

Neutral Citation: 2023:PHHC:114854-DB

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

Criminal Appeal-D No.382-DB of 2018 (O&M)

Date of Decision: 31.8.2023

Reserved on: 07.08.2023

Ajit alias Jeeta

... Appellant

Versus

State of Haryana

... Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Argued by: Mr. Sushil Jain, Advocate,
for the appellant.

Mr. Pawan Girdhar, Additional Advocate General, Haryana.

MANISHA BATRA, J.

1. The present appeal has been preferred against the judgment of conviction dated 10.01.2018 and order on quantum of sentence dated 12.01.2018 passed by learned Additional Sessions Judge, Sonapat in Sessions Case No.SC/268 of 2015 titled as *State v. Ajit alias Jeeta* arising out of FIR No.132 dated 08.04.2013 registered at Police Station Sadar, Sonipat under Sections 302 and 34 of IPC and Section 25 of Arms Act whereby the accused Ajit had been held guilty for commission of offence punishable under Section 302 read with Section 34 of IPC and had been sentenced to undergo rigorous imprisonment for life and to pay fine of Rs.10,000/-.

2. The prosecution version as unfolded is that on 08.04.2013, on receipt of a telephonic information, a police party headed by SI Jai Parkash had reached at Murthal Road, Sonapat in front of Saraswati

Neutral Citation:2023:PHHC:114854-DB

School wherein the dead body of an unknown youth was found to be lying. There were several firearm injuries on the dead body and some spent, live as well as empty cartridges were also found lying there. A case under Section 302 read with Section 34 of IPC and Section 25 of Arms Act was registered. Investigation proceedings were initiated. Inquest proceedings and postmortem examination of the dead body was conducted. On 09.04.2013, the father of the deceased namely, Dharambir contacted the police and after identifying the dead body to be that of his son Parveen @ Parchi recorded his statement to the effect that Malad resident of Village Karor was his co-brother who was lodged in Hisar Jail and his son Parveen had been visting him and helping him in pursuing his cases. Malad was having enmity with members of Anil Chippi gang and accused Anil @ Leela kingpin of that gang and Sandeep @ Kala one member of that gang were lodged in Tihar Jail. He also disclosed that accused Pardeep who was brother of accused Sandeep had threatened his son to not to visit Malad or to face dire consequences. He further disclosed that on 07.04.2013, the victim had been taken by accused Priyavart along with him and on his asking, he had assured that they would be returning shortly and thereafter his son did not return. He raised suspicion that the accused Anil @ Leela and Sandeep @ Kala lodged in jail had hatched a conspiracy with accused Pardeep who in conspiracy with others had murdered his son. Therefore, he prayed for taking penal action against the culprits. On the basis of his statement, offence under Section 120-B of IPC was added. The accused Priyavart was arrested on 19.04.2013. He suffered disclosure statement admitting his involvement in the murder of the victim and also disclosed the names of the co-accused.

Accused Sandeep and Anil @ Leela who were confined in Tihar Jail, Delhi

Neutral Citation:2023:PHHC:114854-DB

were arrested on 25.04.2013. Accused Parveen @ Kaira was arrested on 25.09.2013. They also suffered disclosure statements. Accused Sumit was arrested on 11.10.2013. He suffered disclosure statement and got recovered a 32 bore revolver and two cartridges in pursuance of his disclosure statement. Accused Pardeep was also arrested subsequently. Challan/supplementary challan against these accused were presented in the Court at different points of time. They faced trial separately and had been held guilty and convicted for charges framed under Section 120-B read with Section 302 of IPC and co-accused Sumit was held guilty under Section 25 (1-B) (a) of Arms Act.

3. Accused Ajit who was also named as one of the conspirators and assailants by the co-accused, could not be arrested till the date when challans against co-accused were presented in the Court. Proceedings under Section 82 of Criminal Procedure Code were initiated against him and he was declared a proclaimed offender vide order dated 12.03.2014. He was arrested on 14.05.2015. He was interrogated and suffered disclosure statement admitting his involvement in the crime and also demarcated the place of occurrence. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented against him. The case was committed to the Courts of Sessions. On finding a prima face case for commission of offences punishable under Section 302 read with Section 34 of IPC, he had been charge-sheeted accordingly. The accused pleaded not guilty to the charges and claimed trial.

4. To substantiate its case, the prosecution examined as many as 24 witnesses besides placing reliance upon documentary evidence and thereafter the prosecution evidence was closed by learned Public Prosecutor.

5. The accused was examined under Section 313 of Cr.P.C. to

Neutral Citation: 2023:PHHC:114854-DB

explain the circumstances appearing against him. He abjured his guilt and pleaded false implication. No defence evidence had been adduced by him.

6. After hearing the contentions raised by both the sides and appraising the evidence produced on record, the learned trial Court held the appellant-accused Ajit guilty and sentenced him in the manner as indicated above.

7. Feeling aggrieved, the present appeal has been filed by the appellant-accused Ajit alias Jeeta who for the sake of convenience shall continued to be referred to as accused.

8. It was argued by learned counsel for the accused that the impugned judgment and order dated 10.01.2018 and 12.01.2018 respectively were not sustainable in the eyes of law as the case of prosecution was suffering from several material infirmities which had not been taken into consideration by learned trial Court. He submitted that the prosecution had failed to bring home the guilt of the accused by producing any direct incriminating evidence. The chain of circumstantial evidence which was produced against him on record was totally broken and was not complete at all. Rather there were no circumstances pointing towards the guilt of the appellant. The disclosure statement of the appellant was not admissible in evidence. The place of occurrence was already known to the police. No new or distinct fact was discovered in pursuance of his alleged disclosure statement. The disclosure statements of co-accused were not corroborated by any other incriminating evidence as against the appellant and hence the same also could not be considered. There was not even an iota of evidence on record against him to prove that he had entered into any criminal conspiracy with the co-accused. The charge of criminal conspiracy had neither been

Neutral Citation: 2023:PHHC:114854-DB

framed against him nor the same was proved. No test identification parade of the appellant was conducted and he was identified for the first time by PW-6 Dharambir in the Court. It was further submitted that the learned trial Court did not appreciate the evidence produced on record in a proper perspective and hence, it was argued that the impugned judgment and order were liable to be set aside, the appeal deserved to be accepted and further that he deserved to be acquitted of the charges for which he had been held guilty and convicted.

9. Countering the arguments of the appellant, it was argued by learned Additional Advocate General, Haryana representing the respondent-State that the findings as given by learned trial Court were well reasoned. The victim Parveen @ Parchi was proved to have died a homicidal death by sustaining firearm injuries. It was proved from the statement of the complainant PW-6 Dharambir that on the day of occurrence, the appellant was seen roaming around in the vicinity with the co-accused Priyavart who had faced trial along with the other assailants and had been held guilty and convicted. The disclosure statements suffered by the co-accused disclosing involvement of the accused Ajit in the case were an important link in the chain of circumstantial evidence to connect him with the crime. The disclosure statement suffered by the accused himself was also relevant and admissible piece of evidence. It stood proved from the evidence on record that the co-accused who had been held guilty and convicted had motive to kill the victim and the accused Ajit had conspired with them and was one of the assailants of the victim. While concluding, it was submitted by learned State counsel that the findings given by learned trial Court did not warrant any interference and that the appeal was liable to be dismissed.

Neutral Citation: 2023:PHHC:114854-DB

10. So far as the question that the victim had died a homicidal death is concerned, it may be stated that the evidence produced on record on this point in the form of testimony of PW-17 Dr. Jitender Sharma and postmortem examination report Ex.PW17/C is sufficient in this regard as the same has gone unrebutted and unchallenged. From the postmortem examination report, it stands proved that the victim had sustained several firearm injuries which were entry as well as exit wounds and his death had occurred due to sustaining these injuries itself. Hence, certainly it was proved to be a case of homicidal death.

11. The case of the prosecution was that the co-accused Anil and Sandeep had entered into a criminal conspiracy with the accused Pardeep to kill the victim Parveen @ Parchi and in pursuance of the said conspiracy, the accused Pardeep had further connived with the present accused Ajit and the remaining accused and further in pursuance of that criminal conspiracy, as on the intervening night of 07/08.04.2013, the present accused along with co-accused Priyavart, Pardeep, Parveen, Sumit and Amit Dahiya (declared proclaimed offender) had fired shots with different firearms thereby assailing the victim. The co-accused Priyavart, Pardeep, Parveen, Sumit, Anil and Sandeep had faced trial separately and it will be relevant to mention here that they were held guilty and convicted for commission of offences punishable under Sections 120-B read with Section 302 of IPC and have filed appeal against their conviction which is also being disposed of simultaneously with this appeal. Now the question that arises for consideration is as to whether the prosecution had produced evidence of such nature on record which could be acted and relied upon beyond probabilities of all reasonable doubt to connect the present accused Ajit with

Neutral Citation:2023:PHHC:114854-DB

the subject offence. Before making any discussion on this point, it is relevant to mention that the present accused had been charge sheeted and convicted for commission of offence punishable under Section 302 read with Section 34 of IPC and charge under Section 120-B was neither framed against him nor he was held guilty therein. There is no direct evidence to the murder of the victim and the prosecution had rested its case on circumstantial evidence. It is well settled principle of law that conviction on the basis of circumstantial evidence can be recorded only on satisfaction of certain principles which may be enumerated as follows:-

- (i) the circumstances from which the conclusion of guilt is to be drawn should be fully established.
- (ii) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say they should not be explainable on any other hypothesis except that the accused is guilty.
- (iii) the circumstances should be of a conclusive nature and tendency.
- (iv) they should exclude every possible hypothesis except the one to be proved, and
- (v) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

(See: **Padala Veera Reddy v. State of A.P. and others**, AIR 1990 SC 79; **Hanumant Govind Nargundkar and another v. State of Madhya Pradesh**, AIR 1952 SC 343 & **Sharad Birdhichand Sarda v. State of Maharashtra**, AIR 1984 SC 1622)

12. The circumstances which were pressed into service by the prosecution and which were relied upon by learned trial Court while

recording findings of guilt of the accused were as follows:-

- (i) Evidence led by PW-6 Dharambir as to conspiracy being hatched between the co-accused and the present accused for causing death of victim.
- (ii) Disclosure statement of the accused and demarcation of place of occurrence by him.
- (iii) Disclosure statements of co-accused involving the accused Ajit in the crime.
- (iv) Statement of accused under Section 313 Cr.P.C.

13. Learned counsel for the accused argued that the testimony of PW-6 Dharambir proved that the accused Priyavart had taken the victim along with him on the fateful night and thereafter his dead body was recovered and as such, the victim was proved to have been lastly seen with the accused Priyavart. He further submitted that the appellant-accused Ajit had been identified by PW-6 Dharambir as one of the youths who were seen roaming around in the village of the victim on the day of occurrence along with co-accused Priyavart and this circumstance led to a reasonable inference that the accused Ajit in pursuance of conspiracy with the co-accused and with a motive to eliminate the victim, had also participated in the crime of his murder and, therefore, it was urged by him that the learned trial Court had rightly held the present accused guilty for commission of offence of the murder of the victim. A perusal of trial Court record reveals that the learned trial Court while relying upon the testimony of PW-6 had observed that since this witness had identified the accused Ajit as one of the youths who were seen roaming around with accused one day before the occurrence, therefore, his involvement in the crime in pursuance of a criminal conspiracy stood proved. However, in our considered opinion, the

Neutral Citation: 2023:PHHC:114854-DB

point lack any substance. Admittedly and evidently, PW-6 Dharambir while recording his statement under Section 161 of Cr.P.C. before the police on 09.04.2013, had not made any mention of the fact that the present accused was seen roaming around with co-accused Priyavart one day prior to the occurrence and on the day of occurrence and he had simply stated that some days prior to the occurrence, he had seen some youths roaming around with accused Priyavart in the village. In his sworn deposition, PW-6 improved his previous version and stated that on 07.04.2013, he had seen some boys roaming with accused Priyavart and the accused present in Court was one amongst them. However, simultaneously, it was admitted by him that he never had any conversation with the accused nor there was any enmity between them. It was also admitted by him that he had not described the identity or features of the youth who had been seen roaming around in the area. He stated that he had seen the accused 2-3 times in the village prior to the occurrence in the house of accused Priyavart but he also admitted that it was the police who had shown the accused to him in the Court while disclosing that he was one of the assailants of his son and, therefore, he had identified the accused. However, since his statement being contradictory to this previous statement could not be relied upon beyond doubt. More so, even if his version that the accused was seen roaming in the village of victim is believed, no inference could be drawn that he had entered into any conspiracy with the co-accused to kill the victim or had participated in the crime of committing murder of the victim.

14. So far as the circumstance of the accused Priyavart having lastly seen with the victim as narrated by this witness is concerned, the same did not help the prosecution in any manner in connecting the present accused

Neutral Citation: 2023:PHHC:114854-DB

with the crime. The testimony of this witness with regard to the victim having left with accused Priyavart is also inconsistent because in his examination-in-chief, he stated that it was the accused Priyavart who had come to Chaupal adjoining his residential house on a Platina motorcylce on the fateful night and had taken the victim along with him but during cross-examination, he tried to make out a case that the other accused were also accompanying accused Priyavart at that time. This inconsistency in his statement has undoubtedly rendered the version of this witness doubtful with regard to the victim having gone even with co-accused Priyavart. It will also not be out of context to mention here that though as per the version of this witness, he had seen the victim being taken away by accused Priyavart on the night of 07.04.2013 and had come to know about the death of his son on seeing the photograph of his dead body in a newspaper on 09.04.2013 and also stated that he had made search for his son and accused Priyavart on 08.04.2013 but could not trace them but he did not explain any reason as to why he had not reported the matter about the missing of his son to the police till 09.04.2013. This of course was reflective of abnormal act and conduct of this witness because if actually his son had been taken by the co-accused Priyavart along with him and had not returned back in the night of 07.04.2013 and even 08.04.2013, then it would have been his natural act and conduct to report about the matter to the police and not doing so indicates that he was making a false deposition with regard to the victim lastly seen alive in the company of the accused Priyavart.

15. Further, so far as the present accused is concerned, the theory of last seen did not apply to him at all. Suffice to say here that the testimony of

PW-6 Dharambir with regard to his having seen the accused Ajit in the

Neutral Citation:2023:PHHC:114854-DB

village prior to the occurrence being inconsistent with regard to the exact day or time when the accused was so seen and even qua his identity, could not be relied upon beyond doubt. No test identification parade of the this accused was got conducted from PW-6 Dharambir during investigation. The failure to hold test identification parade cannot be stated to be fatal in cases where the accused is previously known to the witness. But in the instant case, neither the distinctive features or the other particulars of the accused Ajit had been mentioned by PW-6 in his statement initially recorded before the police or at any subsequent stage. His statement proves that the accused had been identified by him only because of the fact that the police had shown him in the Court and had also told him that he was one of the assailants of his son. All this goes to lead to the irresistible conclusion that the testimony of this witness could not be acted and relied upon beyond doubt for the purpose of connecting the accused Ajit with the crime and the learned trial Court had erred in placing reliance upon the same.

16. The next circumstance as relied upon by the prosecution and considered by the learned trial Court as an incriminating circumstance as against the accused Ajit was the disclosure statements alleged to have been suffered by him in the presence of PW-21 HC Sanjiv Kumar and PW-22 ASI Bijender Singh who was the Investigating Officer of this case. As deposed to by both these witnesses, the accused had suffered a disclosure statement on 13.05.2015 and had demarcated the place of occurrence vide memo Ex.PW21/A on the same day. However, interestingly, no memo of such disclosure statement had been produced in evidence by both these witnesses or any other witness. These witnesses further stated that the accused in pursuance of his disclosure statement had demarcated the place of

Neutral Citation: 2023:PHHC:114854-DB

occurrence vide memo Ex.PW21/A. Since no memo of disclosure statement which was stated to be suffered by the accused in the presence of these witnesses had come on record, therefore, only on the basis of their oral statements, it could not be held that the accused had made any disclosure statement before PW-21 and PW-22 as on 13.05.2015 and their statements that the accused had demarcated the place of occurrence in pursuance of any such disclosure statement can also not be relied upon beyond doubt.

17. Then PW-21 and PW-22 further stated that the accused had suffered another disclosure statement on 14.05.2015 vide memo Ex.PW22/B. In our opinion, the inculpatory part of the disclosure statement stated to be suffered by the accused Ajit vide memo Ex.PW22/B could not be considered to be admissible in evidence, the same being suffered in the custody of the police and being confessional in nature in view of the bar created by Sections 25 and 26 of the Indian Evidence Act, 1872 (For short "Evidence Act") which mandate that no confession made to a police officer in custody of police can be proved as against the person accused of an offence. Undoubtedly, as per the provisions of Section 27 which is in the nature of proviso to Sections 25 and 26, when any fact is deposed to as discovered in consequence of information received from a person accused of an offence, in custody of a police officer, so much of the information which relates distinctly to the fact thereby discovered, may be proved but, again, even if the disclosure statement stated to be suffered by this accused vide memo Ex.PW22/B is considered to be admissible in evidence, still, as the same did not lead to discovery of any new or distinct fact and hence the same in our opinion, could not be considered to be admissible in evidence and also as an incriminating circumstance providing any link in the chain of

Neutral Citation: 2023:PHHC:114854-DB

circumstances pointing towards the guilt of the accused and, therefore, we have no hesitation to hold that the learned trial Court had erred in placing reliance upon the disclosure statement of accused for holding him guilty and the findings given by learned trial Court on this point cannot be held to be sustainable.

18. The learned trial Court had further relied upon the disclosure statements stated to be suffered by the co-accused against accused Ajit. It is important to mention here that though as per the prosecution version, the accused Anil and Sumit had suffered disclosure statements involving the present accused in the crime but not even an iota of evidence was produced by the prosecution in this case to show that accused Anil and Sumit had suffered any disclosure statement. Neither memos of disclosure statements of these accused were proved in evidence nor the witnesses in whose presence such disclosures were suffered, were examined by the prosecution. PW-5 SI Jai Parkash and PW-6 Dharambir deposed about the fact that the accused Priyavat had suffered disclosure statement vide memo Ex.PW-5/E in their presence. PW-10 HC Virpal and PW-18 SI Ramesh Chander deposed that the accused Parveen @ Kaira has suffered disclosure statements vide memo Ex.PW10/A in their presence. PW-14 HC Narender Kumar deposed that the accused Pardeep had suffered disclosure statement vide memo Ex.PW14/A in his presence and PW-5 SI Jai Parkash deposed that the accused Sandeep had suffered disclosure statement vide memo Ex.PW-5/G in his presence. In the memos of disclosure statements of these accused, undisputedly the present accused was named as one of the conspirators and assailant of the victim. However, these disclosure statements by themselves cannot be considered to be admissible in evidence

Neutral Citation:2023:PHHC:114854-DB

even qua the co-accused individually, the same being suffered in the custody of the police and being confessional in nature. So far as the impact of these disclosure statements as against the present accused is concerned, it would be proper to refer to Section 30 of the Evidence Act which is relevant for the purpose, and as per which when more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration, such confession as against such other person as well as the co-accused. The well settled proposition of law is that where the prosecution relies upon the confession of one accused against another accused, then the proper approach to assure is to consider the other evidence against such accused person and if the said evidence appears to be satisfactory and the Court is inclined to hold that the said evidence may sustain the charge framed against the accused person, then the Court may turn to the confession with a view to assure itself that the conclusion which it is inclined to draw from other evidence is right or not. Reliance in this regard can be placed upon **Bhuboni Sahu v. King**, AIR 1949 PC 257; **Kashmira Singh v. State of Madhya Pradesh**, AIR 1952 SC 159 & **Haricharan Kurmi and Jogia Hajam v. State of Bihar**, (1964) 6 SCR 623 wherein Hon'ble Supreme Court had observed so. Meaning thereby that the confessional statements of the co-accused if proved, can be used only in support of other evidence against an individual accused and cannot be made the foundation of a conviction as Court cannot start with confession of a co-accused and it is only after forming opinion with regard to quality and effect of other evidence adduced by the prosecution that the confessional statement of co-accused can be taken into consideration. Since in the present case, as

Neutral Citation:2023:PHHC:114854-DB

per the discussion made above to the effect that the circumstances as pointed out by the prosecution for connecting the accused with the crime of murder of the victim have not been established beyond doubt, therefore, it can very well be stated that since there is no other evidence on record which can be taken into consideration as against the accused, therefore, the confessional statements of the co-accused could not be made basis for holding the present accused guilty.

19. Not even this, there is one more important legal aspect which had been ignored by learned trial Court, which is that the mandate of Section 30 of the Evidence Act is to make the confession of a co-accused admissible in evidence, if there was a joint trial and it is well settled proposition of law that if there is no joint trial, confession of a co-accused is not at all admissible in evidence and, therefore, the same cannot be taken as evidence against the co-accused. In this regard, we place reliance upon **Kartar Singh v. State of Punjab**, 1994 SCC (3) 569, wherein it was observed by Hon'ble Supreme Court that a confession made by a person before a police officer can be made admissible in the trial of such person not only against the person but also against the co-accused, abettor or conspirator under Section 30 of the Evidence Act provided that the co-accused, abettor or conspirator is charged and tried in the same case together with the accused, namely, the maker of the confession. Similar proposition of law was laid down in **Ananta Dixit v. State**, 1984 CriLJ, 1126 wherein the Orissa High Court was considering the similar case under Section 30 of the Evidence Act. The accused in the said case was previously absconding. The question for consideration was whether a confession of one of the accused persons who were tried together, was admissible in evidence against the accused. The

Neutral Citation:2023:PHHC:114854-DB

Court had held as follows:-

"As recorded by the learned trial Judge, the accused Narendra Bahera, whose confessional statement had been relied upon, had been tried earlier and not jointly with the appellant and the co-accused person Baina Das. A confession of the accused may be admissible and used not only against him but also against a co-accused person tried jointly with him for the same offence. [Section 30](#) applies to a case in which the confession is made by accused tried at the same time with the accused person against whom the confession is used. The confession of an accused tried previously would be rendered inadmissible. Therefore, apart from the evidentiary value of the confession of a co-accused person, the confession of Narendra Behera was not to be admitted under [Section 30](#) of the Evidence Act against the present appellant and the co-accused Baina Das."

Since in the presence case, the present accused had not been tried jointly with the co-accused and as he had faced a separate trial, therefore, the disclosure statements alleged to have been suffered by the co-accused during the course of investigation cannot be taken into consideration as they faced trial separately and hence we have no hesitation to hold that the learned trial Court had erred in taking the circumstance of suffering of disclosure statements by the co-accused involving the present accused as an incriminating one and by considering the same as a link in the chain of circumstances leading to the guilt of the accused.

20. The last circumstance which was considered as one of the links in the chain of circumstances pointing towards the guilt of the accused, by the learned trial Court was the statement of the accused under Section 313 of Cr.P.C. It was observed by learned trial Court that the accused had made

simple denial of the incriminating evidence appearing against him without

Neutral Citation: 2023:PHHC:114854-DB

offering any explanation and, therefore, an adverse inference was to be drawn against him which provided an additional link in the chain of circumstances. However, on an overall assessment of the facts and circumstances of the case when the prosecution has failed to bring unimpeachable and trustworthy incriminating evidence of such nature on record which could be acted and relied upon beyond doubt and no unbroken link in the chain of circumstances has been proved, in our considered opinion, the statement under Section 313 of Cr.P.C. simpliciter cannot be made the basis for convicting the accused and the answers given by him to the questions put under Section 313 of Cr.P.C. by the Court cannot be used to fill up the gaps left by the witnesses in the evidence. Reliance in this regard is placed upon the judgments of Hon'ble Apex Court cited as **Brajendrasingh v. State of M.P.**, AIR 2012 SC 1552; **State of Maharashtra v. Sukhdev Singh**, AIR 1992 SC 2100 & **Raj Kumar Singh @ Raju @ Batya v. State of Rajasthan**, AIR 2013 SC 3150.

21. In view of the discussion as made above, it emerges that all the circumstances which had been relied upon by the prosecution for linking the accused with the charge as framed against him had not been proved by the prosecution by producing probative and unimpeachable evidence which could be acted and relied upon beyond doubts. The legal parameters for determination of guilt of the accused who had been charged for commission of offence of murder of the victim on the basis of circumstantial evidence as enumerated above have not been satisfied. The prosecution could neither establish motive on the part of the accused Ajit to commit murder of the victim nor any evidence to prove that the accused had entered into any conspiracy with the co-accused could be established beyond doubt. As such,

Neutral Citation:2023:PHHC:114854-DB

we are inclined to hold that the findings given by learned trial Court are not sustainable and are liable to be set aside. Accordingly, we allow this appeal and reverse the judgment of conviction dated 10.01.2018 and order on quantum of sentence dated 12.01.2018 passed by learned Additional Sessions Judge, Sonapat and acquit the appellant by giving him benefit of doubt. The appellant-accused is in custody. He be released forthwith from custody if not wanted in any other case, upon execution of bonds to the satisfaction of the trial court which shall remain in force for a period of six months in terms of Section 437-A of Code of Criminal Procedure. Let a copy of this judgment along with the trial Court record be sent forthwith to the trial Court. A copy of judgment, if applied for, be also made available to the appellant.

22. All the pending criminal miscellaneous application(s), if any, automatically stand disposed of.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

31.08.2023
manju

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