

In the High Court of Punjab and Haryana at Chandigarh

1. **CRA-D-40-2021 (O&M)**
Reserved on: 17.8.2023
Date of Decision: 23.8.2023

Sandeep Singh @ AkashAppellant

Versus

State of PunjabRespondent

2. **CRA-D-1071-2022 (O&M)**

Raju TiwariAppellant

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Aakash Singla, Advocate
for the applicant-appellant (in CRA-D-40-2021).

Mr. Mandeep Singh Gill, Advocate for
Mr. Arshdeep Singh Brar, Advocate
for the appellant (in CRA-D-1071-2022).

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. Since both the above appeals arise from a common verdict, made by the learned trial Judge concerned, hence both the appeals (supra) are amenable for a common verdict being made thereons.

2. Both the appeals (supra) are directed against the impugned verdict, as made on 29.10.2020, upon case bearing CIS No. SC/735/2017, by the learned Additional Sessions Judge-I, Ludhiana, wherethrough in respect of charges drawn against the accused qua offences punishable under Sections 120-B, 302, 404 and 449 of the IPC, thus the learned trial Judge

concerned, proceeded to record a finding of conviction against appellants-

convicts. However, the other co-accused namely Aman Masih, Sonu Ali, Krishna Pandey @ Pankaj @ Golu and Sumit Parshad were acquitted from the charges drawn against them. Moreover, through a separate sentencing order of even date, the learned trial Judge concerned, sentenced both the appellants-convicts in the hereinafter extracted manner.

<i>Name of the convicts</i>	<i>Under Section</i>	<i>Sentenced to undergo</i>	<i>Fine</i>	<i>In default of payment of fine to undergo further</i>
Raju Tiwari	449 IPC	Imprisonment for life	25,000/-	Rigorous imprisonment for four months.
	302/34 IPC	Imprisonment for life	25,000/-	Rigorous imprisonment for four months.
Sandeep Singh @ Akash	449 IPC	Imprisonment for life	25,000/-	Rigorous imprisonment for four months.
	302/34 IPC	Imprisonment for life	25,000/-	Rigorous imprisonment for four months.
	404 IPC	Rigorous imprisonment for three years	5000/-	Rigorous imprisonment for four months.

3. All the above imposed sentences of imprisonment, were ordered to run concurrently but the period of detention undergone by the appellants-convicts, during the investigations, and, trial of the case, was, in terms of Section 428 of the Cr.P.C., rather ordered to be set off from the above imposed sentence(s) of imprisonment.

4. Both the accused-convicts become aggrieved from the above drawn verdict of conviction, besides also, become aggrieved from the consequent thereto sentence(s) of imprisonment, and, of fine as became imposed, upon them, by the learned convicting Court concerned, and, hence have chosen to institute thereagainst the instant criminal appeals, before this

Court.

5. Since the learned State counsel is unable to intimate this Court, that the State has constituted an appeal, before this Court, against the verdict of acquittal, as made by the learned trial Judge concerned, qua the acquitted persons (supra). Thus, the verdict of acquittal, as made in respect of the acquitted accused, does acquire a conclusive, and, binding effect.

Factual Background

6. The genesis of the prosecution case becomes embodied in the appeal FIR, to which Ex. P-11/A is assigned. The narrations carried in Ex. P-11/A are, that SHO of the said police station received a wireless message about an incident of firing in the vicinity of Dugri, and, thereafter he proceeded to the place of occurrence where complainant Rahul Gupta had got recorded his statement to the effect that at about 2.00 PM, outside the main gate of his house, he had heard the noise regarding firing shots from the firearm. When the complainant opened the door of his house and entered into it, he noticed the presence of two clean shaven persons, who had entered in the said house. Complainant tried to stop them by intervening but they fled away from the spot. Thereafter, complainant observed that his father Sunil Gupta was lying on the ground and blood was oozing. He also saw one mark of shot from the firearm having been suffered on the head of his father who had succumbed to the said injury. The mother of the complainant was also found by him lying injured in the bathroom. Complainant removed his mother to Guru Teg Bahadur Hospital, Ludhiana from where she was referred to DMC Hospital, Ludhiana where the complainant was informed that his mother had also expired due to suffering of shot of the firearm on her head. Complainant came to know about the names of the above said

persons as Sandeep Singh @ Akash son of Subeg Singh and Raju Tiwari. The further version on behalf of the prosecution, is that, the said accused had entered into the house of the complainant for committing the theft. On recording the statement of complainant, the investigation was conducted. The statement having been got recorded by Rahul Gupta before the Investigating Officer is Ex.PA on the basis of which FIR in this case was registered.

Investigation proceedings

7. During investigation, the investigating Officer inspected the spot and prepared rough site plan Ex.PW11/B. Accused Sandeep Singh @ Akash who stated to have jumped from the roof, and, sustained injuries on his leg was produced before the Investigating Officer and he was arrested vide arrest-cum-intimation memo Ex.PW11/C. His personal search was conducted vide search memo Ex.PW11/D. The investigating Officer concerned, took into possession five empty cartridges and three cartridges shell vide memo Ex.PW11/E. The investigating officer concerned, had also taken into police possession blood from a floor of bathroom. Blood stained earth was also taken into police possession vide memo Ex.PW11/G. Mobile phone make Nokia was taken into police possession vide memo Ex.PW-11/H. Investigating Officer had taken another mobile phone make Samsung 4G vide memo Ex. PW-11/I. Empty box of mobile was also taken into police possession vide memo Ex.PW-11/J. Black coloured shirt blood stained and cap were taken into police possession vide memo Ex.PW-11/K. Investigating Officer took into police possession motorcycle bearing registration No. PB-10FB-0205 vide memo EX.PW-11/L. One gold chain of Sunil Gupta and Rs.7300/- were also taken into police possession vide

memo Ex.PW-11/M. Postmortem of the deceased Sunil Gupta was conducted, and, all the accused were arrested. After conclusion of investigations, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned committal Court concerned.

Committal Proceedings

8. Since the offences punishable under Section 376 of the IPC, and, under Section 4 of the Act, were exclusively triable by the Court of Session, thus, the learned committal Court concerned, through a committal order made on 6.10.2017, hence proceeded to commit the accused to face trial before the Court of Session.

Trial Proceedings

9. The learned trial Judge concerned, after receiving the case for trial, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw a charge against accused, for the commission of offences punishable under Sections 120-B, 302, 404 and 449 of the IPC. The afore drawn charge was put to the accused, to which they pleaded not guilty, and, claimed trial.

10. In proof of its case, the prosecution examined 15 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused pleaded innocence, and, claimed false implication. They also chose to adduce defence evidence, and, led four witnesses into the witness box.

11. As above stated, the learned trial Judge concerned, proceeded to

convict the appellants-convicts, for the charges (supra), as became drawn against them, and, also as above stated, proceeded to, in the hereinabove manner, impose the sentence(s) of imprisonment, as well as of fine, upon the convicts-appellants.

Submissions of the learned counsels for the appellants

12. The learned counsels for the aggrieved convicts-appellants have argued before this Court, that both the impugned verdict of conviction, and, consequent thereto order of sentence, thus require an interference. They support the above submission on the ground, that it is based on a gross misappreciation, and, non-appreciation of evidence germane to the charge.

Submissions of the learned State counsel

13. On the other hand, the learned State counsel has argued before this Court, that the verdict of conviction, and, consequent thereto sentence(s) (supra), as become imposed upon the convicts-appellants, are well merited, and, do not require any interference, being made by this Court in the exercise of its appellate jurisdiction. Therefore, he has argued that both the appeals, as preferred by the convicts-appellants, be dismissed.

Eye witness evidence based case

14. The prosecution version is supported by the statement of three purported ocular witnesses to the crime event, who respectively stepped into the witness box as PW-2, PW-3 and PW-4.

15. Rahul Gupta, while stepping into the witness box as PW-2, has made a testification, which corroborates his earlier made statement in writing, and, to which Ex.PA, is assigned. Though, in his cross-examination, there occur no speakings whereby any trite underlinings, thus would emanate, qua his grossly improving or embellishing, upon, his

previously made statement in writing. Though, in the face of the above lack of blatant embellishments, or improvements, rather in his testification, thus, would result in the impugned verdict of conviction, becoming also affirmed by this Court.

Reasons for not assigning credence to the deposition of PW-2.

16. Apparently the convicts were previously unknown to PW-2. However, knowledge or acquaintance about the identity of co-accused Sandeep, is stated by PW-2, to become awakened, upon the said convict in the course of his jumping from a room into the park, rather his at the said phase, hence revealing his name as Sandeep, besides also on an inquiry being made upon him by PW-2, his also disclosing the name of co-convict Raju Tiwari.

17. Be that as it may, in his cross-examination, PW-2, has though stated, that during the phase when he remained at his house, after the crime event taking place there, he had made an intimation to the police officials, thus upon, theirs arriving at the crime site, but yet though he states that then he had given the details of the crime incident to the police, but he has not stated in his cross-examination, that he had also then revealed to the police, thus the identity of co-convict injured Sandeep, who on inquiry revealed his name as such to PW-2, and, on a further inquiry becoming made, upon him, by PW-2, about the identity of the other accused, who fled away from the site, he revealed him to be co-convict Raju Tiwari.

18. The result of the above lack of intimation, being made at the earliest above stated stage by PW-2, to the police rather about the identity of co-convicts, does beget, an inference, that PW-2 was completely unaware of the identities of both the convicts. Therefore, unless he had disclosed in his

previously made statement in writing to the police officer concerned, thus the key characteristics physical features of both the convicts concerned, and, had thereafter ensured the makings by the investigating officer concerned, of valid test identification parade of the convicts, and, had also therein identified the co-convicts, that thereby alone, thus the identification of the convicts, in Court, by him, hence could be concluded to be holding evidentiary tenacity.

19. However, for the reasons hereinafter, the identification made of the convicts by PW-2, only in Court, is completely infirm. Primarily for the reasons that PW neither in his previously made statement to the police officer concerned, divulged therein the physical features of the convicts, nor subsequently any valid test identification parade was held by the investigating officer concerned, thus with the participation therein of the convicts, nor therein PW-2 identified the convicts. Resultantly, the identification in Court of the convicts, for the first time by PW-2, is completely legally frail, and, thereby no credence is to be assigned thereto. Therefore, as but a natural corollary, the participation in the crime event of the convicts-appellants, though becomes testified by PW-2, yet for the above defect in the investigations, their participation in the crime event, as such, is engulfed in a cloud of doubt. In sequel, the benefit of doubt is to be assigned to the convicts-appellants.

Analysis of the depositions of PW-3 and PW-4

20. Anil Kumar Gupta, who stepped into the witness box as PW-3, in complete contradiction to the testimony of PW-2, has included in his examination-in-chief, the name of one co-accused Sonu Ali, who however became acquitted. He states that the said co-accused Sonu Ali also arrived at

the crime site. He further testifies that the arrival of the above, at the crime site along with two other persons, thus arose from his demanding money from his brother, who was engaged in the business of finance. He further states, that since his brother did not accede to the demand of Sonu Ali, thus on the ground that the earlier lent money by him though was returned through cheques becoming issued to him, but yet the said issued cheques to him hence by Sonu Ali rather became dishonoured. Subsequently, he echoes in his examination-in-chief, that on the above refusal, the accused getting annoyed, and, leaving the house while proclaiming, that they will get the money and will see him. However, he states that on the relevant ill-fated day, rather the crime event took place in the manner, as became earlier spoken by PW-2.

21. The effect of the statement of PW-3 with narration therein, rather qua the germination of the prosecution case, thus from an ill-event, as becomes spoken by him to happen, on 31.5.2017, is that, thereby the said spoken, ill event, also thereby becoming propagated by PW-3, to be the motive for the crime event. However, contrary to the said motive, as projected by PW-3 for the convicts-appellants indulging in the crime event, PW-2 appears to attribute to the convicts-appellants the motive of theirs committing the crime event rather for ensuring qua theirs committing burglary of the house of PW-2.

22. Though the allegedly burgled items, as became recovered through recovery memo Ex. PW-11/M hence from convict-appellant Sandeep Singh alias Akash by the investigating officer concerned. However, since the investigating officer concerned, in his deposition, as comprised in his cross-examination has deposed, that in the FIR, there is no speaking

regarding theft of gold chain, and, cash amount. Therefore, and, also when though the burgled items, as became recovered, yet became not shown to PW-2 during the course of the recording of his deposition before the learned trial Judge concerned. Therefore, for want of the said burglary items becoming not shown to PW-2 during the course of the recording of his deposition, whereas theirs being shown to him was but imperative, as thereby alone the said burgled items could become identified by him to as such the burgled items from his house. Resultantly, the omission (supra), begets an inference, that the Court is not inclined towards assigning any creditworthiness to the recoveries of the said burgled items, as became made through PW-11/M. Reiteratedly for the reason that there is no mention in the FIR about the burgling of the said items becoming made from the house of PW-2. The further sequel of the above inference, is that, yet the makings of recovery(ies) of cash, and, of gold chain as became allegedly burgled by the convicts-appellants,, from the house of PW-2, rather leaves scope for making an inference that the motive, as became attributed to the convicts-appellants, for theirs allegedly committing the murder(s) respectively of the father, and, the mother of PW-2, rather becoming foundered, besides also the said recovery memo, is to be construed to be an ill employed mechanism by the investigating officer concerned, thus to falsely implicate the convicts-appellants.

23. In addition, though the identification of the injured convict Sandeep is alleged to be made when he was, as such lying in an injured condition in the park, and, who then revealed to PW-2, his name, and, his participation in the crime event, and, also revealed to PW-2, the participation therein of the co-accused Raju Tiwari, who ensured his fleeing from the

crime site. Nonetheless, the factum of co-accused Sandeep, being as such injured, was required to be clinchingly proven through adduction into evidence of his MLR. However, the MLR, thus personifying the injury obtained on the body of the convict concerned, has yet remained unadduced in evidence. The effect of non-adduction into evidence of the MLR of the convict concerned, is that, thereby the factum of co-convict being found lying injured in the park, thus by PW-2, and, thereafter his revealing his identity to PW-2, besides his also revealing to PW-2, hence the identity of the co-convict concerned, becomes falsified, and, thereby no credence is to be assigned to the deposition of PW-2, and/or to the deposition of PW-3.

24. PW-4 Ravin Gupta alike PW-3 projects the motive for the crime, projection whereof is, but contrary to the motive for the crime, as became attributed by PW-2. Therefore, the effects of different motive(s) for the commission of crime by the convicts-appellants, thus being respectively propagated by PW-2, and, PW-3, and, by PW-4, is that, a misleading and/or a false motive becoming ascribed to the convicts-appellants rather for theirs committing the crime event.

25. The effect of the above, is that, thereby but naturally the motive ascribed by PW-2, the prime prosecution witness, rather loses its evidentiary vigour. Moreover, also his deposition apart from the above enunciated infirmity gripping the same, thereby but also further loses its creditworthiness.

Signed disclosure statements of convict Raju Tiwari
Ex. P-16 and Ex.P-19

26. During the course of investigations, being made into the appeal FIR, convict-appellant Raju Tiwari made a signed disclosure statement,

to which Ex. P-16 is assigned. The signed disclosure statement, as made

by the accused is ad verbatim extracted hereinafter.

“x x x x x

I had concealed the 32 bore pistol under the shrubs near Park of house of Sunil Gupta Financer after taking place the incident which was used in the incident of the above said case, about which, I know and I can get the same recovered through indication.

x x x x x”

27. Pursuant to the above signed disclosure statement, convict-appellant Raju Tiwari got recovered .32 bore pistol and three bullets, which were taken into police possession through recovery memo Ex. P-17.

28. During the course of investigations, being made into the appeal FIR, convict-appellant Raju Tiwari, on 14.6.2017, made another signed disclosure statement, to which Ex. P-19 is assigned. The signed disclosure statement, as made by the accused is ad verbatim extracted hereinafter.

“x x x x x

By which pistol, I had fired the shots to Sunil Gupta and his wife Neelam Gupta, I have already got the same recovered, I had purchased the same pistol from son of my maternal uncle (Mama) namely Krishan Pandey alias Golu S/o Daya Shankar Pandey R/o Bakaro Bihar at present r/o Hinda Air Force Station Agra in worth Rs. 40,000/- alongwith 25 bullets and the same were handed over to me. Firstly, I had transferred the amount of Rs. 30,000/- and secondly Rs. 10,000/- into the bank account of son of my maternal uncle namely Krishan Pandey running in SBI Bank through ATM, near DMC Hospital Ludhiana and son of my maternal uncle namely Krishan Pandey had delivered the said pistol and 25 bullets to me at Ludhiana in worth Rs. 40,000/- and 9 bullets are remaining with and I had pressed the same under the soil with the wall of

vacant plot at my house situated at Bajwa colony, about which, I know and I can get the same recovered through indication.

x x x x x''

29. Pursuant to the above signed disclosure statement, convict-appellant Raju Tiwari got recovered 9 bullets live .32 bore, which were taken into police possession through recovery memo Ex. P-20.

30. The disclosure statement (supra), carries the signature, of the convict concerned. In his signed disclosure statement (supra), convict Raju Tiwari confessed his guilt in committing the murder of the deceased concerned, by inflicting injuries on their persons, hence with the recovered firearm. The further speaking therein is qua his keeping, and, concealing the incriminatory weapon of offence, under the shrubs near the park of the house of Sunil Gupta Financer. Moreover, it also makes speakings about his alone being aware about the location of his hiding and keeping the same, and, also revealed his willingness to cause the recovery of the incriminatory item(s) to the investigating officer concerned, from the place of his hiding, and, keeping the same.

31. Though prima facie, valid recoveries (supra), as became made by convict-appellant Raju Tiwari to the investigating officer concerned, through recovery memos Ex. P-17, and Ex. P-20, thus would create an incriminatory link against the convicts.

32. However, this Court again refrains from assigning any creditworthiness to the said recoveries, as became made at the instance of the convicts, to the investigating officer concerned. The reason is embedded in the factum, that since the testifications of the purported ocular witnesses, thus for the reasons (supra), rather looses their evidentiary tenacity, thereby

the recoveries, as made of the incriminatory items, by the police officer

concerned, but at the instance of the convict concerned, do concomitantly also loose their evidentiary worth.

33. Apart from the above, both PW-4, and, PW-11, who investigated the crime event, have consistently deposed about the crime site becoming visited by the fingerprint expert, and, also the dog squad becoming deployed for uncovering the weapon of offence. However, when it is also stated by PW-11, in his cross-examination, that the place of recovery was an open accessible place, and, also states that the police dog(s) squad was unable to uncover the incriminatory weapon of offence from the relevant site. Therefore, it appears that the recovery of the incriminatory weapon of offence was contrived, and, engineered, and, thereby no credence is to be assigned thereto.

34. An aggravated momentum to the above conclusion, is borrowed from the factum, that despite the fingerprint expert visiting the crime site, yet no fingerprint impressions being collected from the crime site, nor theirs becoming transmitted to the Fingerprint Bureau, thus for such collected fingerprint impressions as available at the crime site, becoming ensured to be tallied with the admitted fingerprint impressions of the convicts. The above omission happened despite, the above fingerprint report(s) of the fingerprints expert, rather comprising the best forensic evidence. Consequently, the effect thereof, is that, there is smothering, and, suppression of best evidence, at the instance of the investigating officer concerned, and, thereby benefit of doubt is to be assigned to the convicts-appellants.

35. As above stated, since though the blood soaked clothes of PW-2, rather were not handed over by him to the police officer concerned,

nor became examined by the serologist concerned, thereby also the presence of PW-2, at the crime site, and, at the relevant time, also comes under an aura of doubt, and, thereby benefit of doubt is also to be assigned to the convicts-appellants.

Lack of dispatch by the investigating officer concerned, of the incriminatory items, i.e. of the .32 bore revolver, and, of the cartridges, to the ballistic expert, for the latter making an opinion about the recovered cartridges becoming fired from the recovered incriminatory weapon of offence.

36. Though the investigating officer concerned, did through recovery memos Ex. P-17, and, Ex. P-20, thus at the instance of the convict concerned, ensure the recovery of weapon of offence, and, also did ensure the recovery of the cartridges or of the bullets, but yet the above made recoveries were required to be forthwith dispatched to the ballistic expert concerned, for the latter after making examinations thereof, for his thus making an opinion qua the recovered firearm becoming used, and/or whether the cartridges, as also became recovered at the instance of the convict concerned, thus becoming fired therefrom. However, despite the above recoveries, the investigating officer concerned, has completely failed to ensure the dispatch of the said recovered incriminatory recoveries to the ballistic expert concerned, nor obviously any affirmative opinion, became made by the ballistic expert, thus vividly pronouncing about the recovered firearm, being used as such in the crime event, nor also obviously he made any affirmative opinion about the recovered cartridges being the ones which became fired therefrom.

37. Since reiteratedly the fingerprint expert, who despite visiting the crime site yet did not collect the fingerprint impressions available, at the crime site nor obviously when the fingerprint impressions available at the

crime site remained undispached to the fingerprint bureau nor also when the

inter-se matchings took place inter-se the admitted fingerprint impressions of the convicts alongwith the said collected fingerprint impressions from the crime site. Therefore, the unavailability of the above best evidence secures a firm inference, from this Court, that thereby the accused are entitled to a verdict of acquittal. The paramount reason for the necessity of the above best evidence becoming adduced into evidence by the prosecution, thus becomes sparked from the trite factum, that this Court has disbelieved the ocular account, as become rendered by the purported ocular witnesses to the occurrence. The said discrediting by this Court of the ocular versions rendered qua the crime event of the purported ocular witnesses thereto, thus would have become blunted, but only if the above best scientific evidence had emerged. Necessarily, for non emergence, of best forensic evidence (supra), before this Court, the above discrediting of the testifications of the ocular witnesses to the occurrence, thus rather remains intact.

Post-mortem report

38. The autopsy on the body of deceased Sunil Gupta, and, deceased Neelam Gupta was conducted by the Board of Doctors including PW-13 Dr. Nisha Jain, who has proven the post-mortem report, to which respectively Ex. PW-13/1 and Ex. PW-13/6, are assigned. She has also proven the existence of the hereinafter extracted injuries on the person of deceased Sunil Gupta.

1. *Lacerated wound on middle of parietal area of skull. 1.5 x 1 cm cruciate, inverted margins. On dissection corresponding underlying bone shattered, meninges ruptured, brain parenchyma torn, cavity having blood. Track explored and a metallic foreign object recovered from cervical region (sealed and handed over).*
2. *Wound 0.5 x 1 cm oval inverted lacerated margins with*

blackening on left side of the neck 4 cm superior to medial end of left clavicle. On exploration of track apex of right lung and pleura found ruptured, plural cavity full of blood, metallic foreign body recovered from posterior aspect of right shoulder area.

3. *Swelling 4x4 cm right shoulder area posteriorly.*

39. PW-13 has also proven the existence of the hereinafter extracted injuries on the person of deceased Neelam Gupta.

1. *Lacerated wound 6 cm x 4 cm left parietal area of scalp with underlying bone shattered with meninges and brain parenchyma torn, cavity full of blood. On further exploration two metallic foreign objects recovered from parietal area of brain (sealed and handed over).*
2. *0.5 cm x 0.5 cm circular inverted abraded margins with blackening 7 cm below xiphisternum in midline (entry wound). On exploration peritonium liver omentum ruptured with haemoperitoneum.*
3. *1 cm x 0.7 cm oval everted margins over left lumbar region of abdomen (back), metallic object found stuck within the wound (exit), object removed (sealed and handed over to police).*

40. The cause of demise of both the deceased concerned, has been opined by PW-13 to ensue from hemorrhage, and, shock due to injury on the vital organs subsequent to fire arm injury, which is sufficient to cause death in the ordinary course of nature. All the injuries were opined to be ante-mortem in nature, and, the probable time which elapsed between the death and the autopsy, was opined to be within hours.

41. However, the above opinion about the cause of death (supra), as made in the post-mortem reports, does not yet for reasons (supra), thus connect the convicts-appellants in the commission of the offence of murder. Thus, there is gross misappreciation, and, non-appreciation of evidence germane to the charge. Therefore, the impugned judgment and order of

as of fine, as became imposed upon the appellant, are required to be quashed and set aside.

Final order

42. The result of the above discussion, is that, this Court finds merit in both the appeals, and, is constrained to allow them. Consequently, both the appeals are allowed. The impugned judgment convicting, and, also the order sentencing the appellants, and, as recorded by the learned trial Judge concerned, are quashed, and, set aside. The appellants are acquitted of the charges framed against them. The fine amount, if any, deposited by them, be, in accordance with law, refunded to them. The personal, and, surety bonds of the appellants shall stand forthwith cancelled, and, discharged. The case property be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal. The appellants, if in custody, and, if not required in any other case, be forthwith set at liberty.

43. Records be sent down forthwith.

44. The miscellaneous application(s), if any, is/are, also disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 23, 2023
Gurpreet

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