

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

CRA-D-649-2019 (O&M)
Reserved on: 08.12.2023
Date of decision: 16.12.2023

SAGAR

...Appellant

Versus

STATE OF HARYANA

...Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Gurmail Singh, Advocate for the appellant.

Mr. Pradeep Parkash Chahar, Sr. DAG, Haryana

SURESHWAR THAKUR, J.

1. The instant appeal is directed against the verdict drawn on 13.03.2019, upon Sessions Case No.SC/11/2019, instituted on 18.01.2019/ 28.02.2019, by the learned Additional Sessions Judge, Kaithal, wherethrough, in respect of a charge drawn for an offence punishable under Section 302 of IPC, he recorded a verdict of conviction against the convict. Moreover, through a separate sentencing order of 14.03.2019, the learned trial Judge concerned, imposed, upon, the convict the substantive sentence of 14 years of rigorous imprisonment.

2. The period spent in prison by the convict, during investigation or trial, was, in terms of Section 428 of Cr.P.C., ordered to be set off from the above imposed substantive sentence(s) of imprisonment, upon the convict.

3. The convict becomes aggrieved from the above drawn verdict of conviction besides also becomes aggrieved from the above drawn order of sentence, thus, he is led to institute thereagainst the instant appeal before this

FACTUAL BACKGROUND

4. The case of the prosecution is that, on 21.10.2018, one telephonic information was received from Police Station, Civil Lines, Kaithal, with regard to death of Mandeep Kumar son of Mahabir (deceased), after his admission to Cygnus Hospital, Kaithal, as a result of his sustaining injuries in a fight/quarrel. On receipt of this information, Inspector Rohtash Kumar (PW14) along with Sub-Inspector Pala Ram, Assistant Sub-Inspector Jaipal (PW1), Assistant Sub-Inspector Kitab Singh, Exemptee Head Constable Bhupender Singh and Special Police Officer Naresh Kumar reached Cygnus Hospital, Kaithal, in Government vehicle bearing registration No. HR08Y-2763, driven by Exemptee Assistant Sub-Inspector Dharambir Singh. There they found Sub-Inspector Rajphool (PW13) and Exemptee Assistant Sub-Inspector Ram Kumar. Written information 'Ex.P16' bearing No.31308 dated 21.10.2018, with regard to Mandeep being brought dead to the hospital, was obtained. Near the dead body of deceased Mandeep, complainant Mandeep Kumar (PW11) son of Suresh Kumar was found, whose statement 'Ex.P40' was recorded, wherein he alleged that he was a student in Government Industrial Training Institute, Kaithal; that on 21.10.2018 (today) at about 11:30 hours, he along with Aman (PW12) son of Ramphal and Mandeep son of Mahabir (deceased), went to the fair of Baba-Rajpuri in village Baba-Ladana on black motorcycle make Platina bearing registration No. HR31N-8851; that motorcycle was being ridden by Mandeep (deceased); that after paying obeisance at Baba-Rajpuri fair, at about 13:30 hours, when they travelled a distance of about half a kilometer on the road leading from village Baba-Ladana to village Garhi, from the side of village Garhi, seven persons came on two motorcycles who had muffled their faces and all of a sudden, they parked their motorcycles in front of the motorcycle of the complainant side and after stopping motorcycle of the complainant side, one of

those boys took out the key of the motorcycle of the complainant side; that the complainant identified one of those boys as accused 'S', who all of a sudden, gave an iron pipe blow on the head of the deceased towards left on temporal region; that deceased Mandeep Kumar fell on the road and then the other accomplices of 'S' attacked the deceased with 'knives' and 'rod'; that when complainant and Aman Kumar started rescuing the deceased, injury was sustained by the complainant on little finger of his right hand; that alarm raised by the complainant side attracted the passersby, who came to the spot and at their sight, accused along with their respective weapons fled away from the spot towards village Garhi, on their motorcycles; that thereafter, members of the family of the complainant side came to the spot; that the deceased was shifted to Government Hospital, Kaithal, from where after treatment, doctor referred Mandeep Kumar to P.G.I. Chandigarh and on account of deterioration of his condition, Mandeep Kumar was admitted to Cygnus Hospital, Kaithal, where he succumbed to his injuries.

INVESTIGATION

5. Written information was sent to the Police Station through Exemptee Head Constable Bhupender Singh for registration of a case for the commission of offences punishable under Section 148 and Sections 323, 341 and 302 IPC read with Section 149 of the Indian Penal Code, 1860. Dead body was got kept in the mortuary of Government Hospital, Kaithal, for postmortem examination. Site of the place of occurrence was inspected and thereafter, site plan 'Ex.P24' of the place of occurrence was prepared. Photographs 'Ex.P32' and 'Ex.P34' of the place of occurrence were clicked with the help of mobile phone. Deputy Superintendent of Police, Kaithal and the Crime Team also reached the spot. Blood of the deceased lying on the road was lifted with cotton swab and parcel of the same was prepared. Statements of the witnesses were

recorded under Section 161 of the Code of Criminal Procedure, 1973. Supplementary statement of the complainant was recorded. Case property was deposited in the 'Malkhana' (a store in the Police Station for housing the case property) of the Police Station.

6. On 22.10.2018, postmortem examination on the dead body of the deceased was conducted at Government Hospital, Kaithal, by the Board of Doctors. After the postmortem examination, parcel of the clothes and shoes, which were worn by deceased Mandeep, was prepared by the doctor and it was handed over to the police vide seizure memo 'Ex.P2'. The dead body was handed over to the members of the family of the deceased.

7. On 23.10.2018, co-accused Pawan alias Pammu, Raman alias Kaka, Sandeep and Vikas alias Babbu were arrested.

8. On 24.10.2018, separate disclosure statements of the accused were recorded. Accused Pawan alias Pammu confessed that on 21.10.2018, he and his brother Raman and accused-appellant Sandeep, 'S' (child-in-conflict with law) and accused Vikash alias Babu, hatched a conspiracy to teach a lesson to the deceased for hurling abuses upon the mother and sister of 'S' (child-in-conflict with law) and they went to village Baba-Ladana, where 'S' was riding a motorcycle upon which Vikash alias Babu was a pillion rider and Sandeep was riding motorcycle make Honda Shine bearing registration No. HR08P-2827 and he (Pawan) and his brother Raman were pillion riders on the same; that from the side of village Baba-Ladana, deceased on motorcycle make Platina bearing registration No. HR31N-8851, was coming, having Aman Kumar and Mandeep Kumar son of Suresh as pillion riders and parked their motorcycles in front of their (complainant side) motorcycles; that Vikash alias Babu took out the key of the motorcycle of Mandeep and with an iron pipe (rod) hit on the temporal region of Mandeep who fell on the road; that 'S' gave a knife blow towards left

side of stomach and back of Mandeep; that Raman alias Kaka gave a 'danda' blow on the right hand finger of Mandeep son of Suresh (complainant) and when he started apprehending the boys sitting as pillion riders with Mandeep, he (Pawan) also sustained injury; that 'S' called him (Pawan) and Sandeep by making telephonic calls; that Raman alias Kaka was with him and Vikash alias Babu came with 'S' and all of them, blocked the passage of Mandeep deceased and inflicted injuries to him, as a result of which, Mandeep died; that he could identify the place of occurrence. Remaining accused also suffered almost identical disclosure statements.

9. In pursuance of disclosure statement 'Ex.P5', accused Vikash alias Babu got recovered from bushes an iron pipe, sketch 'Ex.P11' of which was prepared and parcel of the same was also made, which was sealed with one seal of monogram of 'JS'. Sample seal impression sheet was also prepared. Parcel of pipe and sample seal impression sheet was taken into possession of police vide seizure memo 'Ex.P12'. Site plan 'Ex.P46' of place of recovery was prepared.

10. In pursuance of disclosure statement 'Ex.P3', accused Raman got recovered a 'danda' from bushes, sketch 'Ex.P13' of which was prepared and parcel of the same was also made which was sealed with one seal of monogram of 'JS'. Sample seal impression sheet was also prepared. Parcel of 'danda' and sample seal impression sheet, were taken into possession of police vide seizure memo 'Ex.P14'. Site plan 'Ex.P47' of place of recovery was prepared.

11. In pursuance of disclosure statement 'Ex.P8', accused Sandeep got recovered black motorcycle make Honda Shine bearing registration No. HR08P-2827, which was taken into possession of the police vide seizure memo 'Ex.P15'.

12. In pursuance of disclosure statement 'Ex.P41', 'S', child-in-conflict with law got recovered motorcycle make KTM DUKE-200 without registration

number plate from the house of Sant Lal and from underneath the seat of the motorcycle, knife was got recovered, sketch 'Ex.P49' of which was prepared and parcel of the same was also made which was sealed with three seals of monogram of 'JS'. Sample seal impression sheet was also prepared. Parcel of knife and sample seal impression sheet was taken into possession of police vide seizure memo 'Ex.P42'. Site plan 'Ex.P50' of place of recovery was prepared.

13. Joint demarcation memo 'Ex.P10' of the place of occurrence was prepared. Scaled site plan 'Ex.P30' was got prepared on 16.11.2018. On 20.11.2018, photographs were collected. As per call detail record, locations of 'S', child-in-conflict with law, on 20.11.2018 and that of accused Vikash alias Babu, were found in village Baba-Ladana.

COMMITTAL PROCEEDINGS

14. Since the afore offence was exclusively triable by the Court of Session, thus vide order dated 24.01.2019 the learned Principal Magistrate, Juvenile Justice Board, Kaithal, after making an opinion that the accused be tried as an adult, transferred the case to the learned Children's Court.

TRIAL PROCEEDINGS

15. The prosecution examined as many as 17 witnesses and, subsequently, the public prosecutor closed prosecution evidence. After the closure of the prosecution case, the learned trial Judge drew proceedings under Section 313 Cr.P.C., wherein, the accused pleaded innocence, and, claimed false implication. However, he choose to lead only one defence evidence.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE APPELLANT

16. Learned counsel for the convict-appellant submits, that though the eye witnesses to the occurrence, who respectively stepped into the witness box as PW-11, and, PW-12 ascribed to the present appellant the incriminatory role of his delivering the fatal iron pipe on the head of the deceased Mandeep.

However, he submits that since in the disclosure statement made by the present appellant Ex.P-41, besides in the consequent thereto prepared recovery memo rather a knife became recovered. Consequently, he has argued that when there is dichotomy inter-se ocular evidence and the memos (supra), resultantly the prosecution case staggers, and, the appellant is entitled to a verdict of acquittal being made qua him.

SUBMISSIONS OF THE LEARNED STATE COUNSEL

17. The learned State counsel has argued that the impugned verdict of conviction, and, consequent thereto sentence (supra), as became imposed upon the convict by the learned trial Judge concerned, is meritworthy, as the same does not suffer from any taint of any gross mis-appreciation or non-appreciation of any evidence germane to the charge. Therefore, he contends that the impugned verdict of conviction be maintained, and, affirmed by this Court.

ANALYSIS OF THE DEPOSITION OF EYE WITNESSES TO THE OCCURRENCE WHO RESPECTIVELY STEPPED INTO THE WITNESS BOX AS PW-11 AND PW-12

18. Both the witnesses (supra), in their respectively made depositions, as comprised in their respective examinations-in-chief, ascribed to the present appellant the incriminatory role of his inflicting an iron rod blow on the head of the deceased. The said injury ultimately led to the demise of the deceased.

19. It is evident on a reading of depositions of the above witnesses, that both of them, were aware of the identity of the present appellant, therefore, besides when both identified the appellant, in Court. Resultantly, when there is no efficacious cross-examination made upon both the eye witnesses (supra), thus suggesting, that the present appellant was unknown to both of them nor when any affirmative answer became meted thereto, thus by the eye witnesses (supra). Therefore, therefroms an inevitable inference becomes sparked, that thereby the defence conceding, to the availability of the present appellant at the

crime site. Moreover, thereby the defence also concedes to the present appellant delivering the fatal iron blow on the head of the deceased.

DISCLOSURE STATEMENT OF THE APPELLANT AND CONSEQUENT THEREWITH RECOVERIES

20. During the course of investigations being made into the FIR, the investigating officer concerned, had put the accused to police remand. During the course of the appellant, being put to police remand, he made a signed disclosure statement, to which Ex.P-41 is assigned. The contents of the Ex.P-41 are ad verbatim extracted hereinafter.

“Disclosure statement of Child-in-conflict with law Sagar

In the presence of following witnesses during investigation in the case Child Sagar son of Kuldeep, caste balmiki resident of Garhi P.S. Sadar Kaithal conflict in law in police custody in the presence of his father on inquiry voluntarily told without any pressure or fear at about two months earlier an altercation took place between my mother and aunt of Mandeep. On account of that Mandeep had abuse my mother and sister and also gave beatings to them. But I was having a grudge due to this quarrel and I want to take revenge of the said beatings. To take revenge of this beatings I had come to Kaithal to my friends Pawan alias Pammu, Raman alias Kaka, Sandeep alias Sunny and Vikas alias Babbu and told them about the whole occurrence about giving abuses to my mother and sister and told that I have to take revenge from Mandeep. I summoned all of them on 21.10.2018 by giving call to all of them and I in-connivance with Pawan and his brother Raman, Sandeep son of Mahabir, Caste Chamar, resident of Khurana road Kaithal and Vikas alias Babbu son of Rakesh, caste Balmiki, resident of Partap gate Kaithal prepared a scheme collectively that today we all in-connivance with each other have to taught a lesson to Mandeep Kumar son of Mahavir Singh, Caste Balmiki, resident of Garhi District Kaithal for giving abuses to my mother and sister and we aforesaid had gone to Baba Ladana on two motorcycle. I was driving my motor cycle KTM-DUKE 200 without number and Vikas alias Babbu was sitting on the rear seat. Sandeep was driving motorcycle no. HR08P-2827 Honda Shine and Pawan and his brother Raman were sitting behind him and we were going towards Baba Ladana from the side of village Garhi and Mandeep son of Mahavir, Caste Balmiki, resident of village Garhi was coming from the side of Baba Ladana on riding his motorcycle no. HR31N-8851 make Platina and on the rear seat of his motorcycle Aman Kumar son of Ramphal and Mandeep Kumar son of Suresh Kumar were seating. We stopped both of

our motorcycle in front the motorcycle of Mandeep and Vikas alias Babbu took out the key of the motorcycle of Mandeep and inflicted a blow of iron pipe having in his hand on the left side of head of Mandeep son of Mahavir. He fell down on the road from the motorcycle. Then I inflicted knife blow on the left side of stomach/back of Mandeep and then Raman alias Kaka inflicted a danda blow having in his hand on the finger of right hand of Mandeep Kumar son of Suresh Kumar, resident of village Garhi. When Pawan alias Pammu tried to catch hold the boys sitting on the back side of Mandeep, they ran away. I had called Pawan and Sandeep son of Mahavir aforesaid by giving telephonic call and Raman alias Kaka brother of Pawan was also with them. Vikas alias Babbu aforesaid had come with me. We all after blocking the passage of aforesaid Mandeep son of Mahavir aforesaid had caused injuries to him, due to which his death had taken place. I have kept concealed the motorcycle and knife used in the occurrence aforesaid in the house of Shyam Lal maternal uncle of my mother in his house at village Bhaini Majra. The knife is underneath the seat of motorcycle. No one else except me has knowledge about the same. I walking alone can get recovered the same and can identify the said place where I and my associates had caused injuries to Mandeep. Mistake had taken place, I we led off. The disclosure statement of the child conflict with law was written upon which the child-conflict-with law and the witnesses put their respective signatures.

*Sd/- in Hindi
Accused-Sagar son of Kuldeep*

*Witnesses: Sd/- in English
SI Rajphool, Incharge Police Post
Sangatpura, Kaithal*

*Witness Sd/- in English
ASI Saqpal No.266/Kaithal
Police Station Sadar Kaithal*

*Sd/- in English
Station House Officer
Police Station Sadar Kaithal
dated 25-10-2018"*

21. A reading of the above extracted signed disclosure statement, as made by appellant, reveals that he had therein not only confessed his guilt, but had also disclosed that he can ensure the causings of recovery of motorcycle and knife Ex.P-42, to the investigating officer concerned, from the place of his hiding, and, concealing them, given the said site being exclusively known to him. Since in pursuance thereof, through a recovery memo Ex.P-42, he caused the recovery of motorcycle and knife. Significantly, since the appellant has not

been able to either ably deny his signatures as occur on Ex.P-42, nor has been able to prove the apposite denial. Moreover, since he has also not been able to bring forth tangible evidence but suggestive that the recoveries are either contrived or invented. Therefore, both the memos are concluded to be holding the utmost evidentiary tenacity.

22. Learned counsel for the convict-appellant has argued before this Court that the recovery, as made in pursuance to recovery memo rather is incongruous, to the attribution of guilt to the present appellant, thus by the ocular witnesses (supra), inasmuch as, they rather ascribe to the present appellant, the incriminatory role of his delivering the fatal head blow with the user thereons, thus of an iron pipe, yet through the recovery memo, rather a knife became recovered.

23. Therefore, though it is argued, that the above inter-se dichotomy inter-se memos (supra), with the ocular testifications, as made by the ocular witnesses to the occurrence, thus thereby makes the prosecution case to stagger. However, for the reasons to be assigned hereinafter, the above submission of the appellant (supra), rather is unmeritworthy, and, is rejected.

REASON FOR DECLINING THE ABOVE ARGUMENT

24. The reason for declining the above argument becomes rested, on the premise, that the convict-appellant, has failed to ably deny his signatures on the disclosure statement nor has proved the said denial. If so, immense tenacity is acquired by the disclosure statement Ex.P-41, whereby the accused confessed his guilt in committing the murder of deceased Mandeep. Moreover, when in consequence thereof, through recovery memo Ex.P-42 motorcycle and knife became recovered, at his instance to the investigating officer concerned. Therefore, when the recovery of incriminatory motorcycle and knife has been made from a secluded or a hidden place, thus known only to the appellant. In

sequel, the recovery of incriminatory motorcycle and knife from a secluded and inaccessible place but known only to the appellant, thus overrules the argument, if any, that the motorcycle and knife became planted, at the relevant site of recovery, nor also it can be argued before this Court, that the said recoveries were tainted inasmuch as, they became planted, at the relevant site of recovery, rather through a stratagem being deployed by the investigating officer concerned.

25. Furthermore, reiteratedly since no effective cross-examination, became conducted, upon the marginal witnesses to disclosure statement, thus revealing that the recovery of knife, rather was an engineered recovery, thus at the instance of the investigating officer concerned, and/or, it was planted at the site of recovery nor when any affirmative answers became meted thereto, by the marginal witnesses to the memos (supra). Consequently, a conclusion becomes sparked, that the uncontested signatures of the appellant, as occur on the memos (supra), were made thereons, thus voluntarily by him, besides fillips an inference, that the recovery of knife, at his instance from a secluded and inaccessible place, but known only to the accused, but naturally was an untainted and an efficacious recovery thereof, but at the instance of the accused to the investigating officer concerned.

26. The making of the above inference, thus assigning the utmost evidentiary vigor to the memos (supra), thereby lead this Court to conclude, that the said memo(s) wherethrough knife became recovered, in pursuance to a disclosure statement, was in fact used by the convict, in delivering the fatal blow on the head of the deceased Mandeep. Even if the ocular witnesses to the crime event rather make speakings in their respective testifications, that the fatal blow, as became delivered, on the head of the deceased, was so delivered through users thereons of an iron pipe. However, the said made speakings do not

underwhelm the impact of the above untainted recoveries. The reason becomes comprised in the factum, that there is no efficacious cross-examination made, upon the ocular witnesses whereby any inference can become mobilize, that the testifications of the ocular witnesses, are besmirched with an entrenched taint of theirs, making rife improvements or embellishments, vis-a-vis, their previously recorded statement in writing. If so, if thereby the defence concedes to the ocular witnesses, thus making a truthful account of the crime event, thereby also prima-facie, no consequentiality can become assigned, thus to any inter-se contradiction occurring, inter-se the user of an iron pipe, as spoken by the ocular witnesses, hence at the crime site, thus by the accused, rather with the untainted recoveries, as became made of a knife, at the instance of the appellant.

27. As but a natural sequel thereto, predominance is to be assigned to the above memos, than to the ocular witnesses to the occurrence, who ascribed to the present appellant, the incriminatory role of his delivering the fatal blow of iron pipe on the head of the deceased. The above inter-se contradiction inter-se the testifications (supra), of the ocular witnesses, and, the memos (supra), does appear, to become engendered from a prima-facie mistaken fleeting impression of the eye witnesses to the occurrence, vis-a-vis, the nature of the weapon which the present appellant, thus was wielding, at the crime site. If so, the said inter-se contradiction becomes reconciled, and, thereby no credence is to be assigned to the argument (supra), as becomes addressed before this Court by the learned counsel for the convict-appellant.

MEDICAL EVIDENCE (POST MORTEM REPORT)

28. The autopsy upon the body of deceased Mandeep was conducted on 22.10.2018 by PW-3 along with the Board of doctors. PW-3 has proven *qua* his, authoring Ex.P20, as relates to the autopsy as made upon the body of deceased.

29. Moreover, he has proven that the cause of death of deceased Mandeep, was owing to hemorrhagic shock and hemopneumothorax as a result of injury to the vital organ and lungs respectively caused by ante mortem injuries. All the injuries were declared to be ante mortem and were also declared to be sufficient to cause death in ordinary course of nature. The relevant ante mortem injuries as noticed by PW-3 on the body of deceased are extracted hereinafter.

- “1. Contusion of size 8 x 4 cm along with the multiple laceration on the left temporal region of the skull involving the forehead also.*
- 2. Stitched wound of size 2 x 0.1 cm on the left hypochondrium region. After removing the stitches finger was introduced and going in the abdominal cavity and reaching upto the left pleural cavity.*
- 3. Stitched wound of size 2 x 1 cm present on the left infraclavicular region at the lower border of the left scapula. After removing the stitches wound was going in the left pleural cavity.*
- 4. Abrasion of size 3 x 2 cm present on the right shoulder joint. On opening of scalp underlying hemotoma was present in the temporal region.”*

30. The incriminatory weapon of offence was shown to PW-3, during the course of his making testification(s), before the learned trial Judge concerned. In his testification he has spoken that “injuries mentioned in the postmortem report on the chest and abdomen due to this knife, can occur”. He has further spoken that the parcel of knife was again sealed with one seal of monogram of ‘CHKTL’, and, that he has seen the knife Ex.MO1, which is the same regarding which Medical Board of Doctors, thus had proffered their opinion Ex.P23, which bears his signatures, and, that of the other Members of the Medical Board. The effect of the above, is that, especially when no efficacious cross-examination was made upon the said prosecution witness, by the learned defence counsel, but thereby, the defence conceding qua the said ante mortem injuries declared in PMR were, as such, inflicted with the users on

the relevant portion of the body of the deceased, thus of a knife, rather by the accused. Consequently, thereby medical evidence also corroborates the memos (supra).

FSL REPORT

31. Ex.X1 became sent to the FSL concerned, vide R.C. No.399 dated 14.11.2018 through Constable Dinesh Kumar No.508/KNL. After examinations being made at the FSL concerned, *qua* the contents of the sealed parcels, thus the expert concerned, drew the hereinafter extracted conclusions.

“Laboratory Examination:

Laboratory examinations were carried out to detect the presence of blood on the exhibits through chemical tests. Blood thus detected was subjected to serological tests to determine its species of Origin and group. Based upon these examinations the results obtained are given below:-

- 1. Blood was detected on Exhibit-2e (Socks), Exhibit-2f (Shoes) and Exhibit-3 (Knife).*
- 2. Exhibit-1 (Swab), Exhibit-2a (Shirt), Exhibit-2b (T-Shirt), Exhibit-2c (Paint), Exhibit-2d (Knicker), Exhibit-2g (Parna), and Exhibit-2h (Banian) and Exhibit-2i (Handkerchief) were stained with blood stains.”*

Xxx

“Results of serological analysis of blood

Sr. No.	Name of exhibit	Origin	Group
1	Chader	Human	Inconclusive
2a	Shirt	Human	‘B’
2b	T-Shirt	Human	‘B’
2c	Pants	Human	‘B’
2d	Knicker	Human	‘B’
2e	Socks	Material disintegrated	
2f	Shoes	Material disintegrated	
2g	Parna	Human	‘B’
2h	Banian	Human	‘B’
2i	Handkerchief	Human	Inconclusive
3	Knife	Human	‘B’”

32. An analysis of the above made conclusions, as became drawn by the experts concerned, working at the FSL concerned, and but after their examining the contents of the sealed cloth parcels, as became sent there, does but naturally bring forth an inference, that the prosecution has hence invincibly proven, that the blood on the knife in fact was human blood. Therefore,

irrespective of the fact that the prosecution has been unable to bring forth evidence, that the blood occurring on the knife was not belonging to the blood group of the deceased, yet therebys the said stains of blood on the recovered knife are to be concluded to be of the blood group of the deceased, especially when no evidence became adduced by the defence, suggestive that the blood stains borne on knife Ex.P42 rather not belonging to the blood of the deceased, thus through the defence adducing the FTA card of the deceased.

FINAL ORDER

33. In consequence, the impugned verdict of conviction, and, also the consequent therewith order of sentence, as becomes respectively recorded, and, imposed, upon the convict by the learned trial Judge concerned, does not suffer from any gross perversity, or absurdity of gross mis-appreciation, and, non-appreciation of the evidence on record. In consequence, there is no merit in the appeal, and, the same is dismissed. If the appellant is on bail, thereupon he is ordered to be forthwith taken into custody, through the learned trial Judge concerned, forthwith drawing committal warrants against the accused. Case property, if any, be dealt with in accordance with law, but only after the expiry of the period of limitation for the filing of an appeal.

34. Records be sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

16.12.2023

Ithlesh

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No

(SUDEEPTI SHARMA)
JUDGE