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

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Reserved on: 25th May, 2022Pronounced on: 2nd September, 2022

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CRL.A. 585/2019

KARIM @ JALELA

.... Appellant

Represented by: Ms. Kavita Jha, Mr. Aditeya
Bali, Advs. DHCLSC.

versus

STATE

....Respondent

Represented by: Mr. Tarang Srivastava, APP for
State with Insp. Vikas Pannu,
PS Hazrat Nizamuddin.

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CRL.A. 923/2019

SARTAJ@ALLAHARAKHA

....Appellant

Represented by: Mr. Ajay Verma, Adv.
DHCLSC.

Versus

STATE

....Respondent

Represented by: Mr. Tarang Srivastava, APP for
State with Insp. Vikas Pannu,
PS Hazrat Nizamuddin.**CORAM:****HON'BLE MS. JUSTICE MUKTA GUPTA****HON'BLE MS. JUSTICE MINI PUSHKARNA****J U D G M E N T****MINI PUSHKARNA, J.**

1. By these appeals, the appellants challenge the common judgment of conviction dated 29.01.2019 and order on sentence dated 01.02.2019 in Sessions Case No. 1661/2016 in FIR No. 157/2013 under Section 302/34 IPC, PS- Hazrat Nizamuddin, Delhi, whereby the appellants were convicted for having committed offence



punishable under Section 302/34 IPC, and sentenced to undergo imprisonment for life and to pay a fine of Rs.10,000/- each; in default of payment of fine to undergo simple imprisonment for 6 months. The appellants were given benefit under Section 428 Cr.P.C.

2. Prosecution version in the present case flowing from the charge sheet is that an information regarding stabbing of a person in graveyard, Lala Lajpat Rai Marg, was received at police station Hazrat Nizamuddin on 28.05.2013. Insp. Binay Singh (PW21) along with constable reached there at around 4 P.M. and found that one boy aged about 24-25 years was lying unconscious in pool of blood inside the *Kabristan*. The injured was taken to AIIMS Trauma Centre. PW21 made inquiries at the spot and it was revealed that the name of the injured was Raja, thereafter PW21 reached the AIIMS Trauma Centre where the injured was declared brought dead by the doctor. PW21 came back at the spot of the incident and recorded statement of witnesses, including statement of PW10 who was playing near the place of occurrence at the time of incident.

3. From the version given by witnesses, PW21 came to know that deceased Raja was last seen in the company of the appellants herein. Thereafter, search of suspects was conducted and on the basis of secret information, on 04.06.2013 accused Hari Dutt and Karim @ Jalela were apprehended from under Defence Colony flyover. Both accused Hari Dutt and Karim @ Jalela disclosed that their two other associates namely X (Juvenile in conflict with law) and Sartaj @ AllahaRakha were also with them at the time of incident. Raja was beaten by them on the issue of dividing of share of booty obtained by



them after the snatching incident that took place in the area of P.S. Lodhi Colony. Accused Karim @ Jalela took police party to MCD toilet near Sun Light Colony towards Sarai Kale Khan and from the garbage lying near railway track, got recovered one blood stained t-shirt which he disclosed to have worn at the time of incident. The said t-shirt was seized vide Seizure Memo Ex. PW7/L.

4. Thereafter, accused Karim @ Jalela and Hari Dutt took police party to one Dinesh Paswan to whom one mobile phone was sold by accused Sartaj @ Allaharakha, which contained his voice recording. Dinesh Paswan was interrogated who produced one mobile phone of Karbonn make which he stated to have purchased from accused Sartaj @ Allaharakha. The mobile phone was seized and checked and it was found to contain a memory card which had the voice of accused Sartaj @ Allaharakha talking to one lady wherein he admitted that he had caused the death of Raja. The mobile phone was seized vide Seizure Memo Ex. PW7/D. The conversation contained in the mobile phone was saved in the official computer from the memory card of the mobile phone and subsequently sent to CFSL for examination.

5. On 06.06.2013, S.I. Dinesh apprehended "X" (juvenile in conflict with law) from Madhubani, Bihar and brought him to Delhi. On 08.06.2013, X got recovered one shirt and a knife from a place in Defence Colony. Since X was a juvenile in conflict with law at the time of commission of crime, separate proceedings qua him were carried out. On 21.06.2013, accused Sartaj @ Allaharakha surrendered in Saket Court and was arrested vide Arrest Memo Ex. PW15/A, and taken in police custody. During police custody, accused Sartaj @



Allaharakha took police party to Defence Colony, Ganda Nala and got recovered one shirt and one knife. He disclosed that the shirt which was recovered at his instance was worn by him at the time of incident. The shirt and knife were seized vide Memo Ex.PW15/D&E.

6. After conclusion of investigation, the appellants herein and Hari Dutt were charge-sheeted under Section 302/34 IPC. They pleaded not guilty, which necessitated the trial. The prosecution examined 24 witnesses to substantiate the charge against the accused. On completion of trial, appellants were convicted for offences under Section 302/34 IPC, whereas Hari Dutt was acquitted. Hence, the present appeals on behalf of the appellants.

7. We have heard learned Counsels for the appellants at considerable length. The principal contention is that the entire case against the appellants was based on surmises and conjectures, which had not been proved beyond reasonable doubt. Further there were inconsistencies in the statement of PW10, the child witness, that have not been considered by the Trial Court. It was argued that PW10 has stated that he saw three persons, the appellants herein and X, whereas as per the prosecution version four persons were there. PW10 did not name accused Hari Dutt as being seen there, indicating that the child witness, PW10 was not present at the spot at the time of the incident. PW10 stated in his cross-examination that it was around 4:30 PM when the alleged incident took place, whereas as per other witnesses the incident took place at around 3 PM and thus this witness cannot be relied upon. It was further argued that there were contradictions in the deposition of PW10 from his statements recorded under Section 161



Cr.P.C. and 164 Cr.P.C. In his statement recorded under Section 161 Cr.P.C. he stated that he was playing along with his friends near the drain, when they saw a boy being stabbed by three to four persons; whereas in his statement under Section 164 Cr.P.C., it was stated that he was playing with his friends near *Kabristan* when they saw that Raja was held by three persons and they stabbed Raja with a knife; on the other hand during his examination-in-chief, PW10 stated that he was bringing food and when he reached near the *Kabristan* at Nizamuddin, he saw that some persons were stabbing Raja. The said witness PW10 had stated in his cross-examination that the accused persons were shown to him in the police station when he went there, clearly indicating that the witness was deposing in the court falsely at the instance of police/investigating agency. Further, PW10 had stated in his cross-examination that other children were playing with him on the date of the incident, but the prosecution did not examine these other eye-witnesses. The Trial Court had solely relied on the testimony of PW10 and failed to appreciate that other witnesses had given inconsistent statements. Further, the Trial Court failed to appreciate that no TIP proceedings were conducted for PW10 and it was highly doubtful how could the witness identify the accused persons in the court without the TIP proceedings. Thus, it was contended that the witness was a planted witness.

8. On the other hand, learned APP for the State justified the impugned judgment and sentence and argued that PW10, the child witness was the star eye witness who had seen the accused stabbing the deceased. He argued that PW 10 was a natural witness and the



identity of the accused persons who assaulted the deceased with knife, was established by the statement of PW10. He further relied upon the CFSL report as well as report of forensic expert with regard to voice recording of Sartaj @ Allaharakha.

9. Both the parties have filed written submissions which have been duly considered. We have also perused the entire evidence on record.

10. Perusal of record shows that PW10, the child witness stated that he was playing with other children near the place of occurrence when the offence was committed. He deposed that on the date of incident at about 3 PM, he was bringing food and when he reached near *Kabristan* at Nizamuddin, he saw some persons were stabbing Raja by knife. Raja was earlier known to him as Raja used to work in a kheera (cucumber) shop where he also used to work earlier. He saw that two persons were stabbing while the third one was holding Raja. He gave names of those persons as the present appellants and X, juvenile in conflict with law. PW10 further deposed that the present appellants were stabbing Raja on his stomach and chest with knife and X, juvenile in conflict with law, had caught hold of Raja from back side. He further deposed that he can identify the accused persons if shown to him. PW10 was shown appellant Karim @ Jalela through video link and he identified him as the same person who stabbed Raja with knife. He was also shown Sartaj @ Allaharakha through video link and he identified him as the same person who stabbed Raja with knife. The Trial Court has recorded that at the time of recording of his testimony PW10 repeatedly said that accused persons will kill him after coming out of jail. It is thus evident that with such terror in his mind qua the



accused, he would not implicate the appellants falsely and was speaking the truth.

11. It is seen from the record that the incident in question took place on 28.05.2013 and statement of PW10 under Section 161 Cr.P.C. was recorded on the same date on 28.05.2013. His statement under Section 164 Cr.P.C. was recorded before the learned MM, Saket Court on 17.08.2013. The said eyewitness, PW10 has been consistent in identifying the accused persons who assaulted the deceased with knife. He has remained consistent and unflinching in his deposition even during his cross examination. PW10 has not denied the presence of the accused persons at the spot even during his cross-examination. He has identified the appellants herein through video link. Further, the accused persons have not suggested any enmity between them and PW10. PW10 was aged 7 at the time of the incident and was aged 9 at the time of his examination.

12. The other public prosecution witnesses did not support the prosecution case and made contradictory statements. However, PW10 the child witness who witnessed the whole incident was consistent and steady in his deposition regarding the appellants being the persons who assaulted the deceased. The testimony of PW10 is corroborated by the scientific evidence on record i.e. the CFSL Result (biological examination), Ex. PW21/J, CFSL Result (serological examination), Ex. PW21/K. As per CFSL Result (biological examination), Ex. PW21/J, DNA profile generated from the blood on shirt of Sartaj @ Allaharakha and t-shirt of Karim @ Jalela and knife recovered from the accused Sartaj @ Allaharakha, were found to be consistent



with the DNA profile of deceased Raja. Thus, the version given by PW10 that deceased was assaulted with knife by the present appellants is fully corroborated by the CFSL Result, Ex.PW21/J as well as the Postmortem Report, Ex. PW23/A according to which the cause of death in this case was shock and hemorrhage as a result of multiple stab injuries to chest and abdomen caused by a sharp object. Further, as per Serological Report, Ex. PW21/K, blood group detected from the blood sample taken from the t-shirt of accused Karim @ Jalela and knife recovered from Sartaj @ Allaharakha matched with the blood group of deceased Raja. As rightly held by the learned Trial Court, these reports are the clinching evidence which have linked the appellants herein with the offence committed in the present case. The appellants have not explained as to how DNA profile of blood found on their shirt/t-shirt as well as on the knife recovered from Sartaj @ Allaharakha matched with the DNA profile of deceased Raja.

13. The evidence of PW10 has been found to be reliable and trustworthy. It is well settled that it is the quality of evidence that matters and not quantity. No insistence can be laid on plurality of witnesses. Testimony of a solitary witness including a child witness can be made the basis of conviction. Hon'ble Supreme Court has held that even if the case against the accused rests on the evidence of a single eye witness, it may be enough to sustain the conviction given sterling testimony of a competent, honest witness although as a rule of prudence courts call for corroboration. Reference may be made to the judgment in the case of Prithipal Singh and Ors. Vs. State of Punjab



and Anr. (2012) 1 SCC 10, wherein the Hon'ble Supreme Court has held as follows:

“49. This Court has consistently held that as a general rule the court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Evidence Act. But if there are doubts about the testimony, the court will insist on corroboration. In fact, it is not the number or the quantity, but the quality that is material. The time-honoured principle is that evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise. The legal system has laid emphasis on value, weight and quality of evidence, rather than on quantity, multiplicity or plurality of witnesses. It is, therefore, open to a competent court to fully and completely rely on a solitary witness and record conviction. Conversely, it may acquit the accused in spite of testimony of several witnesses if it is not satisfied about the quality of evidence.”

14. At this stage it may be useful to refer to the judgment of the Hon'ble Supreme Court in Dattu Ramrao Sakhare and Ors. Vs. State of Maharashtra (1997) 5 SCC 341, wherein as regards competency and credibility of a child witness, following observations have been made:

“5. The entire prosecution case rested upon the evidence of Sarubai (PW2) a child witness aged about 10 years. It is, therefore, necessary to find out as to whether her evidence is corroborated from other evidence on record. A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words even in



the absence of oath the evidence of a child witness can be considered under Section 118 of the Evidence Act provided that such witness is able to understand the questions and able to give rational answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored. There is no rule or practice that in every case the evidence of such a witness be corroborated before a conviction can be allowed to stand but, however as a rule of prudence the court always finds it desirable to have the corroboration to such evidence from other dependable evidence on record. In the light of this well-settled principle we may proceed to consider the evidence of Sarubai (PW 2)''

15. Bearing the above principles laid down by Hon'ble Supreme Court, we are satisfied that PW10 is a reliable and trustworthy witness. His deposition is also corroborated by scientific evidence on record, as discussed earlier.

16. As regards the discrepancies urged by the appellants in the depositions of PW10, the said discrepancies as pointed out, are minor and insignificant discrepancies. PW10 has remained steadfast and consonant in identification of the appellants as the persons who had assaulted the deceased. Further, as already held, the deposition of PW10 is corroborated by the scientific evidence on record which clearly connects the appellants to the crime in question. In cases of minor and insignificant discrepancies in the deposition of a witness, Hon'ble Supreme Court has held that discrepancies which do not go to



the root of the matter and shake the basic version of the witnesses cannot be annexed with undue importance. In the case of Bharwada Bhoginbhai Hirjibhai Vs. State of Gujarat, (1983) 3 SCC 217, Hon'ble Supreme Court has held as follows:

"5.We do not consider it appropriate or permissible to enter upon a reappraisal or reappreciation of the evidence in the context of the minor discrepancies painstakingly highlighted by learned counsel for the appellant. Over much importance cannot be attached to minor discrepancies. The reasons are obvious:

- (1) By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.*
- (2) Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.*
- (3) The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind, whereas it might go unnoticed on the part of another.*
- (4) By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape-recorder.*



- (5) *In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess-work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.*
- (6) *Ordinarily a witness cannot be expected to recall accurately the sequence of events which takes place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.*
- (7) *A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination made by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him – Perhaps it is a sort of a psychological defence mechanism activated on the spur of the moment.*

6. Discrepancies which do not go to the root of the matter and shake the basic version of the witnesses therefore cannot be annexed with undue importance. More so when the all important 'probabilities factor' echoes in favour of the version narrated by the witnesses."



17. The contention raised on behalf of appellants regarding no TIP having been conducted in the present matter, holds no water since it has come on record that during the course of his deposition, PW10 was shown the appellants through video link and he identified both the present appellants as the persons who had stabbed deceased Raja with knife. The contention that PW10 could not have identified the accused persons in the court without TIP proceedings, is totally unwarranted and rejected.

18. Further, as regards PW10 not naming accused Hari Dutt as being present at the time of incident is concerned, Hari Dutt has already been granted the benefit thereof and acquitted by the Trial Court holding that charges could not be proved against him.

19. It is also pertinent to mention that PW10 upon his re-examination by the learned APP for the State had categorically deposed that he had not seen the accused persons at the police station when he visited there. Upon cross-examination by counsel for the appellants, PW10 deposed in categorical terms that the accused persons were never shown to him either at the police station or in court. Therefore, the contention on behalf of the appellants on this aspect, is wholly untenable.

20. At this stage, another scientific evidence viz. report of forensic expert Ex. PW21/L may be referred to. The said exhibit pertains to Report of Physics Division, Central Forensic Science Laboratory, Central Bureau of Investigation with respect to examination of voice recording of Sartaj @ Allaharakha contained in compact disk having



recorded conversation of total duration of approximately 16 minutes and 21 seconds with his specimen voice.

21. Before discussing the aforementioned evidence, it may be useful to advert to the law laid down by Hon'ble Supreme Court as regards admissibility of tape recorded conversation. Hon'ble Supreme Court in the case of ***Ram Singh and Ors Vs Col. Ram Singh***, 1985 (Supp) SCC 611 has held as follows:-

“32. Thus, so far as this Court is concerned the conditions for admissibility of a tape-recorded statement may be stated as follows:

“(1) The voice of the speaker must be duly identified by the maker of the record or by others who recognise his voice. In other words, it manifestly follows as a logical corollary that the first condition for the admissibility of such a statement is to identify the voice of the speaker. Where the voice has been denied by the maker it will require very strict proof to determine whether or not it was really the voice of the speaker.

(2) The accuracy of the tape-recorded statement has to be proved by the maker of the record by satisfactory evidence — direct or circumstantial.

(3) Every possibility of tampering with or erasure of a part of a tape-recorded statement must be ruled out otherwise it may render the said statement out of context and, therefore, inadmissible.

(4) The statement must be relevant according to the rules of Evidence Act.

(5) The recorded cassette must be carefully sealed and kept in safe or official custody.

(6) The voice of the speaker should be clearly audible and not lost or distorted by other sounds or disturbances.”



22. Similarly, in the case of ***RM Malkani Vs State of Maharashtra***, (1973) 1 SCC 471, Hon'ble Supreme Court has held as follows:-

“23. Tape recorded conversation is admissible provided first the conversation is relevant to the matters in issue; secondly, there is identification of the voice; and, thirdly, the accuracy of the tape recorded conversation is proved by eliminating the possibility of erasing the tape record. A contemporaneous tape record of a relevant conversation is a relevant fact and is admissible under Section 8 of the Evidence Act. It is res gestae. It is also comparable to a photograph of a relevant incident. The tape recorded conversation is therefore a relevant fact and is admissible under Section 7 of the Evidence Act. The conversation between Dr Motwani and the appellant in the present case is relevant to the matter in issue. There is no dispute about the identification of the voices. There is no controversy about any portion of the conversation being erased or mutilated. The appellant was given full opportunity to test the genuineness of the tape recorded conversation. The tape recorded conversation is admissible in evidence.”

23. Keeping in mind the aforesaid principles as laid down by Hon'ble Supreme Court, let us now consider the facts of the present case.

24. From perusal of the documents on record, it transpires that Sartaj @ Allaharakha had sold a mobile phone to Dinesh Paswan (PW8). The mobile phone was seized and checked and it was found that it contained a memory card which had the voice of accused Sartaj @ Allaharakha talking to one lady, wherein he admitted that he had caused the death of Raja. The mobile phone was seized vide Seizure Memo Ex. PW7/D. Perusal of Seizure Memo of mobile phone, Ex. PW-7/D shows that the memory card of the seized phone was copied



in the official computer of the police on 08.06.2013 with the help of SIM Reader. The said copy was kept in a separate folder for further investigation in the official computer. The said mobile was thereafter kept in a sealed box. Perusal of Ex. PW7/N, Seizure Memo of CD containing voice, shows that the voice as contained in the memory card of the seized phone, was copied in a CD from the official computer of the police. The said CD was kept in a sealed envelope.

25. Subsequently, vide Seizure Memo of voice sample of Sartaj @ Allaharakha, Ex. PW7/M, his voice sample was recorded, which was duly sealed after recording of the specimen voice.

26. The voice recorded in the mobile phone recovered from Dinesh Paswan matched with the voice sample of Sartaj @ Allaharakha. Appellant, Sartaj @ Allaharakha has admitted to his crime in the conversation found recorded in the mobile phone recovered from Dinesh Paswan. Though the learned Trial Court has rejected the said evidence on the ground that the integrity of the data contained in the mobile phone becomes doubtful, the said piece of evidence is key material evidence pointing to the guilt of the accused. PW24, Shri Amitosh Kumar, Senior Scientific Officer (Physics) CFSL, CBI, New Delhi has categorically deposed that he examined the specimen voice sample of accused Sartaj @ Allaharakha, Ex.Q-1(I)(A) and the voice found in the CD and micro SD Card, Ex. S-1(I)(A), was probable voice of Sartaj @ Allaharakha on the basis of auditory and spectrographic examination, his detailed report being Ex. PW21/L. It is noticed that the said conversation as recorded in the aforesaid mobile, was not in the nature of confession to the Investigation



Officer/the police, but a routine and regular conversation which Sartaj @ Allaharakha had with another lady, to whom he had admitted about assaulting Raja. Therefore, the said piece of evidence cannot be rejected merely on the basis that the data from the mobile phone was copied by PW21, Insp. Binay Singh on a Compact Disk and thereafter sent for forensic examination. There is nothing on record to raise any doubt on the veracity of the said evidence, or to suggest that the said voice recording has been tampered in any manner, especially when the aforesaid voice recording is not a confession to the police but a conversation in the normal course by the accused with a lady.

27. It is noted that in the present case, the aforesaid extra-judicial confession was made by the appellant Sartaj @ Allaharakha prior to his arrest by the police. Therefore, question of the said confession being made under any inducement, threat or promise does not arise. Even otherwise, *de hors* this evidence, the prosecution has been able to establish its case against the appellants doubtlessly.

28. An extra-judicial confession can be used to convict the accused persons, especially when there is enough evidence to corroborate the extra-judicial confession. Reference may be made to the judgment in the case of Gura Singh Vs. State of Rajasthan, (2001) 2 SCC 205 wherein the Hon'ble Supreme Court has held as follows:

“6. It is settled position of law that extrajudicial confession, if true and voluntary, it can be relied upon by the court to convict the accused for the commission of the crime alleged. Despite inherent weakness of extrajudicial confession as an item of evidence, it cannot be ignored when shown that such confession was made before a person who has no reason to state



falsely and to whom it is made in the circumstances which tend to support the statement. Relying upon an earlier judgment in Rao Shiv Bahadur Singh v. State of Vindhya Pradesh this Court again in Maghar Singh v. State of Punjab held that the evidence in the form of extrajudicial confession made by the accused to witnesses cannot be always termed to be a tainted evidence. Corroboration of such evidence is required only by way of abundant caution. If the court believes the witness before whom the confession is made and is satisfied that the confession was true and voluntarily made, then the conviction can be founded on such evidence alone. In Narayan Singh v. State of M.P. this Court cautioned that it is not open to the court trying the criminal case to start with a presumption that extrajudicial confession is always a weak type of evidence. It would depend on the nature of the circumstances, the time when the confession is made and the credibility of the witnesses who speak for such a confession. The retraction of extrajudicial confession which is a usual phenomenon in criminal cases would by itself not weaken the case of the prosecution based upon such a confession. In Kishore Chand v. State of H.P. this Court held that an unambiguous extrajudicial confession possesses high probative value force as it emanates from the person who committed the crime and is admissible in evidence provided it is free from suspicion and suggestion of any falsity. However, before relying on the alleged confession, the court has to be satisfied that it is voluntary and is not the result of inducement, threat or promise envisaged under Section 24 of the Evidence Act or was brought about in suspicious circumstances to circumvent Sections 25 and 26. The court is required to look into the surrounding circumstances to find out as to whether such confession is not inspired by any improper or collateral consideration or circumvention of law suggesting that it may not be true. All relevant



circumstances such as the person to whom the confession is made, the time and place of making it, the circumstances in which it was made have to be scrutinized. To the same effect is the judgment in Baldev Raj v. State of Haryana. After referring to the judgment in Piara Singh v. State of Punjab this Court in Madan Gopal Kakkad v. Naval Dubey held that the extrajudicial confession which is not obtained by coercion, promise of favour or false hope and is plenary in character and voluntary in nature can be made the basis of conviction even without corroboration.”

29. To similar effect is the judgment in the case of Ram Singh Vs. Sonia and Ors., (2007) 3 SCC 1, on the issue of extra-judicial confession.

30. In the facts and circumstances of the case as discussed hereinabove, we are satisfied that the prosecution has proved the charge under Section 302/34 IPC against the appellants herein beyond reasonable doubt. Thus, the judgment of conviction and order on sentence passed by the Sessions Court, is upheld.

31. Appeals are accordingly dismissed.

32. Copy of the judgment be sent to the Superintendent Jail for updating the records and intimation to the appellants.

**(MINI PUSHKARNA)
JUDGE**

**(MUKTA GUPTA)
JUDGE**

SEPTEMBER 02, 2022/au