

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 20th October, 2022

Pronounced on: 14th November, 2022

CRL.A. 1199/2019

HUMESH @ BABU @ MURARI

..... Appellant

Represented by: Mr. Ajay Garg, Ms. Tripti Gola,
Ms. Prista, Mr. Harjot Singh, Adv.

versus

STATE

..... Respondent

Represented by: Mr. Prithu Garg, APP for the State
with SI Ramesh, P.S. Nihar Vihar.

CRL.A. 1214/2019

AMIT

..... Appellant

Represented by: Mr. Piyush Pahuja, Adv.

versus

STATE

..... Respondent

Represented by: Mr. Prithu Garg, APP for the State
with SI Ramesh, P.S. Nihar Vihar.

CRL.A. 1448/2019

PARVEEN @ NAVEEN @ VIKKY

..... Appellant

Represented by: Mr. Ajay Garg, Ms. Tripti Gola,
Ms. Prista, Mr. Harjot Singh, Adv.

versus

STATE

..... Respondent

Represented by: Mr. Prithu Garg, APP for the State
with SI Ramesh, P.S. Nihar Vihar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. These appeals assail the impugned judgment dated 27th July, 2019 passed by the learned Trial Court convicting appellants Humesh @ Babu @ Murari, Parveen @ Naveen @ Vikky and Amit guilty for offence under Section 302/34 IPC and in addition convicting Parveen for offence under Section 27 of the Arms Act and Amit for offence punishable under Section 174A (Part I) IPC. The appeals further assail the order on sentence dated 31st July, 2019 sentencing the three appellants Umesh, Parveen and Amit for life imprisonment for the offence punishable under Section 302/34 IPC and a fine of Rs. 10,000/- each (RI for six months in default of payment of fine), and sentencing Parveen to rigorous imprisonment for three years for offence punishable under section 27 of the Arms Act and a fine of Rs. 2000/- (RI for six months in default of payment of fine) and sentencing Amit for simple imprisonment for 3 years for offence punishable under Section 174A(Part I). All sentences were to run concurrently.

Incident

2. As per the case of the prosecution, on 4th October, 2010 at 9.50 p.m. a PCR call was recorded vide DD No. 41A regarding stabbing of a person near House No. 470 near Dayama Dispensary, Chandan Vihar which was received at PS Nihal Vihar, Delhi. On receipt of the information IO, Inspector Jai Singh (PW-38) along with PW-3 Ct. Sunil Kumar and others reached the crime scene spot where they met PW-29 SI Bhanwar Singh, PW-32 HC Diwan Singh and PW-14 Ct.

Sushil Kumar. Bloodstained clothes and pair of bloodstained slippers were found on the spot and the IO came to know that the injured has been shifted to Global Hospital, Paschim Vihar by his family members. On visiting the hospital, the IO found that one Om Prakash aged 38 years resident of B-26, Amibka Enclave, Nihal Vihar, Delhi was found to be admitted with history of assault and stab injuries. His MLC (Ex. PW-20/A) was prepared, and the deceased was declared brought dead by the doctors. The dead body was sent to the mortuary and *post mortem* was conducted at about 11.00 a.m. on 5th October, 2010 at Sanjay Gandhi Memorial Hospital and the *post mortem* report (Ex PW-24/A) was prepared. The IO recorded the statement of the brother of deceased, Sunder Lal Chauhan (PW-11) who stated that on 4th October, 2010 at about 9.30 p.m., after having dinner along with the deceased and PW-7 Naresh Dayama, they came out of the shop of Rinku at B-470, Chandan Vihar, when the three appellants came carrying knives and sharp edged weapons. Parveen caught hold of the deceased and all of them attacked several times with knives and other weapons saying that they would teach him a lesson. The deceased fell on ground and when the complainant tried to save him, the appellants pushed him and fled away from the spot on motorcycles. PW-11 mentioned to the police that the deceased had started his new cable work after leaving the company and friendship of the appellants, who used to quarrel with him and demand money. Based on the complaint, FIR No. 211/2010 was registered under Section 302/34 IPC against all three appellants. The crime team inspected the spot, site plan was prepared, exhibits were lifted, statements of the witnesses were recorded under Section 161 Cr.P.C. and search of the appellants commenced. Appellant Parveen was arrested from Paschim Vihar,

and at his instance, the weapon of offence (knife) and his clothes were recovered. Thereafter, appellant Humesh was arrested on 6th November, 2010 and at his instance bloodstained clothes which he was wearing at the time of offence were recovered. Additionally, accused Ravinder @ Arjun who had been arrested in some other case was arrested on 15th December, 2010 and at his instance a bloodstained knife from Najafgarh drain was recovered. He also disclosed that one Raju Beniwal @ Ganja lodged in Tihar Jail had abetted to kill the deceased because of an old rivalry with the deceased. Appellant Amit could not be traced and bailable warrants were issued against him. Chargesheet was prepared against Parveen, Humesh and Ravinder and filed in learned Trial Court. Appellant Amit could not be arrested despite efforts and was declared proclaimed offender (PO). Later, the IO also filed supplementary charge sheet against appellant Amit before the learned Trial Court. Charges were framed against the appellants and in addition Ravinder. All of them pleaded not guilty and claimed trial. Later Amit was arrested, and charges were framed against him as well, who pleaded not guilty and claimed trial. The prosecution examined 42 witnesses in support of its case, the statement of the appellants were recorded under Section 313 Cr.PC and the appellants did not lead any evidence in defence.

Submissions on behalf of the Appellants

3. The appellants through their appeal and submissions made by their counsel submitted that they have been falsely implicated, and their name had not been mentioned at the very first instance. Even though the first information on the PCR was given by PW-8 Rinku but

the place of incident mentioned was different from the actual spot of incident. Further as per the MLC of the deceased, the victim was brought by his brother Madan Lal who neither disclosed the names of the assailants nor was examined by the prosecution. IO, PW-38 stated that he received the information that one person was lying injured due to stabbing by knife but when they reached the spot, they were informed that the injured had already been removed to the hospital. No statements of the public witnesses have been recorded. The appellants through their counsel further contended that PW-7 stated that the appellants were known to him prior to the incident as they resided in the same locality. PW-11 also stated that he knew the appellants from an earlier date, and they were friends of the deceased. He further stated that the appellants had quarreled with his brother 2-3 times and demanded money from him and therefore PW-7 and PW-11 had reasons to falsely implicate the appellants. It was further contended that there were contradictory versions regarding making a PCR call at the first instance. While PW-8 stated that he had made call from his number 987336325, PW-2 stated that it was received from mobile No. 9873386375. The site plan Ex. PW-11/B and scaled site plan Ex. PW-38/J do not show the position of the eyewitnesses. As per the site plan, point A showed where the appellants had stabbed the deceased whereas point B showed where he had fallen later. Nowhere in the testimonies of PW-7 and PW-11 was it mentioned as to how the deceased went from point A to point B. Despite the knife attacks by four appellants there was no blood found at point A which was sufficient to indicate that the incident did not happen at that point and there was also an absence of trail of blood from point A to point B thereby discrediting the testimony of PW-7 and PW-11. Learned

counsel for appellants further contended that there were contradictory statements of PW-7, PW-11 and PW-3 at whose instance the site plan was prepared. Also, there were material contradictions in the testimonies of PW-7, PW-11, PW-8 and PW-38. There was also doubt as to the duration of the incident since it was stated that 18 stab wound injuries were inflicted on the deceased within 2-3 minutes. PW-7's statement does not corroborate the testimony of PW-32 regarding meeting at the hospital. While he stated that he reached the hospital and met the police officials at 11:30 p.m. for the first time however testimony of PW-32 indicates that the police officials arrived at hospital at 10:20 p.m. Injury sustained by PW-7 does not match with the MLC report and while PW-7 deposed that they remained at PS till 5:00 a.m. however, PW-37 stated he had arrived in the PS at 5:00 a.m. It was contended that recovery of blood soaked clothes from the appellant by the Investigating Officer was after more than a month and was noted by learned Trial Court as being not believable. Also no DNA matching of the blood or the seized clothes was done.

The counsels for the appellants *inter alia* relied upon ***Jagir Singh v. State (Delhi)***, (1975) 3 SCC 562, ***Madathil Narayanan v. State of Kerala***, (2018) 14 SCC 513 on the issue of non-disclosure of names of the assailants at the earliest possible opportunity; ***Dinesh v. State of Haryana***, AIR 2002 SC 2374, ***Shingara Singh v. State of Haryana***, (2003) 12 SCC 758 and ***Vijay Singh v. State of M.P.***, 2004 SCC OnLine MP 308 on site plan discrepancy; ***Bhimappa Jinnappa Naganur v. State of Karnataka***, 1993 Supp (3) SCC 449, ***Rishi Pal v. State***, 1993 SCC OnLine Del 249 on the absence of trail of blood; ***Thangavelu v. State of T.N.***, (2002) 6 SCC 498 on animosity between appellant and deceased; ***Krishnegowda v. State of Karnataka***, (2017)

13 SCC 98 on discrepancies and contradictions between evidence of witnesses; *Kashinath Baban Palkar v. State of Maharashtra*, 1995 SCC OnLine Bom 167 on failure of prosecution to prove the place of incident; *Dilbagh Singh v. State*, 2018 SCC OnLine Del 6827, *Gurdial Singh v. State of Punjab*, 1994 Cri LJ 1231 on credibility of eye witnesses; *Raj Kumar, Sadhana and Akhilesh v. State*, 1996 SCC OnLine Del 533 on doubtfulness of recoveries and *Hem Raj v State of Haryana*, 2005 (3) SCALE 482 on credibility of related witnesses.

Submissions on behalf of the Prosecution

4. The learned Additional Public Prosecutor (APP) countering the submissions made by the learned counsel for the appellants submitted that the testimony of PW-11 was clear and categorical as an eyewitness and he had clearly identified the four appellants who had assaulted his brother. Further, the testimony of PW-7 corroborated the testimony of the complainant on all material aspects and he had also identified all four accused persons during deposition in Court. PW-7 was an injured witness having a small abrasion over his right ring finger. Minor discrepancies in the testimonies of PW-7 and PW-11 would show that they were natural and genuine witnesses and not tutored. PW-8 was not an eyewitness to the incident and was the owner of the shop where PW-7, PW-11 and the deceased were consuming beer. PW-8 confirmed that he had made a phone call to the police. As per the MLC, date and time of arrival was 10.00 p.m. which was within 30 minutes of the incident which took place at 9.30 p.m. as per the eyewitnesses. The MLC recorded the name of relative/friend as Madan Lal who was one of the brothers of the deceased and had been called by the complainant. The registration of FIR was done immediately, and post the arrest of the appellants, disclosure about the

co-accused and recovery of weapons from either the bushes or their house was done. The motive was very clear since the complainant had deposed that the appellants had quarrelled with the deceased 2 or 3 times on earlier occasions and used to demand money from him in relation to his separate work of cable connections. The appellants were unable to give satisfactory explanation in the statement recorded under Section 313 Cr.P.C. It was submitted by learned APP that the appellant Amit Kumar had been declared proclaimed offender in this regard.

The learned APP *inter alia* relied upon *Nizamuddin v. State of Delhi*, 2011 SCC OnLine Del 2177 and *Noor Salam v. State*, 2013 SCC OnLine Del 371 to further his contention that non-mention of names of assailants in MLC does not affect the case of the prosecution, and on *Munish Mubar v. State of Haryana*, (2012) 10 SCC 464 on the issue of failure of the appellants to give a satisfactory explanation in their statements recorded under Section 313, Cr.P.C.

Evidence

5. Evidence on record, relevant and necessary for an assessment of this case, is *inter alia* as under:

5.1 PW-7, Naresh Dayama, deposed that at about 8:30 p.m. on 4th October, 2010 he was sitting in the office of PW-8 Rinku Yadav and consuming beer with the deceased and PW-11. At about 9:30 p.m. when they came out, they found all four accused Amit, Parveen, Humesh and Ravinder (duly identified by PW-7) standing outside. PW-7 stated that Amit, Parveen and Humesh were known to him prior to the incident as they were residing in the same locality, but he did not know Ravinder. All the four accused reached outside the office of

Rinku Yadav on two motorcycles when they were a small distance from that place. Parveen and Amit were on one motorcycle while Humesh and Ravinder were on the other. All four then surrounded the deceased and said "*pehle jhagron main hamari aur badmaso se dushmani karwa di aur hame ab kharche ke liye paisa bhi nahi deta*" and thereafter Humesh started giving leg and fist blows to the deceased. Amit exhorted "*aaaj iska kaam tamam kar do*" and Parveen caught hold of the deceased from his neck and thereafter all four accused took out knives and started giving stab injuries. PW-11 tried to save him but the four accused push them and left the spot. Someone informed Madan Lal, brother of the deceased who reached the spot and the injured was taken by Madan Lal and PW-11 on a motorcycle to the hospital in Paschim Vihar. PW-7 followed them, but the doctors had declared the injured brought dead. Thereafter, the police was called and the investigation commenced. In his cross-examination he stated that he saw the accused persons at a distance of 10 to 15 steps and since there were two electricity poles outside the said place, light was sufficient. He stated that the incident took place within two minutes, but he cannot tell the description of the clothes that the accused were wearing. He further stated that the injured had fallen at a distance of 7 feet from the place of quarrel and that his clothes were not bloodstained as he did not try to lift the deceased.

5.2 PW-11, Sunder Lal Chauhan, the other eyewitness testified that when they left the shop of Rinku Yadav at about 9:30 p.m. and were at a small distance in front of the door, they found Parveen, Amit, Babu and other associates whom he did not know, while he identified three appellants since he had known them prior to the incident. All four had knives in their hands and Parveen held the neck of his brother while

Humesh snapped at his brother "*ek to mukhbari karta hai aur upar se hume hafta nahi deta hai.*" When Amit exhorted "*maar do saale ko*", all four attacked the deceased with knives. When he tried to save his brother they pushed him and ran away from the spot on two motorcycles. He raised an alarm but no public persons came to save and they were seeing the incident from some distance. PW-8 came there after the incident and called the PCR as also his brother Madan Lal came there with the other younger brother Mohinder. Their injured brother was taken to the hospital where he was declared dead. He further stated that all four accused had quarreled with his deceased brother 2-3 times, and they used to demand money from the brother since he had started separate work of cable connection.

5.3 PW-8, Rinku Yadav testified that PW-7 and PW-11 and the deceased were at his shop on that day consuming liquor and at about 9:30 p.m. they left the shop, and he started downing his shutter. When he entered his house he heard the cries of PW-11 asking for help and he opened the gate and came out for help and found the deceased lying in a pool of blood at a distance of 7-8 steps from his house. PW-11 told him that Parveen and his associates had attacked the deceased with knives and ran away from the spot upon which he made a PCR call from his mobile phone No. 9873386325. PW-11 also made a call to his brother who reached the spot and removed the injured to the hospital.

5.4 PW-20, Dr. Parveen Bhatia, testified regarding the deceased being brought to the casualty by his brother Madan Lal with stab injuries and preparing the MLC. PW-24, Dr. Manoj Dhingra, of Sanjay Gandhi Memorial Hospital along with Dr. J.V. Kiran

conducted *post mortem* on the body of the deceased and their observations were noted in the *post mortem* report Ex. PW-24/A. As per the *post mortem* report the cause of the death was hemorrhage and shock by injury No. 8 consequent to injury to the abdomen. All injuries were *ante mortem*, fresh in duration and caused by sharp weapons. Time of the death was about 12 hours prior. In subsequent opinions they indicated the injuries mentioned in the *post mortem* report are possible by the knives which were produced by the police at different stages.

5.5 PW-37, Dr. Mahipal Singh, CMO at SGMH, testified that at about 5:00 a.m. on 5th October, 2010, Dr. Kumar had examined patient Naresh Dayama and prepared the MLC Ex. PW-37/A, as per which there were abrasions over the right ring finger of PW-7.

5.6 PW-38, Inspector Jai Singh, was the IO and stated that at about 9:50 p.m. on 4th October, 2010 he received an information on the wireless that one person was lying injured due to stabbing by knife near Dayama Dispensary. He reached the spot along with the staff and saw blood lying at the spot and a pair of slippers. On having come to know that the injured was already removed to Global Hospital in Paschim Vihar, he reached there to find that the injured had been declared brought dead. The mobile crime team was also present at the spot and prepared a scene of crime report (Ex. PW38/B) and the rough site plan was also prepared on pointing out of PW-11. The blood on the spot as well as the bloodstained earth control were seized *vide* seizure memo PW-11/C. On 16th October, 2010, directed a police team to go to Jaipur and Alwar for search and arrest of the accused persons but they could not find any clue. But on 19th October, 2010, at about

12.00 noon, on the basis of secret information, they apprehended Parveen at about 12.40 p.m. His disclosure statement Ex. PW-27/C was recorded as per which he got recovered one *buttondar* knife allegedly used in the offence from the bushes towards I.G. colony. The blade was having blood stains and the knife was seized *vide* seizure memo Ex. PW-10/B. The appellant Parveen disclosed the names of the co-accused and on 20th October, 2010, they recovered blood stained clothes from the house of Parveen which were duly seized *vide* seizure memo PW-7/E. On 06th October, 2010, having got to know that there was one person in drunken state hurling abuses near Rajinder Public School, they found that one person in drunken condition had already been given beatings by the public and his name was disclosed to be Humesh and was later identified by PW-11. On the basis of disclosure of Humesh they recovered blood stained clothes from his house which were duly seized *vide* seizure memo Ex. PW-29/C. On 15th December, 2010, appellant Ravinder was arrested in Tis Hazari Complex who was already summoned there in another case. The appellant was kept in muffled face and an application for TIP was moved but he refused to join the TIP. At the instance of appellant Ravinder, one *buttondar* knife was recovered which was seized *vide* seizure memo PW-7/C. The forensic examination reports were testified to by PW-21 and PW-22 and were exhibited as Ex. PW-21/A, 21/B and 22/A. As per the FSL report, ethyl alcohol was found in the viscera and blood of the deceased. Blood was also found on the clothes Ex. 5a to 5e and as per serological report Ex. 21/B the it was of blood group A which was same as the blood group of the deceased. The blood on the slippers was found to have human blood but the serological report showed 'No reaction'. Further, blood was found on the knife recovered from

appellant Parveen and as per the serological report same was of blood group A, the same as that of the deceased. The blood stained pants recovered from the appellant Humesh showed blood group A as well.

Analysis

6. Pursuant to examination of the evidence on record and appreciation of the contention of the parties, this Court is of the considered view that the prosecution has been able to prove the guilt of the appellants beyond reasonable doubt, for *inter alia* the following reasons:

6.1 The death of the deceased Om Prakash was clearly homicidal in nature as is evident from the testimony of PW-20 the doctor who prepared his MLC and PW-24 the doctor who conducted the *post mortem* on the deceased and a perusal of the *post mortem* report Ex. 24/A as per which the cause of death was hemorrhage and shock by injury No. 8 which was a stab wound horizontally placed single edged present on midline front of upper third of abdomen, 3.5cm x 0.6 cm and vertebral column deep. This injury as well as others were all *ante mortem* in nature, fresh in duration and caused by a sharp weapon. It is also evident from the *post mortem* report that there were 14 external injuries which were mostly incised wounds including multiple stab wounds on the face, abdomen and shoulders.

6.2 The incident was eye-witnessed by PW-7 and PW-11 both of whom gave clear and cogent testimonies regarding the sequence of events that when they left the office/shop/godown of PW-8 Rinku Yadav at about 9.30 p.m. having consumed beer with the deceased and came out outside saw the four accused standing outside and who later accosted the deceased and gave multiple stab injuries. This is

corroborated in the FSL report Ex. PW-22/A which reports that ethyl alcohol was found in the viscera and blood of the deceased. PW-7 in fact was an injured witness since his MLC Ex. PW-37/A reported that there were abrasions over the right finger of PW-7. As per principles settled by long chain of decisions *inter alia State of U.P. v. Naresh*, (2011) 4 SCC 324, *Jodhan v. State of M.P.*, (2015) 11 SCC 52, *Bhagirath v. State of M.P.*, (2019) 17 SCC 581 testimony of an injured witness must be given serious credence. The testimonies of both PW-7 and PW-11 are consistent on the fact that the appellants were all carrying knives, that the deceased collapsed on the ground, that PW-11 tried to save him but was pushed by the appellants who ran away, that PW-11 raised an alarm and had to call the brother of the deceased. Both PW-7 and PW-11 identified the appellants in the Court.

6.3 Both PW-7 and PW-11 also testified that they had known appellants Amit, Parveen and Umesh prior to the incident and therefore were able to identify them. Their testimonies were also consistent regarding carrying the injured Om Prakash to the hospital and that he was taken by Madan Lal and PW-11 on the motorcycle and on arrival he was declared dead. The MLC Ex. PW-20/A of Om Prakash of the deceased clearly states that Madan Lal (brother) had brought the deceased to the hospital. Since PW-11 had driven to the deceased to the hospital on his motorcycle, his blood stained clothes were seized and as per the FSL report Ex. PW-21/A, the blood found on the said clothes was of blood group A same as that of the deceased.

6.4 The bloodstained slippers which were seized by the police *vide* seizure memo Ex. PW-11/C were also identified by Ex. PW-11 in the Court.

6.5 Rest of the points submitted by the counsel for the appellants regarding the call to the police, the position of the eyewitnesses, the site plans contradiction between testimonies of PW-7 and PW-11 are all minor and have to be disregarded considering that the testimonies are otherwise cogent, clear and consistent with no material contradictions. As regards the contention that there was no blood on the spot of incident it is noted that the IO PW-38 testified that blood found on the spot was picked with the help of cotton and the said cotton was duly seized which was exhibited as Ex. PW-11/C wherein at point 2 the collection of the blood is noted. The reference to the lack of complete detailed information in the unscaled site plan and in a scaled site plan is not substantial to exculpate the appellants considering that the scaled site plan showed clearly the two points from where the appellants stabbed the deceased and where he finally fell down which is corroborated by the testimonies of both PW-7 and PW-11 who had stated that they had tried to save him but the appellants had pushed them back and therefore it was quite clear that some movement must have happened in the process after the deceased was first accosted. In fact, PW-8's testimony also shows that deceased was found lying in a pool of blood at a distance of 7-8 steps from his house. In any event minor discrepancies on the issue would not discredit the otherwise consistent testimonies of the eyewitnesses. PW-8 testimony offers useful *res gestae* evidence as per Section 6 of the Indian Evidence Act being relevant since forming part of the same transaction.

6.6 The contention of the appellants that the MLC of Om Prakash records that the deceased was brought with a history of assault and stab injury by unknown persons and therefore cannot be used against

the appellants, has been successfully countered by learned APP who stated that the same MLC also mentioned that this information was given by “attendant” and that “*details of events not available at present*”. It is natural that when a person has been stabbed multiple times with at least 18 external injuries in critical parts of the body and had been rushed to hospital, the primary objective is to try to save that person’s life rather than give extensive details to the doctor at that stage. Learned APP has rightly relied upon the decision of the Division Bench of this Court in **Nizamuddin v. State of Delhi**, 2011 SCC OnLine Del 2177 and of learned Single Judge of this Court in **Noor Salam v. State**, 2013 SCC OnLine Del 371.

6.7 There was no delay in registration of the FIR since the incident has taken place on 14th October, 2010 at 9:30 p.m., the injured was admitted in the hospital at 10:00 p.m. and the IO along with other police officials reached the crime spot and the hospital, the *rukka* was prepared at 11:40 p.m. and accordingly the FIR was subsequently registered.

6.8 There was recovery of weapon on the disclosure of the appellant Parveen of the *buttondar* knife from the bushes; blood on the knife as per FSL report Ex. PW-21/A and serological report Ex. PW-21/B was of blood group A, same as that of the deceased. In opinion of the doctors who had conducted the *post mortem*, the injuries could have been caused by this knife. At the instance of appellant Humesh, the clothes that he was wearing at that time of incident were recovered and a pant showed human blood which was detected as blood group A, matching with blood group of the deceased.

6.9 The motive for the appellants to kill the deceased was apparent and evident from the testimony of PW-7 and PW-11 who had stated that there was a prior quarrel of the appellants with the deceased and they had demanded money from the deceased since he used to be their associate earlier but had started a separate work of cable connection thereafter. The appellant Parveen also admitted to the hostility that they had *inter se* with the deceased, in answer to question No. 110 in the statement recorded under Section 313 Cr.P.C. Appellant Humesh also admitted in answer to question number 2 in his statement recorded under Section 313 Cr.P.C. that he knew PW-7 Naresh Dayama and he was a resident of the same locality which further corroborates the testimony of PW-7 that he knew some of the appellants including Humesh prior to the incident and therefore could identify them.

6.10 Appellant Amit was declared as proclaimed offender and the testimony of PW-42 ASI Desh Raj gives an extensive narration of the attempt to locate appellant Amit in his village Malakhera which as per the statement recorded under Section 313 Cr.P.C. was admitted to be his village by appellant Amit.

Conclusion

7. In light of the above discussion and analysis, this Court finds that the guilt of the appellants for the murder of the deceased has been proved beyond reasonable doubt and duly supported by evidence led by the prosecution. Consequently, this Court finds no error in the impugned judgment of conviction and order on sentence by the learned Trial Court.

8. Appeals are accordingly dismissed.

2022/DHC/004866

9. Copy of this judgment be uploaded on website and be also sent to Superintendent, Tihar Jail for intimation to the appellants and updation of records.

**(ANISH DAYAL)
JUDGE**

**(MUKTA GUPTA)
JUDGE**

November 14, 2022/rk

