

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

CRA-D-579-DB-2017 (O&M)

Reserved on: 22.11.2022

Date of decision: 02.12.2022

**HARISH**

...Appellant

Versus

**STATE OF HARYANA**

...Respondent

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

**HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Lajpat Rai, Advocate with  
Mr. Jashandeep Singh Sandhu, Advocate (Amicus Curiae)  
for the appellant.

Mr. Pradeep Prakash Chahar, DAG, Haryana

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**SURESHWAR THAKUR, J.**

1. The instant appeal is directed against the verdict drawn on 28.10.2014, upon Sessions Case No.121 of 2013 by the learned Additional Sessions Judge, Bhiwani. Through the above verdict, the learned Additional Sessions Judge concerned, in respect of offences punishable under Sections 302, 120-B, 109 read with Section 34 of IPC made a verdict of acquittal *qua* co-accused Santosh. However, through the above drawn verdict the learned trial Judge concerned, convicted co-accused Harish in respect of a charge drawn for an offence punishable under Section 302 of IPC. Moreover, through a separate sentencing order drawn on 29.10.2014, the learned trial Judge imposed, upon the convict the sentence of life imprisonment in respect of an offence punishable under Section 302 of IPC, and, also imposed upon him sentence of fine comprised in a sum of Rs.10,000/-. Further in default of payment of fine amount he convicted the convict to undergo simple imprisonment for a period of three months. However, the period spent in custody by the convict during

investigations, and, trial of the case, was in terms of Section 428 of the Cr.P.C., ordered to be set off from the above imposed substantive sentence of imprisonment. There is no material on the record suggestive that, the aggrieved concerned, has preferred any appeal against the verdict of acquittal, as made in respect of the above co-accused Santosh, therefore, the above verdict of acquittal as becomes recorded *qua* co-accused Santosh, does acquire conclusive and binding effect.

2. The convict (*supra*) becomes aggrieved from the above made verdict of conviction, besides becomes aggrieved from the consequent therewith sentence(s) (*supra*), as became imposed upon him, thus he is led to institute thereagainst the instant appeal (*supra*) before this Court.

### **FACTUAL BACKGROUND**

3. The genesis of the prosecution case is embodied in the FIR to which Ex.P2 is assigned, therein, it is narrated that on dated 7.3.2013, Inspector/SHO Rajesh Kumar along with ASI Sham Sunder, EHC Ran Singh 677, was on police patrol duty in official vehicle bearing registration No. HR61-A-6437, being driven by Constable Kuldeep No. 1120, in the area of Krishna Colony, situated near Dinod Gate, Bhiwani. At the relevant time, complainant Dharam Devi wife of Radhey Sham, mobile No. 9467510495, resident of House No. 295/4, Krishna Colony, Bhiwani, along with her husband Radhey Sham, came there and made her statement Ex.P3. As per statement of complainant Dharam Devi, she was posted as Hindi teacher in Senior Secondary School, Chang, District Bhiwani. They were five brothers and sisters. Her brother was Tirth Dass, who was married with Hardei of Tarawari, District Karnal. From the wedlock of her brother Tirth Dass and Hardei, one daughter namely Jyoti was born. After one and half years of the marriage the cruel hands of death had snatched away her

brother Tirth Dass. His wife Hardei, after breaking the thread of relations had left her parental house. However, Jyoti-victim was brought up by her. She studied up to 10+2 standard. In the year 2004, marriage of Jyoti-victim was solemnized with the accused Harish son of Om Parkash, Arora by caste, resident of Jeetuwala Johar, Durga Colony, Bhiwani, in accordance with Hindu rites and ceremonies. Jyoti-victim was blessed with one daughter who was named Akshra. After the birth of Akshra, the relationship of accused Harish and Santosh, became strained. Harish used to live in the house of accused Santosh. Harish, started beating Jyoti-victim, on the directions of his mother Santosh. Three years ago, accused Santosh, had turned out Harish, Jyoti and Akshra, from her house with the direction to arrange separate house. Thereafter, Harish had taken one house of one Kishori son of Nathu Ram, resident of Krishna Colony, Bhiwani. At that time, accused Harish was working at a cloth shop. However, after one year Harish, vacated the house of Kishori son of Nathu Ram and had taken one house on rent of Surender Kumar son of Nayamat Ram, Arora by caste, resident of house No. 316/4, Krishna Colony, Bhiwani and started living there with his wife Jyoti and daughter Akshra. Victim Jyoti, who was aged 26½ years got one part time job in Board of School Education, Bhiwani, Haryana. For the last six months Harish was not doing any work. He used to beat Jyoti, over the demand of money. On dated 4.3.2013, Jyoti was on her duty. In her absence, accused Santosh, visited her son Harish and took him with her to her house. In the evening when Jyoti, after duty hours came to her house, on some pretext, accused Harish, took her and Akshra to the house of his mother Santosh. There (in the house of accused Santosh), accused Santosh and Harish, gave beatings to Jyoti and snubbed her. Both of them directed her (Jyoti) to bring an amount of Rs.1,00,000/- from her paternal aunt (Bua) Dharam Devi-complainant. Then,

accused Harish along with his parents, wife Jyoti and daughter Akshra, came to his rented house. Jyoti also called her paternal aunt (Bua) Dharam Devi and informed her about the demand of accused Harish and Santosh. Jyoti-victim also told her that accused Santosh and Harish, extended her the beatings in their house situated near Jeetuwala Johar, Bhiwani. She (complainant Dharam Devi) asked accused Harish and his mother Santosh, the reason for extending beatings to victim Jyoti. Then they told her to give some money to him (Harish), for starting some work. They also informed her that if she would fail to give money drama of life of Jyoti, would be finished. After that on the same day at about 2.00/3.00 p.m, Harish, came to the house. Jyoti-victim was away to the house to attend her duty. Akshra daughter of Jyoti, was away to her school. In the evening, Jyoti and Akshra came back to their house. Accused Harish, called in his mother Santosh, who came along with two ladies of her neighbourhood. Jyoti-victim also called in her by making a call on her mobile. They (accused) assured that in future Jyoti, will not be subjected to beatings. She (complainant Dharam Devi) stopped them (Jyoti and her husband) to visit her matrimonial home. Accused Santosh along with those two ladies of her neighbourhood had left their home. She (complainant) came back to her house. Accused Harish, Jyoti and Akshra, remained at their house. Today i.e. on 7.3.2013, Raj Rani, who was also tenant on the ground floor of the same house, informed about non-availability of Harish, Jyoti and Akshra. She also informed that their house was under lock and key. On hearing so, she along with her son and husband Radhey Sham, reached the roof and found the room under lock and key. Then she (complainant) along with her son and husband reached the house of in-laws of Jyoti and inquired about the whereabouts of victim Jyoti, Harish and Akshra. In-laws of Jyoti, informed them that Jyoti, her husband Harish and Akshra, had not

come to their house. Thereafter, they came back. Then, they reached the rented house of accused Harish, and went upstairs along with another tenant of the house and peeped through ventilator of the room of rented house of Harish and Jyoti. They raised suspicion. On which they broke down the windowpane and unfortunately noticed that Akshra and Jyoti, were lying dead. Accused Harish, on the abetment of his mother Santosh, murdered Jyoti and Akshra, by way of strangulation/ pressing their necks. Action was requested. On the basis of above recorded statement, on which complainant Dharam Devi, appended her signatures, Inspector/SHO Rajesh Kumar, made his endorsement Ex.P4 and forwarded the same for registration of the case under Section 302 and 120-B of the Indian Penal Code.

### **INVESTIGATION**

4. After the registration of the case, investigations were carried out by Inspector/SHO Rajesh Kumar. During investigation, on dated 7.3.2013 special report was sent to the learned Area Magistrate and senior police officers. Photographs of the place of occurrence were taken by EHC Kapoor Singh. Rough site plan of the place of occurrence was prepared by Inspector/SHO Rajesh Kumar. Blood stained bed sheet, vest, shirt and some broken pieces of bangles were lifted from the spot. Same were taken into possession vide recovery memo Ex.P34. Inquest proceedings qua victim Jyoti and Akshra were carried out. On dated 8.3.2013, postmortem examination on the corpses of victim Jyoti and Akshra was got conducted. On dated 15.3.2013, accused Santosh was arrested. Her disclosure statement Ex.P26 was recorded. On dated 7.5.2013, scaled site plan of the place of occurrence was got prepared through Dharmender Singh-Draughtsman. Accused Harish, was arrested on dated 25.6.2013. On dated 26.6.2013 during interrogation, he suffered his disclosure

statement Ex.P27 and demarcated the place vide memo Ex.P28. On dated 27.6.2013, accused Harish again suffered his disclosure statement Ex P29 and got recovered one black colour strip, which was taken into possession vide recovery memo Ex.P30. Rough site plan Ex.P31 of the place of recovery of strip was prepared.

### **COMMITTAL PROCEEDINGS**

5. Since the afore offences were exclusively triable by the Court of Session, thus vide committal order dated 02.08.2013 the learned Chief Judicial Magistrate, Bhiwani, committed the accused to face trial before the Court of Session.

### **TRIAL PROCEEDINGS**

6. The prosecution examined as many as 11 witnesses and, subsequently, the public prosecutor closed the 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, he did not choose to lead any defence evidence.

### **SUBMISSIONS OF THE LEARNED COUNSEL FOR THE APPELLANT**

7. The learned counsel appearing for the convict-appellant has vehemently argued before this Court that, since an intimation with respect to the crime event was given by one Rajrani, but since the above became never cited, as a prosecution witness nor obviously stepped into the witness box. Thus, he argues that the verdict of conviction, as drawn against the convict requires an interference being made.

### **SUBMISSIONS OF THE LEARNED STATE COUNSEL**

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.

**CIRCUMSTANTIAL BASED EVIDENCE CASE**

9. The informant one, Dharam Devi stepped into the witness box as PW-5. In her examination-in-chief she makes speakings about her deceased niece one Jyoti entering into a wedlock with the accused Harish, in the year 2004. She further testifies that out of the above wedlock, one Akshra was born. She continues to testify that after the birth of Akshra, the mother-in-law of Jyoti one, Santosh taking to taunt and harass deceased Jyoti, for delivering a female child, and, that accused Harish taking to beat and harass Jyoti, at the behest of his mother accused Santosh. Moreover, three years prior to the death of Jyoti accused Harish along with Jyoti and Akshra are spoken by her to start living in the rented house which is situated in Krishna Colony, Bhiwani, whereafter she echoes that another house was taken on rent in the Chobara of the house, of one Surender Kumar son of Niyamat Ram. Moreover, she then speaks about Harish demanding money and harassing Jyoti on the asking of his mother Santosh. She speaks about hers employing deceased Jyoti in the Education Board, Bhiwani, about one year prior to her death, but on a part time basis. Accused Harish is stated by her to be not doing any work six months prior to the occurrence.

10. On 04.03.2013, deceased Jyoti is stated by her to proceed to duty and then accused Santosh is stated by her to come at the rented house of Harish and then taking accused Harish to her own house. However, when deceased Jyoti returned from duty then accused Harish is stated by her to also come there whereafter accused Harish is stated by her, to take Jyoti and Akshra to the house of his mother Santosh, where, Santosh and Harish are alleged to deliver beatings to Jyoti besides under threat of death his demanding Rupees one lac from her, as dowry. Moreover, she speaks that on the very same day accused Harish along with Jyoti and Akshra along with her parents including his mother Santosh and

his father Om Parkash returning to the rented house of Krishna Colony. She speaks that then deceased Jyoti called her and when she reached, at the abode of Jyoti, then Jyoti narrated to her the above fact. Though she speaks that she questioned both Santosh and Harish about the reason for their belabouring Jyoti, but both are stated by her, to demand Rupees one lac, for starting business for Harish, failing which they would kill Jyoti and Akshra. However, she speaks that she tried to sensitize accused Harish and Santosh hence leading Santosh to proceed to her home along with her husband.

11. On 06.03.2013, when Jyoti was on duty then at about 2:00-3:00 p.m., accused Harish is stated by her to proceed to the rented house and when Jyoti returned from duty, then Harish is stated by her to call his mother Santosh to his house. She continues to testify that then Jyoti called her through a girl and when she reached at the relevant abode, then Santosh told her that, in future Jyoti would not be beaten by them, and they also would not harass her, and though then she expressed her desire to take Jyoti to her home, but she objected to the same. She thereafter proceeded to her home, but she states that she left accused Harish, Jyoti and Akshra at the rented abode. However, in the morning of 07.03.2014, one Raj Rani, who is stated by her to be living on the ground floor of the same house as tenant, hence came to her and told her that Harish, Jyoti and Akshra were not at their rented house, and, that their room was locked. Then PW-5 speaks that she along with her husband Radhey Shyam, and her son reached there and found that the room was locked, leading to theirs visiting the house of the abode of the in-laws of deceased Jyoti. At the matrimonial abode of deceased Jyoti co-accused Santosh and her husband were questioned about the whereabouts of deceased Jyoti, Harish and Akshra, but they stated to her, that they are unaware about their whereabouts, which led to doubt being created in

her mind. Subsequently, she speaks that she and her husband returned to the rented house of Jyoti and after taking upstairs the said tenant of the ground floor, and though they then peeped from the ventilator, but they could not decipher anything. Subsequently from the broken window glass panes of the room concerned, they noticed that Jyoti and Akshra were dead on different folding beds, situated in the room. Furthermore, she speaks that on the face of Jyoti, they noticed that there were injury marks and that one shirt was seen wrapped around the neck of Jyoti. She alleges that the murder of Akshra and Jyoti was committed by the accused at the behest of co-accused Santosh.

12. Though there is a rigorous cross-examination made upon PW-5, but the suggestions meted to PW-5 relate only to the maltreatment and belabourings meted to deceased Jyoti by convict Harish, rather at the behest of his mother co-accused Santosh. Significantly, the cross-examination, as made, upon the PW-5, is not at all in respect of the trite factum, that convict Harish along with deceased Jyoti and their deceased daughter Akshra, rather were not staying together in a rented house. The absence of cross-examination, upon PW-5 in respect of the above fact, does mobilize an inference, that the defence has conceded to the factum *qua* the convict Harish along with deceased Jyoti and his deceased daughter Akshra hence staying together in a rented abode. If so, but as a natural corollary, the further inference therefrom, is that, it became incumbent, upon convict Harish, to explain the circumstances rather relating to the body of his deceased wife and the body of his deceased daughter Akshra, rather being found in a rented accommodation, when the same was for reasons (*supra*), evidently jointly inhabited by the accused alongwith his deceased wife and his deceased daughter. Moreover, it also became incumbent upon Harish to further explain the circumstance of his fleeing from the rented room after his locking

the same from outside. Furthermore, it also became incumbent upon the convict Harish, to set up and prove the possible exculpatory plea of *alibi*. However, the relevant explanations, do not emanate from convict Harish nor did he ever set up the exculpatory plea of *alibi* nor did he obviously substantiate the said plea. Thus, it has to be concluded that the convict Harish was last residing in the rented accommodation, with his deceased wife and his deceased daughter and, further reiteratedly for absence of emergence(s) of the above apposite explanations, and/or for want of his rearing or establishing the exculpatory plea of *alibi*, this Court concludes, that the prosecution has established that convict Harish rather committed the murder of his deceased wife Jyoti and also of his minor daughter one Akshra. Importantly also when he failed to explain the factum of his locking from outside the door of rented room, through his establishing that it became locked either by the landlord or by some other person. In addition, the factum of his fleeing from crime site is suggestive of his conduct inconsistent with his innocence.

#### **FURTHER CONCLUSIONS FROM THE ABOVE INFERENCE**

13. The further conclusion which stems from the above made inference, is that, even if Rajrani became never cited as a prosecution witness nor stepped into the witness box to prove hers making an intimation to PW-5 about Harish, Jyoti and Akshra hence not being found in the rented house, and, rather the same being locked, from outside, does not at all destabilize, the charge drawn against the convict. Thus, the above made argument before this Court by the learned counsel for the convict-appellant becomes completely devoid of any force.

**DISCLOSURE STATEMENT OF ACCUSED AND CONSEQUENT THEREWITH RECOVERY**

14. During the course of the custodial interrogation of accused Harish, he made a signed disclosure statement as comprised in Ex.P29, contents whereof become extracted hereafter.

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**Disclosure statement of accused Harish**

*In the presence of following witnesses, above accused Harish Kumar S/O Om Parkash Arora Punjabi R/o Durga Colony Bhiwani got recorded his disclosure statement again by denying his previous statement, without any fear and greed that “26-06-13, my disclosure statement, which was given by me that patti, which was used by me to commit murder of Jyoti and daughter Akashra, I have kept concealed near Railway crossing Rohtak. That statement was false. In fact, that black strip (patti) which was used by me for strangulation of my wife Jyoti and daughter Akashra, I have kept concealed near the wall of “Hanuman Mandir” after crossing Railway phatak Bhiwani where a road goes to Jeetu wala Johar from Krishna colony, after wrapping in a polythene where an electricity transformer also situated. Except me, no one knows I can get recover after pointing out”. Disclosure statement was prepared. Accused and witnesses signed on the memo.*

*SD/-  
C. Amarjit No.44  
P.S. City Bhiwani*

*SD/-  
Accused  
Harish Kumar*

*SD/-  
SHO PS City Bhiwani  
Dt- 27-06-13”*

A reading of the above extracted signed disclosure statement as made by accused Harish, reveals that he had therein not only confessed his guilt, but had also disclosed that he can ensure the causings of recovery of black strip (patti) Ex.P30, 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.P30, he caused the recovery of black strip (patti). 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.P29, 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 account rendered *qua* the crime event by PW-5.

### **MEDICAL EVIDENCE (POST MORTEM REPORT)**

15. The post mortem upon the body of deceased Jyoti and upon the body of Akshra was conducted on 08.03.2013 by PW-6. PW-6 has proven *qua* his, authoring Ex.P21, as relates to the autopsy as made upon the body of deceased Jyoti.

16. Moreover, he has proven that the cause of death of deceased Jyoti, was owing to the injuries as described in the post mortem report which are stated to be ante mortem injuries and are stated to be sufficient to cause death in the ordinary course of nature. The relevant ante mortem injuries as noticed by PW-6 on the body of deceased are extracted hereinafter. He has also proven *qua* his, authoring Ex.P22, as relates to the autopsy as made upon the body of deceased Akshra and has also proven that the cause of death of deceased Akshra, was asphyxia owing to stimulation which is stated to be ante mortem in nature and also stated to be sufficient to cause death in ordinary course of nature. The relevant ante mortem injuries as noticed by PW-6 on the body of deceased are also extracted hereinafter.

#### ***“Injuries on the body of Jyoti***

*I. Two parallel ligature mark of size 5cm x 12 cm & .5x 15cm extending from 5 cm below right ear to 5cm below left mastoid process circular present in lower part absent in posterior surface of neck. On dissection parchment like brownish black coloured skin seen ecchymoises present on margin of ligature mark on furture dissection brownish white coloured surface seen that is skin furture neck*

*muscle rupture carotid artery damaged superior horn of thyroid cartilage fractured fractured end are directed inverted hyoid bone not fractured.*

*II. Incised wound of size 4x.7cm over lateral side of right eye involving eye brow upper eye lid with margin everted swallowed extravasation in neighbouring subcutaneous and interstitial which can not be removed by washing on dissection fractured frontal bone seen there is extradural & subdural hematoma present there is 100 cc of free fluid collected in base of cranial cavity.*

*III. Both eye are diffusely swallowed and blackish in coloured tissues All organs of body were pale and urinary bladder contain 50cc urine and pale.”*

***“Injuries on the body of Akshra***

*I. A ligature mark on size 0.5cm X 9inch circular present over lower part on posterior surface of neck, extending from right ear 5cm below it to 5.6cm below left mastoid process, on dissection parchment brownish black skin, present on further dissection ecchomosis at the margin of ligature mark on further dissection neck muscle ruptured, carotid artery damage, superior harm of thyroid cartilage fractured and are directed inverted, hyoid bone not fractured, all organ healthy, stomach contained some semi digested food, small intestine contains some chyme, large intestine, contained some fecal matter, bladder contain 50 CC urine, organ of generation external and internal within no abnormality detected.”*

**ARGUMENTS OF THE LEARNED COUNSEL FOR THE CONVICT-APPELLANT**

17. Though the cross-examination as made upon PW-6, and, which stands extracted hereinafter, does on its perusal reveal that, though thereons the learned counsel appearing for the convict-appellant may argue, that the recovered patti, is not a sharp edged weapon nor hence through its user any incised wound could be caused on the body of the deceased Jyoti. Moreover, he also on the basis of the above extracted cross-examination, as made upon PW-6, may make an argument, that the ligature marks as noticed on the body of both the deceased, when were different, besides when PW-6 echoes that the injuries received by both the deceased through user of the same weapon rather is not possible. Thus,

he may argue that the recoveries are false and contrived, and, that the patti is not the weapon of offence.

### **REASONS FOR REJECTING THE ABOVE ARGUMENTS**

18. However, the above made argument is not acceptable, as the ligature marks observed, to be occurring on the body of both the deceased, are merely pronounced by him, to be occurring thereons, through different weapons of offence being used thereons. Nonetheless, it does not cause any further inference, that the accused did not apply any dis-similar force and pressure, upon the relevant portion of the body(ies) of the deceased, which ultimately led to fatal asphyxia. If so, given the age of the minor child Akshra and, the advanced age of deceased Jyoti, thereupon did obviously require application of dis-similar force or pressure of hands rather by the accused on the relevant portion(s) of their respective bodies, hence resulting in fatal asphyxia being caused upon both. Importantly when he has not pronounced, that ligature marks were non causable through application thereons of pressure of hands.

19. Moreover, even if PW-6 has in his cross-examination stated, that he noticed, an incised wound on the body of the deceased Jyoti, and, also echoed that it was the result of a sharp edged weapon being used on the relevant portion of the body of deceased Jyoti. However, even if the recovered patti, which is the weapon of offence, is rather not a sharp edged weapon, yet patti Ex.P30 did not become shown to PW-6 nor any Court observations became made about the said patti having no sharp edges. If so, it can be concluded that the recovered patti, did have sharp edges and but as a natural corollary, the said sharp edged portion of the recovered patti, was possibly used by the accused, to cause incised wounds on the body of deceased Jyoti.

*“It is correct that there was semi digested food in stomach of both the deceased so both can take their last meal within three hours of*

*their death. It is correct that the ligature marks in the both dead bodies were different so the mode of injuries received by both the deceased by the same weapon are not possible. It is correct that there was incised wound on the dead body of Jyoti which was result of any sharp weapon.”*

### **SUMMARIZATION OF PRINCIPLES**

- I. Ligature marks existing on the relevant portion of the body(ies) of the deceased concerned, are therefore a sequel of application of pressure of hands by the accused, on the body of the deceased hence by the accused. Importantly when the above fact is not stated to be not possible by the Medical Expert concerned.
- II. The said inference may become staggered, but only then there is cogent evidence rather speaking about the said ligature mark(s) being caused by a mode other than through application of pressure of hands, on the relevant portion of the body of the deceased concerned.
- III. Even if the recovered weapon of offence, may not result in the causing of any incised wound on the body of the deceased, yet its user cannot be discarded, unless the purported recovered blunt weapon of offence, does also evidently have no sharp edges. In absence of the above cogent evidence, it is possible to conclude that the sharp edges of the blunt weapon concerned, rather become used to cause incised wounds on the body of the deceased concerned. Moreover, Court observations are also required to be made qua the recovered purportedly blunt weapon of offence rather not having sharp edges. If the above Court observations do not exist, thus the user of the sharp side of the blunt weapon concerned, can become inferred to cause incised wounds on the body of the deceased

concerned. Thus, naturally an explanation does also stem about the existence of incised wounds on the body of the deceased concerned. However, subject to death by asphyxia becoming established to be a false opinion, about the cause of the death of deceased concerned, if not, then fatal asphyxia caused through application of pressure of hands, on the person of the deceased concerned, as also the causing of incised wounds on the body of the deceased concerned, through user of the sharp edge of the blunt weapon concerned, do both rather conjointly incriminate the accused.

### **FINAL ORDER**

20. In consequence, the impugned verdict of conviction, and, also the consequent therewith order of sentence, as becomes recorded, and, imposed, upon convict 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 is on bail, thereupon the sentence, as imposed upon him be ensured to be executed by the learned trial Judge concerned, through his forthwith drawing committal warrants qua him. Case property if any be dealt with in accordance with law, but only after the expiry of the period of limitation for the filing of an appeal.

21. Records be sent down forthwith.

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

**2.12.2022**

Ithlesh

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

**(KULDEEP TIWARI)**  
**JUDGE**