recovered the blood-stained clothes, axe and pen drive Kingston from hidden place in the bushes near school, Housing Board Chowk, Mauli Jagran. Those articles were taken into police possession vide memo Ex.PU. Similarly, co-accused Aamir also suffered

disclosure statement Ex.PT that he had kept concealed pen drive, documents, clothes and I-Card of Devan Arora in the bushes near Vishwakarma Temple, Manimajra, Mansa Devi Road and that he could get the same recovered and accordingly, he took the police party and got recovered the pen drive, I-Card of Devan Arora and clothes from hidden place in the bushes near Vishwakarma temple, Mansa Devi Road. The said articles were taken into police possession vide memo Ex.PV.

On 22.8.2016 itself, the IO made request applications being Ex.PBB, PBC and PBD to the Duty Doctor, PHC, Manimajra, Chandigarh for conducting medical examination of accused Manish, Akash and Aamir respectively whereupon all the accused were medically examined; their blood samples were taken and sealed in an envelope which was handed over to I.O., and taken into police possession vide seizure memo Ex.PX; rough sketch of axe Ex.PAW recovered from the accused Akash was prepared and rough site plan of place of recovery Ex.PAX was also prepared; rough sketch of axe Ex.PAZ recovered from accused Manish was prepared and rough site plan of place of recovery Ex.PBA was also prepared. On instructions from I.O., Inspector Harminderjit Singh sealed the parcels containing blood-stained clothes and blood samples were sent to CFSL, New Delhi and sealed parcels containing requisite documents with CFSL, Chandigarh and the reports were also obtained.

In the course of interrogation, on 25.8.2016 accused Manish suffered second disclosure statement Ex.PAD that he had kept concealed the SBI Card near railway crossing in NIC, Manimajra and that he could get the same recovered, and accordingly he took the police party and got the SBI Card recovered from hidden place in the bushes near railway crossing, NIC, which was taken into possession vide memo Ex.PAG. On the same day accused Akash also

suffered disclosure statement Ex.PAE that he had kept concealed the orange colour card of Vineet Trehan in the bushes near Govt. Middle School, Housing Board Light Point, Mauli Jagran and got recovered the same which was taken into possession vide memo Ex.PAF. On the same day accused Aamir also suffered further disclosure statement Ex. PBF that he had kept concealed the black colour leather purse containing visiting card in the bushes near the wall of Vishwakarma temple and that he could get the same recovered and accordingly, he took the police party and got recovered visiting cards of Vineet Trehan with his purse from hidden place in the bushes near the wall of Vishwakarma temple, which articles were taken into police possession vide memo Ex. PBH.

Thereafter on 27.8.2016 the accused were produced before the Court of learned Magistrate, and the I.O. moved written request Ex. PBK to Magistrate for taking finger prints of the accused whereupon vide order Ex.PBL the Magistrate allowed the request and finger prints of all the three accused on three separate sheets vide Ex.PBM, PBN and PBO were taken by HC Shiv Kumar in the presence of learned Magistrate. Scaled site plan of place of occurrence, scaled site plans showing the place of recovery of weapon and other articles Ex. PL/1, Ex.PL/2 and Ex.PL/3 were got prepared from Police Draftsman. Statements of witnesses under Section 161 Cr.PC were recorded and on completion of investigation challan against the accused was presented in the Court of JMIC, Chandigarh, who after complying with the mandatory provisions of Section 207 Cr.PC, vide order dated 3.12.2016 committed the case for trial to the Court of Sessions.

On 19.1.2017(at page 117 of the Lower Court Record), after hearing the parties and finding a prima facie case, charges against the accused

were framed under Sections 302, 397 read with Section 34 IPC and Section 411 IPC to which the accused pleaded not guilty and claimed trial.

During the course of proceedings, vide order dated 20.3.2017 the matter concerning accused Aamir was referred to Juvenile Justice Board for proceeding against him as he was declared juvenile offender. However, vide order dated 3.10.2017, the learned Principal magistrate, Juvenile Justice Board, Chandigarh referred the case for conducting the trial of accused Aamir as adult before the Children Court having jurisdiction. Accordingly, accused Aamir was tried separately.

In order to prove the case against the appellants herein, prosecution examined PW1 to PW28, besides tendering in evidence documents Ex. PA to Ex. PB, detailed in para 35 of the impugned judgment of the trial Court, and closed prosecution evidence.

Thereafter, statements of accused under Section 313 Cr.PC were recorded and incriminating circumstances appearing in the evidence against them were put to them. In their statements they denied the same and stated that they had been falsely implicated in this case.

In defence, appellant Manish examined DW1 to DW5, and tendered in evidence documents Ex. D1 to Ex.D-18. But on behalf of accused-appellant Akash, no defence evidence was led.

On the basis of the above pleadings learned trial Court framed the following points for determination:

1. Whether the death of Vineet Trehan was homicidal?;
2. Whether there was motive for the murder of deceased Vineet Trehan?;
3. Whether on the intervening night of 30/31.7.2016 in front of gate of Uppal Marble Housing Society, Manimajra, Chandigarh across

the road, accused Manish and Akash with their co-accused Aamir (being separately tried as an adult) did commit murder by intentionally causing death of Vineet Trehan by inflicting injuries in his head with sharp edged weapon and blunt weapon in furtherance of their common intention of committing the robbery and thereby committed an offence punishable under section 302 read with Section 34 of the Indian Penal Code?

4. Whether on the abovesaid date, time and place, accused Manish and Akash with their co-accused Aamir (being separately tried as and adult) did commit robbery of Pen-drive Kingston white colour, I-Card Jio Reliance, Pen-drive Kingston VT, one Pen-drive Jio Reliance, State Bank Visa Card, Card More Privilege Aditya Verma Group, Green Card All (the Plus Side Store), purse of Vineet Trehan and while committing robbery, used deadly weapon i.e. Axe and thereby committed an offence punishable under section 397 of the Indian Penal Code?
5. Whether the defence plea is probable?

On the basis of the above pleadings and the evidence led by the parties, and the submissions made by Id. Counsel for the parties, the learned Sessions Judge, Chandigarh concluded that “*the factum of the death of the deceased being homicidal is almost admitted case*”, and therefore, vide common judgment of conviction dated 29.8.2018 and order of sentence dated 31.8.2018 convicted and sentenced accused Manish and Akash as noticed above; while accused Aamir (tried separately as an adult) was also similarly convicted and sentenced by the Judge, Children Court, Chandigarh vide separate judgment and order dated 29/31.8.2018.

The abovesaid common judgment of conviction dated 29.8.2018 and order of sentence dated 31.8.2018 has been challenged before this Court by way of two Criminal Appeals, the same being CRA-D-873-DB of 2018 preferred on behalf of Appellant Manish; and CRA-D-932-DB of 2018 filed on behalf of appellant Akash. As basic facts and circumstances of both the present two appeals are identical, they are accordingly, being decided by common order as follows:

Inter-Alia, the primary planks on which the ld. Counsel for the appellants-accused have assailed the impugned judgment of conviction and sentence before us is that:

a) conviction is based on the extra-judicial confession which is a very weak type of evidence as has been held by this Court as well as Hon'ble the Supreme Court in numerous decisions;

b) There was no connection of the accused with PW-20 Prem Singh before whom the extra-judicial confession is supposed to have been made;

c) there was no motive on the part of the accused to commit the offence and that they had been convicted on the basis of circumstantial evidence, and that in such circumstances motive assumes significance and was required to be proved;

d) the accused did not suffer any disclosure statement nor any recovery was effected from them and all the articles supposed to have been recovered from them were planted in order to falsely implicate them.

e) there are material discrepancies and loopholes in the prosecution version, and therefore, their case needs to be rejected.

On behalf of accused Manish, it was additionally contended that he had been illegally detained by the police from 13.8.2016 till 21.8.2026, during which time false evidence was created against him, and therefore, he had been falsely implicated in the case. In support of this argument, reliance was placed upon testimony of DW-3 Puran Chand father of accused Manish, and documents- Exhibit D1 (copy of writ petition titled 'Puran Chand v State of UT' bearing CRWP No.1120 of 2016); Ex.-D2 and Ex. D 6 which are copies of orders dated 19.8.2016 and 29.8.2026 respectively

passed by this Court in CRWP No.1120 of 2016; and Ex. D3 report of Warrant Officer dated 22.8.2016, and copies of DDRs.

On the other hand, learned Additional Public Prosecutor appearing for the Union Territory, Chandigarh vehemently argued that there was complete chain of events which complete the link evidence that could only lead to the conclusion that it was the accused who were responsible for the murder of the deceased. It was further stated that there was not just the extra-judicial confession which implicated the accused but even thereafter they had got their confessional statements recorded before the police on the basis of which incriminating evidence against the appellants was collected. It was further stated that the presence of all the three accused on the fateful night at the place of occurrence was well established especially from the report of the Director, Finger Print Bureau, Phillaur in respect of finger prints of the accused which had been lifted from the vehicle of the deceased; and also in view of DNA report of the Senior Scientific Officer, CFSL, Government of India, New Delhi, regarding the blood stains of deceased Vineet Trehan on the clothes of the appellant Manish. It was contended that in view of these circumstances it was for the accused to explain the circumstances in which the death of Vineet Trehan had taken place but no such explanation had been given by them. Accordingly, it was submitted by the learned Additional Public Prosecutor that the evidence on record amply proves the guilt of the accused and they had been rightly convicted by the learned trial court.

We have heard learned counsel for the parties and examined the record and evidence in great detail. We shall examine each contention raised by ld. Counsel for the parties.

EXTRAJUDICIAL CONFESSION:

Ld. Counsel for the appellants have vehemently submitted before us that the appellants have been roped in on the basis of the extra-judicial confession, and the same is liable to be rejected being a weak type of evidence, as held by this Court, and the Hon'ble Supreme Court in various decisions.

However, in our view, in the present case this argument does not hold water as the testimony of PW-20 Prem Singh appears to be most natural and truthful. It has come in evidence that this witness PW20, was President of Sector 25 Colony, Chandigarh and his relatives were residing in Indira Colony, Manimajra with whom he was on frequent visiting terms. As such, the appellants **were aware** that PW20 was a respectable person who had contacts with the police and knew IO Inspector Harminderjit Singh. As per testimony of said witness PW-20 Prem Singh (at page 565 of the LCR), on the intervening night of 20/21.8.2016, he was present in his hut in Sector 25, Chandigarh and at about 8.15 pm, all three accused had come to his hut and informed him that on the intervening night of 30/31.7.2016 they were involved in snatching incidents and had gone to Marble Society, Manimajra and found that someone parked their car and the driver of the car was talking on phone. On noticing this they chased the car on their motorcycle which was being driven by Manish, and stopped the car by parking their motorcycle in front of the car. Then Manish attacked the rider of the car with axe and Akash also attached him with axe and third appellant Aamir struck a brick blow on the person of the rider of the car due to which he fell down. Then they confessed that they saw a security guard was looking towards them, so they snatched some articles including some cash and mobile etc from the car rider, and then slipped away on their motorcycle and distributed the money and articles amongst them. Accordingly, they pleaded with PW20 Prem Singh to

prevail upon the police and help them. Then PW-20 Prem Singh took all the three accused to Police Station Manimajra and on the way at Fauzi Dhaba, he met the I.O. and produced all the three accused before him and disclosed to him the confession made by the accused-appellants. Thereafter, as recorded above, the I.O. arrested them and their personal search memos were prepared.

In cross-examination, said witness PW 20 admitted that he knew IO Inspector Harinderjit Singh as Inspector Harinderjit Singh had remained posted at the Police Post Sector 24 in which colony of Sector 25 where the witness resides, is covered, and he had been visiting the police station also. PW20 further stated in cross examination that the appellants were not earlier known to him, *“but they claimed before me that they knew me. It is the first case in which I have been cited as a witness of extrajudicial confession by the police”*.

In our view, the above said testimony comes across to be most natural, truthful and plausible. PW20 Prem Singh r/o Sector 25 Dainik Bhaskar Colony, before whom extra judicial confession was made by the convicted persons, had admittedly been President of the Society. Therefore, he was respectable person. Admittedly too, he had relatives at Indira colony where the convicted persons resided. In this Connection he used to visit Indra colony often, and therefore, the convicted persons had the knowledge that PW 20 being President of the society he had connections with the police for settling matters and disputes. Therefore, the argument of the counsel for the appellants that this extrajudicial confession should be rejected is misplaced.

Moreover, the Hon’ble Supreme Court in ‘**Munna Kumar Upadhyaya @ Munna Upadhyaya v. State of A.P. Tr. Pub. Prosecutor’ (SC): Law Finder Doc Id # 357849**, has held as follows:

“38. While explaining the dimensions of the principles governing the admissibility and evidentiary value of an extra-judicial confession, this Court in the case of ‘**State of Rajasthan v. Raja Ram**’, 2003(4) RCR (Criminal) 238: 2004(1) Apex Criminal 471: [(2003)8 SCC 180] stated the principle that an extra-judicial confession, if voluntary and true and made in a fit state of mind, can be relied upon by the court. The confession will have to be proved like any other fact. The value of evidence as to confession, like any other evidence, depends upon the veracity of the witness to whom it has been made. The Court further expressed the view that such a confession can be relied upon and conviction can be founded thereon if the evidence about the confession comes from the mouth of witnesses who appear to be unbiased, not even remotely inimical to the accused and in respect of whom nothing is brought out which may tend to indicate that he may have a motive of attributing an untruthful statement to the accused.” (emphasis supplied)

In the present case, admittedly, the extrajudicial confession was voluntary, and had been made in a fit state of mind. Also, there is nothing whatsoever on record to remotely suggest that PW20 was at all inimical or even had any reason to be inimical towards the accused-appellants. Even no such suggestion to this effect has been made by the appellants themselves. The extrajudicial confession of the appellant-accused is admissible as it has come from the mouth of a witness who is unbiased, not even remotely inimical to them, and who has no motive to attribute an untruthful statement to the accused. As such, in the present case we see no reason to reject the veracity of the extrajudicial confession made by the appellants.

The Hon’ble Supreme Court upholding the admissibility of extrajudicial confession further expounds as follows:

...“40. Accepting the admissibility of the extra-judicial confession, the Court in the case of **Sansar Chand v. State of Rajasthan, 2010(4) RCR (Criminal) 825 : 2010(6) Recent Apex Judgments (R.A.J.) 235 : [(2010)10 SCC 604]** held that :-

"29. There is no absolute rule that an extra-judicial confession can never be the basis of a conviction, although ordinarily an extra-judicial confession should be corroborated by some other material. [Vide *Thimma and Thimma Raju v. State of Mysore*, *Mulk Raj v. State of U.P.*, *Sivakumar v. State* (SCC paras 40 and 41: AIR paras 41 & 42), *Shiva Karam Payaswami Tewari v. State of Maharashtra* and *Mohd. Azad v. State of W.B.*]”

“42. Extra-judicial confession must be established to be true and made voluntarily and in a fit state of mind. The words of the witnesses must be clear, unambiguous and should clearly convey that the accused is the perpetrator of the crime. The extra-judicial confession can be accepted and can be the basis of conviction, if it passes the test of credibility. The extra-judicial confession should inspire confidence and the court should find out whether there are other cogent circumstances on record to support it. [Ref. **Sk. Yusuf v. State of W.B., 2011(5) RCR (Criminal) 762 : 2011(5) Recent Apex Judgments (R.A.J.) 308 : [(2011)11 SCC 754]** and **Pancho v. State of Haryana, 2011(4) RCR (Criminal) 665 : 2011(5) Recent Apex Judgments 481 : [(2011)10 SCC 165]**.”

Thus, from the above pronouncements it is clear that it is not the case that extrajudicial confession can never be relied upon. In cases like the present one, which in our view meets the cautionary requirements as enunciated above, we see no ground to reject the extrajudicial confession made by the appellants, and hold it to be a valuable piece of evidence, which is of course, corroborated by other evidence as is noted hereinbelow.

MOTIVE:

As regards motive, it has been vehemently contended on behalf of the defence that the gold articles and the wrist watch of the deceased Vineet Trehan were on his dead body only and had been removed by the Doctor at PGI and handed over to I.O., which were taken into possession vide seizure memo Ex. PP and this fact had been admitted not only by the I.O., but also by PW-12 Navdeep Trehan, brother of the deceased. Accordingly, it is pleaded that the motive of robbery attributed to the accused did not stand scrutiny.

We do not find merit in this argument as well. As per the case of the prosecution supported by PW1 Vicky Anand, complainant who had witnessed the incident, who stated that having been alarmed upon commotion at the scene of crime he immediately called the police by dialing no. '100'; and when the accused saw that the complainant had been alerted they hurriedly took away whatever articles they could lay their hands on and fled away from the scene of crime on their motorcycle in order to avoid detection of the crime especially when the alarm had been raised by the deceased and the Security Officer from the Society had seen them. Accordingly, in our view, the motive for commission of offence of the case in hand is robbery of articles of the deceased Vineet Trehan.

In this scenario, the following observations of the Hon'ble Supreme Court in case of '**Nathuni Yadav v. State of Bihar**', (SC) : **Law Finder Doc Id # 41071**, regarding 'Motive', are apposite:

“16. ... Learned Sessions Judge treated it as a very weak motive for this gory murder. Learned counsel for the appellant rightly contended that by murdering Sona Devi appellants could not succeed in securing the property which was gifted away by Bhagelu Singh. Does it mean that appellants would have had no motive at all for gunning

down Bhagelu Singh Yadav and his wife? The mere fact that motive alleged by the prosecution is not strong enough for others to develop such a degree of grudge would not mean that the assailants had no serious reasons to do this.

17. Motive for doing a criminal act is generally a difficult area for prosecution. *One cannot normally see into the mind of another. Motive is the emotion which impels a man to do a particular act. Such impelling cause need not necessarily be proportionally grave to do grave crimes. Many murders have been committed without any known or prominent motive. It is quite possible that the aforesaid impelling factor would remain undiscoverable.* Lord Chief Justice Campbell struck a note of caution in **Rameshwar v. State of Rajasthan, AIR 1952 Supreme Court 54 Reg v. Palmer** (Shorthand Report at page 308 CCC May 1856) thus: "*But if there be any motive which can be assigned, I am bound to tell you that the adequacy of that motive is of little importance. We know, from experience of criminal courts that atrocious crimes of this sort have been committed from very slight motives; not merely from malice and revenge, but to gain a small pecuniary advantage, and to drive off for a time pressing difficulties.*" Though, it is a sound proposition that every criminal act is done with a motive, it is unsound to suggest that no such criminal act can be presumed unless motive is proved. After all, motive is a psychological phenomenon. Mere fact that prosecution failed to translate that mental disposition of the accused into evidence does not mean that no such mental condition existed in the mind of the assailant. In **Atley v. State of U.P., AIR 1955 Supreme Court 807** it was held "*that is true, and where there is clear proof of motive for the crime, that lends additional support to the finding of the court that the accused was guilty but absence of clear proof of motive does not necessarily lead to the contrary conclusion.*" In some cases, it may not be difficult to establish motive through direct evidence, while in some other cases inferences from circumstances may help in discerning the mental propensity of the person concerned. *There may also be cases in which it is not possible to disinter the mental transaction of the accused which would have impelled him to act. No proof can be expected in all cases as to how the mind of the accused worked in a particular situation. Sometimes, it may appear that the motive established is a weak one. That by itself is insufficient to lead to any inference adverse to the prosecution.*" (Emphasis supplied)

From the above observations of the Hon'ble Supreme Court it is clear that the appellants' arguments regarding purported lack of motive is also weak and does nothing to help the defence case.

DISCLOSURE STATEMENTS:

As regards the disclosure statements, it has been stated by the defence that the recoveries have been planted. However, a scrutiny of testimony of prosecution witnesses in particular that of PW 21 Inspector Harminderjit Singh, PW-16 Constable Ajay Kumar and PW-13 HC Jatinder Kumar only lead to the conclusion that the accused made confessional statements which led to the recovery of incriminating articles belonging to the accused including weapons of attack, blood-stained clothes, and other articles belonging to the deceased and others known to him, from the disclosed places along with other articles. These recovered articles have been identified by PW-12 Navdeep Trehan who is brother of the deceased and proved vide memo Ex.PM. Accordingly, the testimony regarding the main version of the case cannot be impeached and the statements of the police officials can be believed independently. These testimonies are further supported by those of PW4 Swarup Ranaut from Reliance Jio Mohali, and PW5 Devan Arora; besides the fact that the I-cards which were recovered from the accused have also been proved by PW4 Swarup Ranaut to be issued by Reliance Jio in the name of Vineet Trehan and Devan Arora. This testimony of PW4 is further supported by PW5 Devan Arora regarding issuance of identity cards in his name as well as in the name of deceased Vineet Trehan. PW6 Tejinder Singh, Store Manager, Future Lifestyle Fashion limited company, Chandigarh verified the privilege ABJ card in the name of the deceased which was got recovered by accused Akash. Similarly PW8 Suneet Bahl, Special Assistant, State Bank of India, Chandigarh verified the credit card issued by their branch in the name of deceased Vineet Trehan, which was got recovered by accused

Manish. As such in view of all these independent testimonies, there can be no doubt about the disclosure statements made by the accused.

In '**Nisar Khan @ Guddu v. State of Uttaranchal**', (SC) : Law

Finder Doc Id # 112860, the Hon'ble Supreme Court has held as follows:

"In **Dhananjay Chatterjee alias Dhana v. State of West Bengal**, 1994(1) RCR (Criminal) 429 : 1994(2) SCC 220, it is held that entire statement made by an accused person before the police is inadmissible in evidence being hit by Sections 25 and 26 but *that part of his statement which led to the discovery of the articles is clearly admissible under Section 27 of the Act. It is also held that the Court must disregard the inadmissible part of the statement and take note only of that part of his statement which distinctly relates to the discovery of the articles pursuant to the disclosure statement made by the accused.* It is further held that the discovery of the fact in this connection includes the discovery of an object found, the place from which it is produced and the knowledge of the accused as to its existence.

7. In the case of **Gola Konda Venkateswara Rao v. State of A.P.**, 2004(1) Apex Criminal 579 : 2003(4) RCR (Criminal) 581 : 2003(9) SCC 277, this Court reiterated the view and held that, the discovery statement of an accused leading to recovery of crime articles from concealed place. *Even though the discovery statement and the recovery memo did not bear the accused's signature.* The fact of recovery from the well and dug out from a place which was pointed out by the appellant and, therefore, such discovery was voluntary. That the *recovery was in consequence to the information given fortified and confirmed by the discovery* of the wearing apparel and skeletal remains of the deceased and, therefore, the information and statement cannot be held false. In the present case on the recovery memo the signatures of all the accused have been obtained. In the case of **Praveen Kumar v. State of Karnataka**, 2003(12) SCC 199, the same view has been reiterated.

8. As already noted, in the instant case the discovery of the arms was pursuant to the disclosure statement made by the accused immediately after the arrest and the offending arms were recovered at the place pointed out by each of the accused which were concealed under the sand and covered by the stones. *The High Court in this regard fell in grave error by disbelieving the recovery memo solely on the ground that the place is a common place which is frequented by the public.* The High Court failed to take notice that the recovery has been made from underneath the sand covered by the stones pursuant to the disclosure

statement pointing out by each of the accused.”(emphasis supplied)

In **R. Shaji v. State of Kerala (SC): Law Finder Doc Id #**

411904, the Hon’ble Supreme Court has further held that:

“17. It has been argued by the learned counsel for the appellant, that as the blood group of the blood stains found on the chopper could not be ascertained, the recovery of the said chopper cannot be relied upon.

A failure by the serologist to detect the origin of the blood due to dis-integration of the serum, does not mean that the blood stuck on the axe could not have been human blood at all. Sometimes it is possible, either because the stain is insufficient in itself, or due to haematological changes and plasmatic coagulation, that a serologist may fail to detect the origin of the blood in question. However, in such a case, unless the doubt is of a reasonable dimension, which a judicially conscientious mind may entertain with some objectivity, no benefit can be claimed by the accused in this regard.

Once the recovery is made in pursuance of a disclosure statement made by the accused, the matching or non-matching of blood group (s) loses significance.
(Vide : **Prabhu Babaji Navie v. State of Bombay, AIR 1956 Supreme Court 51; Raghav Prapanna Tripathi v. State of U.P., AIR 1963 Supreme Court 74; State of Rajasthan v. Teja Ram, 1999(2) RCR (Criminal) 285 ; Gura Singh v. State of Rajasthan, 2001(1) RCR (Criminal) 122 ; John Pandian v. State, represented by Inspector of Police, Tamil Nadu, (2010)14 SCC 129; and Dr. Sunil Clifford Daniel v. State of Punjab, 2012(4) RCR (Criminal) 349 : 2012(4) Recent Apex Judgments (R.A.J.) 489 : JT 2012(8) SC 639).**

18. In view of the above, the Court finds that it is not possible to accept the submission that in the absence of a report regarding the origin of the blood, the accused cannot be convicted, for it is only because of the lapse of time, that the blood could not be classified successfully. Therefore, no advantage can be conferred upon the accused to enable him to claim any benefit, and the report of dis- integration of blood etc. cannot be termed as a missing link, on the basis of which the chain of circumstances may be presumed to be broken.” (Emphasis supplied)

In pursuance to the aforementioned disclosure statements of all

the accused, recoveries were also duly effected from them.

RECOVERIES:

Subsequent to disclosure statement Ex. PR of appellant Manish, recovery of “*blooded stained clothes, blue jeans and white T-shirt, and iron axe with black plastic handle, pen Drive Kingston white colour in which VT Thailand was written with black marker, and photo iCard Jio of Vineet Trehan number 55007218*” was recovered, which was taken into police possession vide memo Ex. PW (at page 247 of the LCR).

Similarly in pursuance to disclosure statement Ex. PS suffered by accused Akash, recovery was affected of “*blooded clothes, Jean, pink shirt, iron axe with wooden handle, and black colour Kingston pen drive on which VT was written with black marker as per his disclosure statement...*”, and was taken into police possession vide memo Ex. PU (at page 243 of the LCR).

Similarly in pursuance to disclosure statement Ex. PT of accused Amir, recovery was affected of “*bloodstained clothes in which one blue jeans pant and checked shirt, one pen drive black colour Kingston on which VT is written with black marker and one I-card of Devan Arora whose number is 5500870 Jio reliance*” was taken into police position vide memo Ex. PV (at page 245 of the LCR).

As such, the importance accorded to the disclosure statement by the prosecution in the present case, cannot be irrationally rejected.

EVIDENCE:

Moving on, in the present case, besides the above-noted factors, the evidence against the appellants is substantial and incontrovertible to establish their guilt without reasonable doubt. In this regard, the Post-

mortem Report Ex. PAN, which records the following injuries on the dead body of the deceased, is vital:

S.No.	Injuries
1.	Chop wound, V shaped in appearance, present on the right side of forehead, situated 0.1 cm above the outer end of right eyebrow, Left limb and right limb of wound measured 1.8 cm and 3 cm in length respectively, having depth of 1 cm and gaping of 9.8 cm. edges of the wound were found contused with clean cut margins; irregular tags of skin were present at places. On reflecting the scalp, frontal bone showed a fracture corresponding to the right limb of the scalp wound, measuring 2.8 cm in length with frayed chips of the bone present at the edges throughout the length of fracture. The corresponding dura beneath the wound was found to be breached, contusion necrosis was present in the right frontal lobe. The fracture extended posteriorly towards the vertex of skull vault, measuring 6.8 cm in length. Multiple fissured fractures were found radiating towards the left side involving the left frontal bone of skull vault. Extravasation of blood was present at the fracture site and in the surrounding tissues.
2.	Chop wound, of size 8.5 cm x 1.2 cm (gaping) x 0.5 cm, present on the forehead in midline. The wound was obliquely placed with the right end lower to the left end. The right end of wound was situated 0.1 centimeter above the middle of right eyebrow and left end was situated 4.5 cm above the middle of left eyebrow. Edges of the wound were found contused with clean cut reflecting the scalp, the frontal bone was found fractured corresponding to the scalp wound, measuring 7.5 cm in length with frayed chips of the bone present at the edges in the left 2/3 rd of the length of fracture. The corresponding dura beneath the

	wound was found to be breached and the brain parenchyma involving the left frontal lobe was lacerated to a depth of 1.2 cm, contusion necrosis was present in both the frontal lobes. The before mentioned fracture extended in the form of fissured fracture towards the left parietal bone, measuring 11.8 cm. Another fissured fracture radiated from the fracture corresponding to the scalp wound, measuring 8.5 cm in length, ran posteriorly involving the right temporal bone. Extravasation of blood was present at the fracture site and in the surrounding tissues.
3.	Chop wound, of size 2.4 cm x 0.8 cm x 0.5 cm was present on the left side of face, involving the lower 1/5th of middle of left upper eyelid to the outer end of left eye to extend upwards to the outer end of left eyebrow, flap of subcutaneous tissues and muscles was created towards the eyeball. Edges of the wound were found contused with clean cut margins. The conjunctiva and sclera was hemorrhagic with extravasation of blood involving the tissues surrounding the left eyeball.
4.	Chop wound, of size 8.1 cm x 0.8 cm (gaping) x 1 cm, horizontally placed on the left temporo-parietal region of the scalp. Posterior end of the wound was situated 3 cm below the left parietal eminence. Edges of the wound were found contused with clean cut margins, scalp layers along with left temporalis muscle was cut along the length of wound and the underlying bone of skull vault was visible from the defect. On reflecting the scalp, fracture measuring 5.5. cm in length was present corresponding to the scalp wound with frayed chips of the bone present along the edges throughout the length of fracture. The corresponding dura beneath the wound was found to be breached, contusion necrosis was present in the left temporal

	lobe. Extravasation of blood was present at the fracture site and in the surrounding tissues.
5.	Contusion, reddish in colour of size 9.1 cm x 4.2 cm was present in the outer aspect of right side of chest, situated 11.5 cm below the apex of axilla.

As per this report cause of death was declared to be a result of craniocerebral damage consequent upon sharp force trauma to the head via injury no. 1,2 and 4 which were sufficient to cause death in the ordinary course of nature. The injuries on the dead body were also declared to be ante mortem in nature. Injuries no. 1 to 4 were declared to be result of infliction with heavy weapon with cutting edge, while injury no. 5 was declared to be result of blunt force. Probable duration between injury and death was declared to be fresh.

The Medical Board of Dr. Gurdev Kaur and PW-18 Dr. Jyoti Barwa gave their opinion Ex. PAO (available at pages 167-169 of the LCR) after examining the weapon of offence recovered from the appellants in pursuance to their disclosure statements, and rough sketch of weapons Ex. PAP and Ex. PAQ. As per this opinion the Doctors stated the possibility of infliction of injuries as declared on the dead body of deceased Vineet Trehan with that kind of weapon. Ex. PAO records the opinion of the afore-constituted Medical Board as follows:

“OPINION:

From the examination of the given weapon/object, we are of the opinion that injury no. 1, 2, 3 and 4 mentioned in the original post-mortem report, can possibly be inflicted by the above described weapons/objects or any other weapons similar to it.”

Thus, from the above opinion it is clear that the possibility of the fatal injuries being inflicted by the weapons recovered from the

appellants in pursuance to their disclosure statements, is not ruled out. In our view, the medical evidence in the form of Post Mortem Report Ex. PAN and the opinion of Doctors Ex. PAO regarding the weapon of offence having been used for inflicting the injuries on the deceased is a valuable piece of unimpeachable evidence against the accused-appellants. Clearly, there is credible evidence to show that death of Vineet Trehan took place as a result of infliction of sharp-edged injuries inflicted on the head of the deceased resulting in his death. It is to be noted that this aspect of the matter has not even been challenged by the defence and the factum of death of deceased being homicidal is almost admitted.

Furthermore, the complainant Vicky Anand, who is Security Officer has specifically deposed that a vehicle was parked outside the Housing Society where he worked and on hearing the noise one person had come out from the driver side and three other persons who came from the other side of the car gave beating to the person who had been driving the car in question. On seeing this the complainant had gone inside to report the incident by dialing '100' and when he came back he saw one person lying behind the said vehicle and three other persons ran away on the motorcycle parked in front of the aforesaid car. This testimony of complainant PW-1 has been assailed by the defence on the ground that there was delay in registration of the FIR and that the complainant did not identify any of the persons who were, according to him, involved in the occurrence and therefore the version given by the said witness is only an afterthought. However, this criticism of PW-1 Vicky Anand is unjustified because he is the only witness and no motive has been assigned to him to depose against the appellants. Moreover, PW-24, Ishwar Singh, Security Incharge, Uppal Marble Arc Society, Manimajra deposed that complainant Vicky Anand was in fact on duty on the intervening

night of 30/31.7.2016 at the main gate of the Society from 7.40 am to 8.20 am and also proved the copy of entry in the Duty Register of the said Society as Ex. PBP. The complainant has satisfactorily explained that due to late hour and thus, the darkness at the place of occurrence he was unable to identify the assailants.

As regards the delay in registration of FIR, it is possible that PW-25 SI Rohit Kumar did not start the investigation as normally FIR is lodged on the statement of the injured. However, as seen above, the injured had been moved to PGI and on that basis PW-21 Harminderjit Singh, I.O., in the first instance had gone to PGI for ascertaining the facts and had come to the spot only thereafter, after which immediate action was taken for preserving the sanctity of the scene of crime by calling the Photographer, Videographer and the Forensic Team. Accordingly minimal delay in recording the FIR has been properly explained and is not fatal.

In any event, in our view in the present case there is no reason to disbelieve PW-1 complainant Vicky Anand as there is substantial corroborative evidence in the form of samples taken from the spot by the Police Forensic Team. The presence of the accused at the place of occurrence is established beyond doubt in the shape of a) report of Director, Finger Print Bureau, Phillaur, Ex. PBX (at page 409-433 of the LCR), who carried out the comparison of the chance prints of the accused which were lifted from the car of the deceased by the FSL team from the scene of crime which was sealed with the seal of I.O. in a sealed parcel and deposited in the Police Malkhana. After the arrest of the accused, on the request of I.O., Ex. PBK specimen finger prints of all the three accused were obtained vide Ex. PBM, PBN and PBO respectively which were duly attested by the learned Magistrate. The admitted finger prints of the three accused and the chance finger prints were

examined and tallied vide report Ex. PBX. An objection was taken that the comparison as per report PBX could not be relied upon as the accused have been illegally detained by the police and it was at this time that their finger prints were taken which had been used as chance finger prints from the vehicle of the deceased lying at the spot of occurrence and therefore, no authenticity to the report could be attached. However, besides the fact that such story sounds highly farfetched, even during the course of investigation no such complaint was made by any of the accused to the higher authorities nor at any subsequent stage making this allegation that their finger prints had been wrongly taken in this manner. Therefore, it is amply established that this is a case of blind murder for robbery and lifting of chance prints by Police Forensic Team from the car found at the crime scene were very vital link evidence. Thereafter, the same was kept in sealed parcel and remained intact with Head Constable Sakattar Singh, MMHC Manimajra who appeared in the witness box as PW 15 and proved entries in his Register as Ex. PZ. It is, therefore, clear that the version on the part of the defence that the finger prints had been misused is a mere afterthought and deserves to be rejected. In any event, even as per report of Director, Finger Print Bureau, Phillaur, Ex. PBX (at page 409-433 of the LCR), it has been established on record that subsequent finger prints of the accused tallied with the chance finger prints lifted from the car of the deceased at the spot of occurrence.

Furthermore, even as per recoveries made from the accused especially in the form of blood-stained clothes and the weapon of offence (axe) which were sealed and kept intact in the Police Malkhana and the clothes removed by the Doctor from the dead body of the deceased and the sample of his blood were sealed in a parcel and handed over to I.O. vide recovery memo Ex. PP and were deposited in Police Malkhana also. In this

regard the findings of PW-28 Dr. BK Mahapatra, SSO-I, CFSL, New Delhi vide Ex. PBU (at page 137-139 of the LCR), are as under:

“8.1. Blood was detected on the exhibits- P-1, P-2a, P-2b, P-2c, P-2d, P-3, P-4, P-5a, P-6a, P-6b, P-7a, P-7b, P-8, P-9, P-10, P-11 and P-12.

8.2. Blood too small for serological examination was detected on the exhibit P2e.

8.3. DNA profile generated from the source of exhibits: P-2a(underwear), P-2b (Jeans pants), P-2c (shirt), P-2d (Towel), P-3 (Blood-stained Gauze), P-5a (Jeans Pants) and 5b (T-Shirt) was found to be Human male in origin and consistent with the DNA Profile of Vineet Trehan (source of Exhibit P-1: Blood-stained gauze).

8.4. DNA profile could not be generated from the source of exhibits P-4, P-6a, P-6b, P-7a, P-7b, P-8, P-9 and P-11.

8.5. Portions/Blood lifted from the blood-stained areas of exhibits- P-1, P-2a, P-2b, P-2c, P-2d, P-3, P-4, P-5a, P-6a, P-6b, P-7a, P-7b, P-8, P-9, P-10, P-11 and P-12 was sent to Serology Division for serological analysis. Results of serological analysis in original form. Serology Division of this Laboratory vide report no. CFSL-2017/B-129/Sero.No.:09/2017 dated 31.5.2017”. (Emphasis supplied)

From the perusal of above result it has been established that the DNA profile of the blood stains of clothes Ex. P-5a (Jean Pants) and P-5b (T-Shirt) of accused Manish matched with the DNA profile of deceased Vineet Trehan. It is undisputed that the sample had remained intact till examination in the Laboratory and no tampering was done. It is also not disputed that DNA is a perfect science.

Accordingly, in view of the report of the Finger Print Bureau, Ex. PBX (at page 409-433 of the LCR); and CFSL Report Ex. PBU

(at page 137-139 of the LCR), and Ex. PBV (at page 141-145 of the LCR),
presence of the accused at the place of occurrence is unimpeachably
established. In these circumstances, it was for the accused to explain how the
death of the deceased took place. But the complete silence on the part of the
accused and simply denying the occurrence works against them. In this regard,
support is drawn from the pronouncement of the Hon'ble Supreme Court in
case of '**Sahebrao Mohan Berad vs State of Maharashtra, 2011 (2) RCR
608 (SC).**'

From the above discussion it stands established that there is
incontrovertible corroborative evidence as well, which establishes the guilt of
the accused beyond doubt. This may be summarised as follows:

- a) The chance prints lifted from the car of the deceased at the
spot tallied with the specimen prints of the accused taken in
the Court. (Report of the Finger Print Bureau is Ex. PBX at
page 409-433 of the LCR).
- b) The weapons of offence recovered at the instance of the
accused as per their respective disclosure statements, was
opined by the Medical Board to have possibly caused the fatal
injuries on the person of the deceased. (Report of the Medical
Board Ex. PAO is available at pages 167-169 of the LCR)
- c) The blood stains lifted from the spot matched with the blood
of the deceased being of the same blood group 'B' and it was
different from the blood groups of the accused. (CFSL Report
Ex. PBV at page 141-145 of the LCR).
- d) Human blood found on the clothes of accused is as per report
of CFSL Chandigarh Ex. PBW. The DNA profile of the blood
stains on the clothes of accused Manish matched exactly with

the DNA profile of the blood stains of the deceased. (CFSL Report of Dr. BK Mohapatra is Ex. PBU at page 137-139 of the LCR).

- e) Moreover, the fact that the car recovered from the spot was registered in the name of the deceased Vineet Trehan, was verified by PW9 Devender Singh Rawat, Data Entry Operator, Registering and Licensing Authority, Chandigarh as per verification report Ex. PK at page 217 of the LCR.
- f) The call detail record of the mobile of the deceased and the Tower location report of said mobile Ex. PAK at page 329-335 of the LCR, correlates with the movements of the deceased and offers corroborative evidence.
- g) Even the testimony of PW5 Devan Arora at page 513 of the LCR correlates with the movements of the deceased and supports his testimony that said witness PW5 had forgotten his identity card in the car of the deceased which was eventually recovered at the instance of the accused from the hidden place.

From the above, it is clear that all the material, evidence and clues picked up from the crime scene, as also other substantial corroborative evidence, supports the prosecution version and proves the commission of offence by the accused. Accordingly, it is well established on the record of this case that all three co-accused with common intent had committed blind murder for robbery.

COMMON INTENTION:

At this juncture it will be useful to note the observations and rulings of the Hon'ble Supreme Court with regard to common intention.

In ‘**Suresh v. State of U.P., (SC) : Law Finder Doc Id # 11327**’, in Headnote ‘D’, the Hon’ble Supreme Court has summed up the law with regard to common intent as follows:

“D. Indian Penal Code, Section 34 - Common intention - Law summed up: -

(i) Section 34 is intended to meet a situation wherein all the co-accused have also done something to constitute the commission of a criminal act.

(ii) Presence of the co-accused at the scene is not a necessary requirement to attract Section 34, e.g., the co-accused can remain a little away and supply weapons to the participating accused either by throwing or by catapulting them so that the participating accused can inflict injuries on the targeted person.

(iii) Section 34 Indian Penal Code two postulates are indispensable. (1) The criminal act (consisting of a series of acts) should have been done, not by one person, but more than one person. (2) Doing of every such individual act cumulatively resulting in the commission of criminal offence should have been in furtherance of the common intention of all such persons.

(iv) Accused who is to be fastened with liability on the strength of Section 34 Indian Penal Code should have done some act which has nexus with the offence.

(v) Under Section 34 one criminal act, composed of more than one act, can be committed by more than one person and if such commission is in furtherance of the common intention of all of them, each would be liable for the criminal act so committed.

(vi) Common intention can be formed previously or in the course of occurrence and on a spur of moment. The existence of a common intention is a question of fact in each case to be proved mainly as a matter of inference from the circumstances of the case.

(vii) Accused persons sharing the common intention must be physically present at the scene of occurrence and be shown to not have dissuaded themselves from the intended criminal act for which they shared the common intention.

(viii) Proving the common intention, it is necessary either to have direct proof of prior concert or proof of circumstances which necessarily lead to that inference and "incriminating facts must be incompatible with the

innocence of the accused and incapable of explanation or any other reasonable hypothesis".

(ix) Common intention, arising at any time prior to the criminal act, as contemplated under Section 34 of the Code, can thus be proved by circumstantial evidence.

(x) Even a person not doing any particular act but only standing guard to prevent any prospective aid to the victims may be guilty of common intention.

(xi) Common intention required by Section 34 is different from the same intention or similar intention. The persons having similar intention which is not the result of pre- concerted plan cannot be held guilty for the "criminal act" with the aid of Section 34." (Emphasis supplied)

Before parting, it is necessary to advert to an additional plea taken on behalf of accused Manish/ appellant in CRA-D-873 of 2018, to the effect that he had been illegally detained by the police on 13.8.2016. This version is supported by the testimony of DW3 Puran Chand, father of accused Manish, who has stated that after searching for his son he had also gone to PS Mani Majra, Police Station I.T. Park and then filed Criminal Writ Petition before this Court whereupon a Warrant Officer was also appointed by this Court. However, a perusal of the record pertaining to this Criminal Writ Petition, Ex. D1 and the order passed thereupon Ex. D2 and report of the Warrant Officer Ex. D3 and DDRs dated 19.8.2016, Ex. D4 and D5 also the final order passed by this Court on 29.8.2016 Ex. D6 evidences that accused Manish was not found to be illegally detained by the police and he had only been called by the police at PS Mani Majra in connection with investigation of the case in hand and DW3 Puran Chand father of accused Manish had filed this Writ Petition only because of the arrest of the accused Manish in this case on 21.8.2016. As far as the complaint dated 26.8.2016 made by DW3 Puran Chand to SSP Chandigarh, copy Ex. D7 and the DDRs Ex. D8 to Ex. D18, which have been placed on record, this only go to show that all the three

accused were being called to the police station in connection with ongoing investigation in the present case being suspects but they were not detained and it is in these circumstances that since the appellants were being called as suspects in expectation of soft treatment they chose to make extra judicial confession before PW20 Prem Singh. In any event testimony of DW3 Puran Chand being father of accused Manish is unreliable being interested witness and not independent or unrelated.

In view of the foregoing discussion this Court holds that there is no error in the order dated 29.8.2018 whereby the appellants Manish and Akash have been convicted for committing the murder of Vineet Trehan by inflicting injuries on his person as a result of which he died, in furtherance of their common objective/ intention to commit robbery. From the narration above it is irrefutably established that this is a case of blind murder for robbery. The prosecution has been able to prove its case against the appellants beyond shadow of reasonable doubt. Accordingly, both these appeals are dismissed and the impugned judgment of conviction dated 29.8.2018 as well as order of sentence dated 31.8.2018 are upheld.

A copy of this order be placed on the file of CRA-D-932-DB of 2018.

(Nidhi Gupta)
Judge

(Ritu Bahri)
Judge

September 9,2022.
Joshi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No