2026:HHC:47941

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 443 of 2025 and Cr. Appeal (C-SB) No. 13 of 2026

Reserved on: 14.10.2026

Date of Decision: 02.11.2026.

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1. **Cr. Appeal No. 443 of 2025**

Rajesh Kumar ...Appellant

Versus

State of H.P. ...Respondent

2. **Cr. Appeal (C-SB) No. 13 of 2026**

Pradeep Kumar ...Appellant

Versus

State of H.P. ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] *No*

For the appellant(s) : Mr Yashveer Singh Rathore, Advocate, in Cr. Appeal No. 443 of 2025 and Mr K.S. Gill, Advocate, in Cr. Appeal (C-SB) No. 13 of 2026.

For the Respondent : Mr Jitender Sharma, Additional Advocate General (in both the appeals).

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[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Rakesh Kainthla, Judge

The present appeals are directed against the judgment of conviction and order of sentence dated 01.07.2025, passed by the learned Special Judge, Sarkaghat, District Mandi, H.P. (learned Trial Court), vide which the respondents (accused before the learned Trial Court) were convicted of the commission of offences punishable under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act) and were sentenced to undergo rigorous imprisonment for 5 years, pay a fine of ₹70,000/- each, and in default of payment of fine, to undergo further simple imprisonment for three months for the commission of the aforesaid offences. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience)*.

2. Both the appeals have been preferred against the same judgment; therefore, they are being taken up together for disposal.

3. Briefly stated, the facts giving rise to the present appeals are that the police presented a challan against the accused before the learned Trial Court for the commission of offences punishable under Sections 20 and 29 of the NDPS Act. It

was asserted that ASI Raj Kumar (PW-12), HHC Rakesh Kumar (PW-13), and HHC Rakesh Kumar (PW-15) were present at Longni near the Forest Hut on 09.02.2019 in the official vehicle bearing registration No. HP-33B-3667, being driven by HHG Yaseen Mohd. (PW-11). A motorcycle bearing registration No. HP-22B-0889 came from Joginder Nagar at about 10:40 PM. The driver identified himself as Rajesh Kumar, and the pillion rider identified himself as Pradeep Kumar. Rajesh Kumar and Pradeep Kumar had backpacks with them. The motorcyclists became perplexed after seeing the police. The police associated Dila Ram (PW-9) and Desh Raj (PW-10) and searched the backpacks. A white pant, blue jeans, and a carry bag were found inside the backpack being carried by Rajesh Kumar. The carry bag contained cannabis in the form of black sticks. The police also checked the backpack being carried by Pradeep Kumar and found a polythene packet containing cannabis. The police weighed the cannabis. The cannabis recovered from the backpack of Rajesh Kumar was found to be 288 grams, and the cannabis found in the backpack of Pradeep Kumar was found to be 102 grams.

4. The charas was put in the carry bag in the same manner in which it was recovered. The carry bag was put in a

cloth parcel, and the parcel was sealed with the seal impression of the seal 'DPRA'. Sample seal (Ex. P-3/PW-12) was taken on a separate piece of cloth. NCB-1 form (Ex. P-2/PW-12) was filled in triplicate, and the seal impression was also obtained on the NCB-1 form. The seal was handed over to Desh Raj after use. The charas found from the backpack of Pradeep Kumar was put in the polythene packet, and the packet was put in a cloth parcel. The parcel was sealed with three impressions of seal 'DPRN'. Sample seal 'DPRN' (Ex. PW-6/H) was taken on a separate piece of cloth, NCB-1 form was filled, and the seal impression was put on the form. The parcel, motorcycle, and the backpacks were seized vide memo (Ex. PW-6/A).

5. The accused were apprised of their right to be searched before the Magistrate. The accused consented to be searched before the Magistrate. Memos (Ex. PW-6/D and Ex. PW-6/E) were prepared. Executive Magistrate, Manphool Singh (PW-14), was requested to visit the spot. The personal search of the accused was conducted in the presence of the Executive Magistrate, but no incriminating article was found. Memos (Ex. PW-6/F and Ex. PW-6/G) were prepared. ASI Raj Kumar took photographs (Ex. P-4/PW-12 to Ex. P-8/PW-12). He

prepared the rukka (Ex. P-9/PW-12) and handed it over to HHC Rakesh Kumar No. 111 with a direction to take it to Police Station Dharampur for the registration of the FIR.

6. HHC Rakesh Kumar handed over the rukka to Inspector Suram Singh (PW-16), who registered the FIR (Ex. P-14/PW-16). Investigation was handed over to ASI Tibati Ram (PW-17), who visited the spot, where ASI Raj Kumar handed over the accused persons, case property, and case file to ASI Tibati Ram. ASI Tibati Ram conducted further investigation. He prepared the site plan (Ex. P-23/PW-17), recorded the statements of the witnesses as per their versions and arrested the accused vide memo (Ex. P-24/PW-17). ASI Tibati Ram produced the accused, cloth parcel, and case file before Inspector Suram Singh (PW-16), who checked the seals and put his seal impression 'DPRK' on the parcels. He also put the seal impression on the NCB-1 form (Ex. P-2/PW-12). He issued a resealing certificate (Ex. P-18/PW-16) and handed over the case property to HC Pradeep Kumar (PW-5), who made an entry in the register of Malkhana and deposited it in the Malkhana. He handed over the case property to SHO on 11.02.2019 for compliance with Section 52A of the NDPS Act.

7. Suram Singh prepared an application (Ex. P-19/PW-16) for certifying the inventory (Ex. P-20/PW-16). He handed over the documents and the case property to ASI Tibati Ram (PW-17), who carried them to the Court. The Court resealed the parcels with three seals bearing the impression 'JMIC-II Mandi' and passed an order (Ex. P-27/PW-17). ASI Tibati Ram took photographs of the inventory proceedings (Ex. P-29/PW-17 to Ex. P-34/PW-17). The case property was again deposited with MHC Pradeep Kumar (PW-5), who handed over the case property and the other documents to HHC Kashmir Singh (PW-3) with a direction to carry them to FSL, Junga vide RC No. 27/2019 (Ex.PW-5/A). ASI Tibati Ram prepared the special report (Ex. P-28/PW-17) and handed it over to Constable Roop Chand (PW-2) with a direction to carry it to the supervisory officer. HHC Roop Singh handed over the special report to SDPO, Sarkaghat, who made an endorsement on the special report and handed it over to HC Sandeep (PW-6), who made an entry in the special report entry register (Ex. PW-6/A) and retained the special report on the record.

8. The result of chemical analysis (Ex. P-21/PW-6) was issued, in which it was shown that the exhibit stated as cannabis

in cloth parcels was extract of cannabis and samples of charas. Statements of witnesses were recorded as per their version, and after the completion of the investigation, the challan was prepared and presented before the learned Trial Court.

9. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, they were charged with the commission of offences punishable under Section 20 of the NDPS Act, to which they pleaded not guilty and claimed to be tried.

10. The prosecution examined 18 witnesses to prove its case. HC Pramod Kumar (PW1) witnessed the recovery. HHC Roop Singh (PW2) was working as MHC, with whom the case property was deposited. HHC Kashmir Singh (PW3) carried the case property to FSL Junga. HHC Karam Singh (PW4) brought the case property from FSL Junga. Pradeep Kumar (PW5) was posted as MHC and dealt with the case property. HC Sandeep (PW6) was posted as reader to the SDPO, to whom the special report was handed over. Constable Baldev Singh (PW7) recorded the statements of witnesses as per the instructions of the Investigating Officer. HHC Suresh Kumar (PW8) proved the entry in the daily diary. Dila Ram (PW9) and Desh Raj (PW10) have not

supported the prosecution version. HHC Yaseen Mohd. (PW11), SI Raj Kumar (PW12), HHC Rakesh Kumar (PW13) and HHC Rakesh Kumar (PW15) witnessed the recoveries. Manphool Singh (PW14), Executive Magistrate, witnessed the personal search of the accused. Inspector Suram Singh (PW16) was posted as SHO, who had re-sealed the parcel. Tibati Ram (PW17) investigated the matter. Prithi Raj (PW18) developed the photographs.

11. The accused, in their statements recorded under Section 313 of the Code of Criminal Procedure (CrPC), denied the prosecution case in its entirety. They claimed that the witnesses had deposed falsely against them and they were innocent. They did not produce any evidence in their defence.

12. Learned Trial Court held that the testimonies of prosecution witnesses corroborated each other. There was nothing in their cross-examination to show that they were making false statements. Minor contradictions in the statements of the witnesses were not sufficient to discard their testimonies. The mere fact that the independent witnesses had not supported the prosecution case was not sufficient to doubt the prosecution version. The integrity of the case property was established.

Hence, the learned Trial Court convicted and sentenced the accused as mentioned above.

13. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused have preferred separate appeals asserting that the learned Courts below erred in appreciating the evidence on record. The search and seizure were not proved as per the law. The provisions of Section 50 of the NDPS Act were not complied with. The independent witnesses had not supported the prosecution version. The backpack from which the recovery was effected was not produced before the Court. The integrity of the case property was not established. The sentence imposed by the learned Trial Court was excessive and disproportionate to the quantity of charas stated to have been recovered from the possession of the accused. Therefore, they prayed that the present appeals be allowed and the judgment and order passed by the learned Trial Court be set aside.

14. I have heard M/s Yashveer Singh Rathore and K S Gill, learned counsel for the accused, and Mr Jitender Sharma, learned Additional Advocate General for the respondent/State.

15. M/s Yashveer Singh Rathore and K.S. Gill, learned counsel for the accused, submitted that the prosecution's

witnesses contradicted each other on material aspects. The independent witnesses had not supported the prosecution's case. The backpack was not produced before the Court. All these circumstances made the prosecution's version doubtful. The learned Trial Court had imposed a harsh sentence. Hence, they prayed that the present appeals be allowed and the judgment and order passed by the learned Trial Court be set aside.

16. Mr Jitender Sharma, learned Additional Advocate General for the respondent-State, submitted that the official witnesses had proved the prosecution version. The mere fact that independent witnesses had not supported the prosecution case was not sufficient to doubt it. The link evidence was complete, and there is no infirmity in the judgment and order passed by the learned Trial Court. Hence, he prayed that the present appeals be dismissed.

17. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

18. Dila Ram (PW9) stated that he and his friends were coming from Dharampur side. They reached at Longni at about 9:00-9:30 p.m. The police signalled them to stop. Nothing had happened on the spot. He was permitted to be cross-examined.

He denied that the police had signalled the driver of the motorcycle bearing Registration No. HP-22B-0889 to stop, the motorcyclist disclosed their names, the motorcycle rider had the backpacks, the police searched the backpacks in his presence, or that charas was recovered during the search. He admitted his signatures on various memos. He denied the previous statement recorded by the police.

19. Desh Raj (PW10) stated that he and his friend were coming from Dharampur side on a scooter. They reached Longni at about 09:00-9:30 p.m., and the police asked them to stop. Nothing had happened on the spot. He was permitted to be cross-examined. He denied that police had intercepted a motorcycle bearing registration No. HP-22B-0889 or that the motorcyclist revealed their names as Rajesh Kumar and Pradeep Kumar. He denied that the motorcyclist had backpacks which were searched by the police and charas was recovered. He denied the previous statement recorded by the police. However, he admitted his signatures on the various documents.

20. It was submitted that the testimonies of these witnesses made the prosecution case doubtful. This submission cannot be accepted. These witnesses were contradicted with their

previous statements, and they denied that they had made any such statement to the police. Tibati Ram (PW17) specifically stated that he had recorded the statements of Desh Raj and Dila Ram (Ex. P25/PW17 and Ex. P26/PW17) as per their version. This was not challenged in the cross-examination, and it was only suggested to him that the statements were recorded at the Police Station. Therefore, the testimony of Tibati Ram that he had recorded the statements of Desh Raj and Dila Ram as per their versions has gone unrebutted and has to be accepted as correct. Hence, Desh Raj and Dila Ram are shown to have made two inconsistent statements: one before the police that the recovery was made in their presence from the backpacks being carried by the accused and the other before the Court that no recovery was effected in their presence. Both the statements cannot stand together, and their credit has been impeached under Section 155(3) of the Indian Evidence Act. It was laid down by the Hon'ble Supreme Court in ***Sat Paul v. Delhi Admn., (1976) 1 SCC 727*** that where a witness has been thoroughly discredited by confronting him with the previous statement, his statement cannot be relied upon. However, when he is confronted with some portions of the

previous statement, his credibility is shaken to that extent, and the rest of the statement can be relied upon. It was observed:

> "52. From the above conspectus, it emerges clearly that even in a criminal prosecution, when a witness is cross-examined and contradicted with the leave of the court by the party calling him, his evidence cannot, as a matter of law, be treated as washed off the record altogether. It is for the Judge of fact to consider in each case whether, as a result of such cross-examination and contradiction, the witness stands thoroughly discredited or can still be believed regarding a part of his testimony. If the Judge finds that in the process, the credit of the witness has not been completely shaken, he may, after reading and considering the evidence of the witness, as a whole, with due caution and care, accept, in the light of the other evidence on the record, that part of his testimony which he finds to be creditworthy and act upon it. If in a given case, the whole of the testimony of the witness is impugned, and in the process, the witness stands squarely and totally discredited, the Judge should, as a matter of prudence, discard his evidence in toto."

21. This Court also took a similar view in ***Ian Stilman versus State 2002(2) ShimLC 16*** wherein it was observed:

> "12. It is now well settled that when a witness who has been called by the prosecution is permitted to be cross-examined on behalf of the prosecution, such a witness loses credibility and cannot be relied upon by the defence. We find support for the view we have taken from the various authorities of the Apex Court. In ***Jagir Singh v. The State (Delhi Administration), AIR 1975 Supreme Court 1400***, the Apex Court observed:
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> > "It is now well settled that when a witness, who has been called by the prosecution, is permitted to be cross-examined on behalf of the prosecution, the result of that course being adopted is to discredit this

witness altogether and not merely to get rid of a part of his testimony.

22. It was laid down by the Hon'ble Supreme Court in ***Mahesh v. State of Maharashtra*, *(2008) 13 SCC 271; (2009) 3 SCC (Cri) 543; 2008 SCC OnLine SC 656*** that where the witness had made an inconsistent statement before the police, his testimony before the Court cannot be relied upon. It was observed at page 289:

> "**49.** It is the evidence of PW PSI Dhimole that portion marked "A" appearing in the statement of PW 1 was recorded by him correctly. The defence has not brought on record any evidence to show why the investigating officer had recorded the portion marked " A " of the statement of PW 1 incorrectly. If PW 1, the maker of the complaint, has chosen not to corroborate his earlier statement made in the complaint and recorded during investigation, the conduct of such a witness, for no plausible and tenable reasons pointed out on record, will give rise to doubt as to the testimony of the investigating officer, who had sincerely and honestly conducted the entire investigation of the case. In these circumstances, we are of the view that PW 1 has tried to conceal the material truth from the Court with the sole purpose of shielding and protecting the appellant for reasons best known to the witness and therefore, no benefit could be given to the appellant for unfavourable conduct of this witness to the prosecution."

23. It was held in ***Paramjeet Singh v. State of Uttarakhand*, *(2010) 10 SCC 439: 2010 SCC OnLine SC 1087***that where a witness makes different statements at different times, he does not have

any regard for truth, and his testimony should be seen with due care and caution. It was observed at page 448:

> **"16.** The fact that the witness was declared hostile at the instance of the Public Prosecutor and he was allowed to cross-examine the witness furnishes no justification for rejecting en bloc the evidence of the witness. However, the court has to be very careful, as prima facie, a witness who makes different statements at different times has no regard for the truth. His evidence has to be read and considered as a whole with a view to finding out whether any weight should be attached to it. The court should be slow to act on the testimony of such a witness; normally, it should look for corroboration to his testimony. (Vide ***State of Rajasthan v.Bhawani[(2003) 7 SCC 291: 2003 SCC (Cri) 1628]***.)

24. It was laid down by this Court in ***Budh Ram Versus State of H.P. 2020 Cri. L.J. 4254,*** that the prosecution's version cannot be discarded because the independent witnesses did not support it. It was observed:

> Though the independent witnesses, PW-1 Rajiv Kumar and PW-2 Hira Lal, were declared hostile and were cross-examined, the law in respect of appreciating the testimonies of such witnesses is well settled. Hon'ble Apex Court in ***Sudru versus State of Chhattisgarh, (2019) 8 SCC 333***, relying upon ***Bhajju versus State of M.P., 2010 4 SCC 327***, has again reiterated the well-settled principle that evidence of a hostile witness can be relied upon by the prosecution version. Merely because a witness has turned hostile, the same does not render his evidence or testimony inadmissible in a trial, and such a conviction can be based upon such testimony if it is corroborated by other reliable evidence.

In a case titled ***Raja and Others versus State of Karnataka (2016) 10 SCC 506***, the Apex Court observed that the evidence of a hostile witness cannot be altogether discarded, and as such, it is open for the Court to rely on the dependable part of such evidence which stands duly corroborated by other reliable evidence on record.

In a case titled ***Selvaraj @ Chinnapaiyan versus State represented by Inspector of Police, (2015) 2 SCC 662***, the Apex Court has observed that in a situation/case wherein the witness deposes falsely in his/her cross-examination, that itself is not sufficient to outrightly discard his/her testimony in examination-in-chief. The Court held that a conviction can be recorded believing the testimony of such a witness given in examination-in-chief; however, such evidence is required to be examined with great caution.

In ***Ashok alias Dangra Jaiswal versus State of Madhya Pradesh, (2011) 5 SCC 123***, it has been held as under: -

> "The seizure witness turning hostile may not be very significant by itself, as it is not an uncommon phenomenon in criminal trials, particularly in cases relating to the NDPS Act."

25. Therefore, the testimonies of the witnesses could not have been used to discard the prosecution case.

26. SI Raj Kumar (PW12) had effected the recovery. He supported the prosecution case in his examination-in-chief, which is not being reproduced to avoid prolixity and repetition. He stated in his cross-examination that the police had left the Police Station at about 08:53 p.m. The barrier was laid only at Longini. No other vehicle was checked because the motorcycle

had arrived immediately after setting up the barrier. He admitted that no motorcycle, Naib Tehsildar and the independent witnesses were visible in the photographs. HHC Rakesh Kumar left for the Police Station at about 11:55 p.m. with the Rukka and reached the spot at about 05:00 a.m. He denied that no recovery was effected and that he was making a false statement.

27. HHG Yasmin (PW11) also supported the prosecution version in his examination-in-chief, which is not being reproduced to avoid repetition and prolixity. He stated in his cross-examination that he was not a regular driver, but used to perform the duty of the driver in the absence of the regular driver. He did not remember the exact time when the naka was laid. They had stayed at Kenchi Mode for 5-10 minutes. They put the Naka at Longini at around 10:30 p.m. They had checked a Scooty at Longini. The spot was busy, being on the National Highway. They had stayed on the spot for about an hour. He admitted that no photograph was taken in his presence by the Investigating Officer. He denied that no recovery was effected and that he was making a false statement.

28. HHC Rakesh Kumar (PW13) also supported the prosecution version in his examination-in-chief, which is not

being reproduced to avoid prolixity and repetition. He stated in his cross-examination that police had checked 2-3 vehicles before the motorcycle of the accused. He admitted that the place of the incident was located on National Highway, which was a busy road. He admitted that he had not seen the backpacks in the Court from which the contraband was recovered. They had stayed at the spot for about 1½ hours. He left the spot at about 11:55 p.m. and reached the spot at 04:00 - 05:00 a.m. He travelled to the Police Station by taking a lift and also returned to the spot by taking a lift. He denied that no recovery was effected from the accused.

29. Rakesh Kumar (PW15) also supported the prosecution version. He stated in his cross-examination that he had left the Police Station at about 08:00 p.m. The police had checked 6-7 vehicles on the spot. The photographs were taken by ASI Raj Kumar. However, the photograph of the bike was not taken. He admitted that Des Raj was the Pradhan of Gram Panchayat, Longni. The police remained on the spot for about 3-4 hours. He admitted that the spot was a busy road. He did not remember the time when the Investigating Officer had left the spot with the Rukka. He denied that he was making a false statement.

30. It was submitted that the statements of the prosecution witnesses contradicted each other on material particulars. The following contradictions were highlighted: -

(i) HHC Yaseen Mohd. (PW11) stated that no photograph was taken in his presence, whereas HHC Rakesh Kumar (PW15) and SI Raj Kumar (PW12) stated that photographs were taken on the spot.

(ii) HHC Rakesh Kumar (PW13) stated that they had stayed on the spot for about 1 and a half hours, whereas HHC Rakesh Kumar (PW15) stated that they had stayed on the spot for about 3-4 hours.

(iii) SI Raj Kumar (PW12) stated that no vehicle was checked because the motorcycle of the accused had reached the spot immediately after setting up the barrier, whereas HHC Rakesh Kumar (PW15) stated that they had checked 6-7 vehicles on the spot.

31. It was submitted that these contradictions made the prosecution case highly doubtful. This submission cannot be accepted. Hon'ble Supreme Court held in ***Rajan v. State of Haryana, 2025 SCC OnLine SC 1952,*** that the discrepancies in the statements of the witnesses are not sufficient to discard the prosecution case unless they shake the core of the testimonies. It was observed: -

> "**32.** The appreciation of ocular evidence is a hard task. There is no fixed or straitjacket formula for the

appreciation of the ocular evidence. The judicially evolved principles for the appreciation of ocular evidence in a criminal case can be enumerated as follows:

> *"I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness, read as a whole, appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinise the evidence more particularly, keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.*
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> *II. If the Court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court, which had not this benefit, will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.*
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> *III. When an eye-witness is examined at length, it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.*
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> *IV. Minor discrepancies on trivial matters not touching the core of the case, a hyper-technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer, not going to the root of the matter, would not ordinarily permit rejection of the evidence as a whole.*
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> *V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as*

between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. By and large, a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a videotape is replayed on the mental screen.

VII. Ordinarily, it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence, which so often has an element of surprise. The mental faculties, therefore, cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind, whereas it might go unnoticed on the part of another.

IX. By and large, people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to the exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guesswork on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time sense of individuals, which varies from person to person.

XI. Ordinarily, a witness cannot be expected to recall accurately the sequence of events that take place in rapid succession or in a short time span. A witness is liable to get confused or mixed up when interrogated later on.

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination by counsel and, out of nervousness, mix up facts, get confused regarding the sequence of

> *events, or fill in details from imagination on the spur of the moment. The subconscious mind of the witness sometimes operates on account of the fear of looking foolish or being disbelieved, though the witness is giving a truthful and honest account of the occurrence witnessed by him.*
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> *XIII. A former statement, though seemingly inconsistent with the evidence, need not necessarily be sufficient to amount to a contradiction. Unless the former statement has the potency to discredit the latter statement, even if the latter statement is at variance with the former to some extent, it would not be helpful to contradict that witness." [See* ***Bharwada Bhoginbhai Hirjibhai v. State of Gujarat (1983) 3 SCC 217: 1983 Cri LJ 1096: (AIR 1983 SC 753) Leela Ram v. State of Haryana (1999) 9 SCC 525: AIR 1999 SC 3717*** and ***Tahsildar Singh v. State of UP (AIR 1959 SC 1012)"***

32. It was laid down by the Hon'ble Supreme Court in ***Karan Singh v. State of U.P., (2022) 6 SCC 52: (2022) 2 SCC (Cri) 479: 2022 SCC OnLine SC 253*** that the Court has to examine the evidence of the witnesses to find out whether it has a ring of truth or not. The Court should not give undue importance to omissions, contradictions and discrepancies which do not go to the heart of the matter. It was observed at page 60: -

> "**38.** From the evidence of Mahender Singh, PW 4, it appears that no specific question was put to him as to whether the appellant was present at the place of occurrence or not. This Court in ***Rohtash Kumar v. State of Haryana [Rohtash Kumar v. State of Haryana, (2013) 14 SCC 434: (2014) 4 SCC (Cri) 238]*** held: (SCC p. 446, para 24)
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> > "24. ... The court has to examine whether the evidence read as a whole appears to have a ring of truth. Once

that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more, particularly keeping in view the deficiencies, drawbacks, and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witnesses and whether the earlier evaluation of the evidence is shaken, as to render it unworthy of belief. Thus, the court is not supposed to give undue importance to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution witness."

39. Referring to ***Narayan Chetanram Chaudhary v. State of Maharashtra [Narayan Chetanram Chaudhary v. State of Maharashtra, (2000) 8 SCC 457: 2000 SCC (Cri) 1546]***, Mr Tyagi argued that minor discrepancies caused by lapses in memory were acceptable; contradictions were not. In this case, there was no contradiction, only minor discrepancies.

40. In ***Kuriya v. State of Rajasthan [Kuriya v. State of Rajasthan, (2012) 10 SCC 433: (2013) 1 SCC (Cri) 202]***, this Court held: (SCC pp. 447-48, paras 30-32)

"*30.* This Court has repeatedly taken the view that the discrepancies or improvements which do not materially affect the case of the prosecution and are insignificant cannot be made the basis for doubting the case of the prosecution. The courts may not concentrate too much on such discrepancies or improvements. The purpose is to primarily and clearly sift the chaff from the grain and find out the truth from the testimony of the witnesses. Where it does not affect the core of the prosecution case, such a discrepancy should not be attached undue significance. The normal course of human conduct would be that while narrating a particular incident, there may occur minor discrepancies. Such discrepancies may even, in law, render the depositions inadmissible. The improvements or variations must essentially relate to

the material particulars of the prosecution case. The alleged improvements and variations must be shown with respect to the material particulars of the case and the occurrence. Every such improvement, not directly related to the occurrence, is not a ground to doubt the testimony of a witness. The credibility of a definite circumstance of the prosecution case cannot be weakened with reference to such minor or insignificant improvements. Reference in this regard can be made to the judgments of this Court in ***Kathi Bharat Vajsur v. State of Gujarat [Kathi Bharat Vajsur v. State of Gujarat, (2012) 5 SCC 724 : (2012) 2 SCC (Cri) 740], Narayan Chetanram Chaudhary v. State of Maharashtra [Narayan Chetanram Chaudhary v. State of Maharashtra, (2000) 8 SCC 457: 2000 SCC (Cri) 1546], Gura Singh v. State of Rajasthan [Gura Singh v. State of Rajasthan, (2001) 2 SCC 205: 2001 SCC (Cri) 323]*** and ***Sukhchain Singh v. State of Haryana [Sukhchain Singh v. State of Haryana, (2002) 5 SCC 100: 2002 SCC (Cri) 961]***.

31. What is to be seen next is whether the version presented in the Court was substantially similar to what was said during the investigation. It is only when exaggeration fundamentally changes the nature of the case that the Court has to consider whether the witness was stating the truth or not. [Ref. ***Sunil Kumar v. State (NCT of Delhi) [Sunil Kumar v. State (NCT of Delhi), (2003) 11 SCC 367: 2004 SCC (Cri) 1055]***].

32. These are variations which would not amount to any serious consequences. The Court has to accept the normal conduct of a person. The witness who is watching the murder of a person being brutally beaten by 15 people can hardly be expected to state a minute-by-minute description of the event. Everybody, and more particularly a person who is known to or is related to the deceased, would give all his attention to take steps to prevent the assault on the victim and then to make every effort to provide him with medical aid and inform the police. The statements which are recorded immediately upon the incident would have to be given a

little leeway with regard to the statements being made and recorded with utmost exactitude. It is a settled principle of law that every improvement or variation cannot be treated as an attempt to falsely implicate the accused by the witness. The approach of the court has to be reasonable and practicable. Reference in this regard can be made to ***Ashok Kumar v. State of Haryana [Ashok Kumar v. State of Haryana, (2010) 12 SCC 350: (2011) 1 SCC (Cri) 266]*** and ***Shivlal v. State of Chhattisgarh [Shivlal v. State of Chhattisgarh, (2011) 9 SCC 561: (2011) 3 SCC (Cri) 777]***.

41. In ***Shyamal Ghosh v. State of W.B. [Shyamal Ghosh v. State of W.B., (2012) 7 SCC 646: (2012) 3 SCC (Cri) 685]***, this Court held: (SCC pp. 666-67, paras 46 & 49)

> "46. Then, it was argued that there are certain discrepancies and contradictions in the statements of the prosecution witnesses inasmuch as these witnesses have given different timings as to when they had seen the scuffling and strangulation of the deceased by the accused. ... Undoubtedly, some minor discrepancies or variations are traceable in the statements of these witnesses. But what the Court has to see is whether these variations are material and affect the case of the prosecution substantially. Every variation may not be enough to adversely affect the case of the prosecution.
>
> ***
>
> 49. It is a settled principle of law that the court should examine the statement of a witness in its entirety and read the said statement along with the statements of other witnesses in order to arrive at a rational conclusion. No statement of a witness can be read in part and/or in isolation. We are unable to see any material or serious contradiction in the statement of these witnesses which may give any advantage to the accused."

42. In ***Rohtash Kumar v. State of Haryana [Rohtash Kumar v. State of Haryana, (2013) 14 SCC 434: (2014) 4 SCC (Cri) 238]***, this Court held: (SCC p. 446, para 24)

> "24. ... The court has to examine whether the evidence read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more, particularly keeping in view the deficiencies, drawbacks, and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witnesses and whether the earlier evaluation of the evidence is shaken, as to render it unworthy of belief. Thus, the court is not supposed to give undue importance to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution witness."

33. Similar is the judgment in ***Anuj Singh v. State of Bihar,*** ***2022 SCC OnLine SC 497: AIR 2022 SC 2817***, wherein it was observed:

> "17. It is not disputed that there are minor contradictions with respect to the time of the occurrence or injuries attributed to the hand or foot, but the constant narrative of the witnesses is that the appellants were present at the place of occurrence, armed with guns, and they caused the injury to informant PW-6. However, the testimony of a witness in a criminal trial cannot be discarded merely because of minor contradictions or omissions, as observed by this Court in ***Narayan Chetanram Chaudhary &Anr. Vs. State of Maharashtra, 2000 8 SCC 457***. This Court, while considering the issue of contradictions in the testimony while appreciating the evidence in a criminal trial, held that only contradictions in material particulars and not minor contradictions can be grounds to discredit the testimony of the witnesses. The relevant portion of para 42 of the judgment reads as under:
>
> > "42. Only such omissions which amount to a contradiction in material particulars can be used to

> discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of the witness unreliable. When the version given by the witness in the court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false, and the sense of observation differs from person to person. The omissions in the earlier statement, if found to be of trivial details, as in the present case, would not cause any dent in the testimony of PW 2. Even if there is a contradiction of a statement of a witness on any material point, that is no ground to reject the whole of the testimony of such witness."

34. Therefore, in view of the binding precedents of the Hon'ble Supreme Court, the statements of the witnesses cannot be discarded due to omissions, contradictions, or discrepancies. The Court must consider whether the discrepancies negatively affect the prosecution's case and whether they pertain to the core of the case rather than the details.

35. The contradiction regarding the time is not significant because no person remembers the time by looking at the watch, and when anyone is asked about the time, he gives a different time, which may or may not be correct. It was laid down by the Hon'ble Supreme Court in ***Bharwada Bhoginbhai Hirjibhai v. State of Gujarat (1983) 3 SCC 217*** that people make their

estimates by guesswork regarding the time on the spur of the moment, and one cannot expect people to make very precise or reliable estimates in such matters. It was observed:-

> "(5) In regard to the exact time of an incident or the time duration of an occurrence, usually, people make their estimates by guesswork on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time sense of individuals, which varies from person to person."

36. Therefore, the contradiction regarding the time cannot be used to discard the prosecution's version.

37. In the present case, the incident had taken place in the year 2019. Statement of HHG Yaseen Mohammad was recorded on 08.09.2022, more than three years after the incident, and the statement of HHC Rakesh Kumar was recorded on 27.09.2023, four years after the incident. Human memory fails with time, and contradictions are bound to come. Therefore, the contradiction regarding the number of vehicles checked by the police is not significant. Further, the failure to notice the taking of a photograph by HHC Yaseen Mohammad can be because of an error of observation or failure of memory, which cannot be used to discard the prosecution version. Therefore, the submission

that the prosecution case has become doubtful because of the discrepancies cannot be accepted.

38. HHH Yaseen Mohammad (PW11) and HHC Rakesh Kumar (PW13) admitted in their cross-examination that they had not seen the backpacks from which the recovery was effected. It was submitted that the prosecution had not produced the backpack before the Court, which made the prosecution case suspect. This submission cannot be accepted. The backpack (Ex.MO-7) held by Rajesh Kumar and the backpack (Ex.MO-8) held by Pradeep Kumar were shown to SI Raj Kumar and Rakesh Kumar (PW15). The pant (Ex.MO-9) was also found in the backpack (Ex.MO-8). Therefore, it is not correct to say that the backpacks were not produced before the Court. They were duly produced and identified by SI Raj Kumar and Rakesh Kumar (PW15). Therefore, the prosecution case is not doubtful because the backpacks were not shown to some of the witnesses.

39. NCB-I Form (Ex. P2/PW12) mentions the date and place of seizure as 09.02.2019 at 10:40 p.m. at Longni. It was submitted that the motorcycle was intercepted at Longni at 10:40 p.m. and the seizure could not have been made at that time. This submission will not help the accused. Column No. 2 of NCB-1

Form mentions the name and address of the offender as ASI Raj Kumar, IO, PS, Dharampur at Mandi, which shows the level of training of the Investigating Officer. Therefore, not much can be made out from mentioning the date and time of seizure.

40. It was submitted that only the photographs of the accused were taken and no photographs of the motorcycle, Executive Magistrate, etc. were taken, which made the prosecution case doubtful. This submission is not acceptable. The photographs have been taken during the night, and the background is black. In one photograph, a police official is slightly visible. Thus, the fact that the Executive Magistrate, motorcycle or the police official are not visible in the photographs will not make much difference.

41. Nothing was suggested to the police officials as to why they would be deposing falsely against the accused. The accused had also not stated in their statements recorded under Section 313 of the CrPC that they had any enmity with the official witnesses, which would prompt the police officials to make false statements against them. It was laid down by the Hon'ble Supreme Court in ***Kripal Singh v. State of Rajasthan*, *(2019) 5 SCC 646: (2019) 2 SCC (Cri) 680: 2019 SCC OnLine SC 207***, that the

testimonies of the police officials cannot be ignored because they are police officials. It was observed at page 656:

> "**21.** The submission of the learned Senior Counsel for the appellant that recovery has not been proved by any independent witness is of no substance for the reason that, in the absence of an independent witness to support the recovery, it cannot be ignored unless proved to the contrary. There is no such legal proposition that the evidence of police officials, unless supported by an independent witness, is unworthy of acceptance or that the evidence of police officials can be outrightly disregarded."

42. It was laid down by this Court in ***Budh Ram Versus State of H.P. 2020 Cri.L.J.4254*** that the testimonies of the police officials cannot be discarded on the ground that they belong to the police force. It was observed:

> "11. It is a settled proposition of law that the sole testimony of the police official, which, if otherwise, is reliable, trustworthy, cogent and duly corroborated by other admissible evidence, cannot be discarded only on the ground that he is a police official and may be interested in the success of the case. There is also no rule of law which lays down that no conviction can be recorded on the testimony of a police officer even if such evidence is otherwise trustworthy. The rule of prudence may require more scrutiny of their evidence. Wherever the evidence of a police officer, after scrutiny, inspires confidence and is found to be trustworthy and reliable, it can form the basis of a conviction, and the absence of some independent witness of the locality does not in any way affect the creditworthiness of the prosecution case. No infirmity attaches to the testimony of the police officers merely because they belong to the police force."

43. Similar is the judgment in ***Karamjit Singh versus State,*** ***AIR 2003 S.C. 3011,*** wherein it was held:

> "The testimony of police personnel should be treated in the same manner as the testimony of any other witness, and there is no principle of law that without corroboration by independent witnesses, their testimony cannot be relied upon. The presumption that a person acts honestly applies, as much in favour of police personnel as of other persons, and it is not a proper judicial approach to distrust and suspect them without good grounds. It will all depend upon the facts and circumstances of each case, and no principle of general application can be laid down." (Emphasis supplied)

44. This position was reiterated in ***Sathyan v. State of Kerala, 2023 SCC OnLine SC 986,*** wherein it was observed:

> 22. Conviction being based solely on the evidence of police officials is no longer an issue on which the jury is out. In other words, the law is well settled that if the evidence of such a police officer is found to be reliable and trustworthy, then basing the conviction thereupon cannot be questioned, and the same shall stand on firm ground. This Court in ***Pramod Kumar* v. *State (Govt. of NCT of Delhi) 2013 (6) SCC 588***, after referring to ***State of U.P. v. Anil Singh [1988 Supp SCC 686: 1989 SCC (Cri) 48], State (Govt. of NCT of Delhi) v. Sunil [(2001) 1 SCC 652: 2001 SCC (Cri) 248]*** and ***Ramjee Rai v. State of Bihar [(2006) 13 SCC 229 : (2007) 2 SCC (Cri) 626]*** has laid down recently in ***Kashmiri Lal v. State of Haryana [(2013) 6 SCC 595: AIR 2013 SCW 3102]*** that there is no absolute command of law that the police officers cannot be cited as witnesses and their testimony should always be treated with suspicion. Ordinarily, the public at large shows their disinclination to come forward to become witnesses. If the testimony of the police officer is found to be reliable and trustworthy, the court can definitely act upon the same. If, in the course of

scrutinising the evidence, the court finds the evidence of the police officer to be unreliable and untrustworthy, the court may disbelieve him, but it should not do so solely on the presumption that a witness from the Department of Police should be viewed with distrust. This is also based on the principle that the quality of the evidence weighs over the quantity of evidence.

23. Referring to ***State (Govt. of NCT of Delhi)*** **v.** ***Sunil, 2001 (1) SCC 652***, in ***Kulwinder Singh v. State of Punjab (2015) 6 SCC 674***, this court held that: —

> "23. ... That apart, the case of the prosecution cannot be rejected solely on the ground that independent witnesses have not been examined when, on the perusal of the evidence on record, the Court finds that the case put forth by the prosecution is trustworthy. When the evidence of the official witnesses is trustworthy and credible, there is no reason not to rest the conviction on the basis of their evidence."

24. We must note that in the former it was observed: —

> "21... At any rate, the court cannot start with the presumption that the police records are untrustworthy. As a proposition of law, the presumption should be the other way around. That official acts of the police have been regularly performed is a wise principle of presumption and recognised even by the legislature... If the court has any good reason to suspect the truthfulness of such records of the police, the court could certainly take into account the fact that no other independent person was present at the time of recovery. But it is not a legally approvable procedure to presume the police action as unreliable to start with, nor to jettison such action merely for the reason that police did not collect signatures of independent persons in the documents made contemporaneous with such actions."

25. Recently, this Court in ***Mohd. Naushad*** **v.** ***State (NCT of Delhi) 2023 SCC OnLine 784*** had observed that the testimonies of police witnesses, as well as pointing out

> memos, do not stand vitiated due to the absence of independent witnesses.
>
> 26. It is clear from the above propositions of law, as reproduced and referred to, that the testimonies of official witnesses cannot be discarded simply because independent witnesses were not examined. The correctness or authenticity is only to be doubted on "any good reason" which, quite apparently, is missing from the present case. No reason is forthcoming on behalf of the Appellant to challenge the veracity of the testimonies of PW - 1 and PW - 2, which the courts below have found absolutely to be inspiring confidence. Therefore, basing the conviction on the testimony of the police witnesses as undertaken by the trial court and confirmed by the High Court vide the impugned judgment, cannot be faulted with."

45. The Learned Trial Court had the advantage of looking at witnesses and hearing the testimonies. It was laid down by the Hon'ble Supreme Court in ***Goverdhan v. State of Chhattisgarh (2025) SCC Online SC 69*** that the Appellate Court should not interfere with the findings regarding the credibility of the witnesses recorded by the learned Trial Court unless there is some illegality in it. It was observed: -

> "**83.** The trial court, after recording the testimony of the PW-10 and on consideration of the same, found her evidence trustworthy and credible. We see no reason to question the assessment about the credibility of the witness by the Trial Court, which had the advantage of seeing and hearing the witness and all other witnesses. Nothing has been brought to our notice of any serious illegality or breach of fundamental law so as to warrant taking a different view of the evidence of PW-10.

In this regard, we may keep in mind the valuable observations made by this Court in ***Jagdish Singh v. Madhuri Devi, (2008) 10 SCC 497*** in the following words:

> **"28.** At the same time, however, the appellate court is expected, nay bound, to bear in mind a finding recorded by the trial court on oral evidence. It should not forget that the trial court had an advantage and opportunity of seeing the demeanour of witnesses and, hence, the trial court's conclusions should not normally be disturbed. No doubt, the appellate court possesses the same powers as that of the original court, but they have to be exercised with proper care, caution and circumspection. When a finding of fact has been recorded by the trial court mainly on appreciation of oral evidence, it should not be lightly disturbed unless the approach of the trial court in the appraisal of evidence is erroneous, contrary to well-established principles of law or unreasonable.
>
> **29. .....**
>
> 30. In ***Sara Veeraswami v. Talluri Narayya [(1947-48) 75 IA 252: AIR 1949 PC 32]*** the Judicial Committee of the Privy Council, after referring to relevant decisions on the point, stated [*Quoting from* ***Watt v. Thomas, [1947] 1 All ER 582***, pp. 583 H-584 A.] : (IA p. 255)
>
> > "... but if the evidence as a whole can reasonably be regarded as justifying the conclusion arrived at at the trial, and especially if that conclusion has been arrived at on conflicting testimony by a tribunal which saw and heard the witnesses, the appellate court will bear in mind that it has not enjoyed this opportunity and that the view of the trial Judge as to where credibility lies is entitled to great weight. This is not to say that the Judge of the first instance can be treated as

> infallible in determining which side is telling the truth or is refraining from exaggeration. Like other tribunals, he may go wrong on a question of fact, but it is a cogent circumstance that a Judge of first instance, when estimating the value of verbal testimony, has the advantage (which is denied to courts of appeal) of having the witnesses before him and observing the manner in which their evidence is given."

46. It was further held in ***Goverdhan*** (supra) that the assessment of evidence cannot be made in a criminal trial technically and the Court has to see the realities of life while appreciating the evidence. It was observed: -

> **"66.** We must also keep in mind that in a trial, the assessment of evidence cannot be made in a technical manner and the realities of life must be kept in mind for arriving at the truth as observed by this Court in ***State of H.P. v. Lekh Raj (2000) 1 SCC 247*** as follows;
>
> > "10. The High Court appears to have adopted a technical approach in disposing of the appeal filed by the respondents. This Court in ***State of Punjab v. Jagir Singh [(1974) 3 SCC 277: 1973 SCC (Cri) 886]*** held: (SCC pp. 285-86, para 23)
> >
> > > '23. A criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the crime with which he is charged. Crime is an event in real life and is the product of the interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge the evidence by the

yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures.'

The criminal trial cannot be equated with a mock scene from a stunt film. The legal trial is conducted to ascertain the guilt or innocence of the accused arraigned. In arriving at a conclusion about the truth, the courts are required to adopt a rational approach and judge the evidence by its intrinsic worth and the animus of the witnesses. The hypertechnicalities or figments of imagination should not be allowed to divest the court of its responsibility of sifting and weighing the evidence to arrive at the conclusion regarding the existence or otherwise of a particular circumstance, keeping in view the peculiar facts of each case, the social position of the victim and the accused, the larger interests of the society, particularly the law and order problem and degrading values of life inherent in the prevalent system. The realities of life have to be kept in mind while appreciating the evidence for arriving at the truth. The courts are not obliged to make efforts either to give latitude to the prosecution or loosely construe the law in favour of the accused. The traditional dogmatic hypertechnical approach has to be replaced by a rational, realistic and genuine approach for administering justice in a criminal trial. Criminal jurisprudence cannot be considered to be a utopian thought but have to be considered as part and parcel of the

> human civilisation and the realities of life. The courts cannot ignore the erosion in values of life which are a common feature of the present system. Such erosions cannot be given a bonus in favour of those who are guilty of polluting society and mankind."

47. It was further held that the Court has to put together the pieces of a jigsaw puzzle to determine the criminal liability of the accused and the prosecution has to prove its case beyond a reasonable doubt. It was observed: -

> "**18.** In case of a crime committed, upon completion of the investigation by the investigating agency, the accused are brought before the court to face trial. Under our criminal jurisprudence, the court ordinarily is not privy to the evidence collected during the investigation by the investigating agency. After completion of the investigation, what is brought before the trial court is an array of evidence, both documentary and oral, collected by the investigating agency against the accused, which is required to be marshalled and analysed by the court to arrive at appropriate conclusions. The prosecution seeks to recreate the incident of the crime before the court in sequence, based on the evidence so collected, linking the accused with the commission of the crime. Such recreation of the crime by the prosecution before the court is akin to putting the evidence together as in a jigsaw puzzle whereby all the relevant pieces of evidence are put together to complete the picture of the crime. The prime responsibility of the court is to see whether this jigsaw puzzle has been properly placed by the prosecution, from which a clear picture emerges as to the happening of the incident with the assigned role of the accused as part of the aforesaid jigsaw puzzle. Only thereafter, the role of the accused in perpetrating the offence can be properly ascribed and proved and accordingly, criminal liability fastened on the accused.

19. As per Section 3 of the Indian Evidence Act, 1872, a fact can be said to have been proved when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. The court undertakes this exercise of examining whether the facts alleged, including the particular criminal acts attributed to the accused, are proved or not.

20. It is also to be noted that the law does not contemplate stitching the pieces of evidence in a watertight manner, for the standard of proof in a criminal case is not proof beyond all doubt but only beyond reasonable doubt. In other words, if a clear picture emerges on piecing together all evidence which indicates beyond reasonable doubt the role played by the accused in the perpetration of the crime, the court holds the accused criminally liable and punishes them under the provisions of the penal code, in contradistinction to the requirement of proof based on the preponderance of probabilities as in the case of civil proceedings.

21. It will be relevant to discuss, at this juncture, what is meant by "reasonable doubt". It means that such doubt must be free from suppositional speculation. It must not be the result of minute emotional detailing, and the doubt must be actual and substantial and not merely vague apprehension. A reasonable doubt is not an imaginary, trivial or merely possible doubt, but a fair doubt based upon reason and common sense as observed in ***Ramakant Rai v. Madan Rai, (2003) 12 SCC 395*** wherein it was observed as under:

> "24. Doubts would be called reasonable if they are free from a zest for abstract speculation. Law cannot afford any favourite other than the truth. To constitute reasonable doubt, it must be free from an overly emotional response. Doubts must be actual and substantial doubts as to the guilt of the accused persons arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions. A reasonable

doubt is not an imaginary, trivial or a merely possible doubt; but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case."

22. While applying this principle of proof beyond reasonable doubt, the Court has to undertake a candid consideration of all the evidence in a fair and reasonable manner as observed by this Court in ***State of Haryana v. Bhagirath (1999) 5 SCC 96*** as follows:

> "8. It is nearly impossible in any criminal trial to prove all the elements with scientific precision. A criminal court could be convinced of the guilt only beyond the range of a reasonable doubt. Of course, the expression 'reasonable doubt' is incapable of definition. Modern thinking is in favour of the view that proof beyond a reasonable doubt is the same as proof which affords moral certainty to the Judge.
>
> 9. Francis Wharton, a celebrated writer on criminal law in the United States, has quoted from judicial pronouncements in his book Wharton's Criminal Evidence *(at p. 31, Vol. 1 of the 12th Edn.) as follows:*
>
> > 'It is difficult to define the phrase "reasonable doubt". However, in all criminal cases, a careful explanation of the term ought to be given. A definition often quoted or followed is that given by Chief Justice Shaw in the *Webster case* [***Commonwealth v. Webster, 5 Cush 295: 59 Mass 295 (1850)***]. He says: "It is not mere possible doubt, because everything relating to human affairs and depending upon moral evidence is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that consideration that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge."'

10. In the treatise The Law of Criminal Evidence *authored by H.C. Underhill it is stated (at p. 34, Vol. 1 of the 5th Edn.) thus:*

> 'The doubt to be reasonable must be such a one as an honest, sensible and fair-minded man might, with reason, entertain consistently with a conscientious desire to ascertain the truth. An honestly entertained doubt of guilt is a reasonable doubt. A vague conjecture or an inference of the possibility of the innocence of the accused is not a reasonable doubt. A reasonable doubt is one which arises from a consideration of all the evidence in a fair and reasonable way. There must be a candid consideration of all the evidence, and if, after this candid consideration is had by the jurors, there remains in the minds a conviction of the guilt of the accused, then there is no room for a reasonable doubt.'

23. The concept of reasonable doubt has to be also understood in the Indian context, keeping in mind the social reality, and this principle cannot be stretched beyond a reasonable limit to avoid generating a cynical view of law as observed by this Court in ***Shivaji Sahebrao Bobade v. State of Maharashtra, (1973) 2 SCC 793*** as follows:

> "**6.** Even at this stage, we may remind ourselves of a necessary social perspective in criminal cases which suffer from insufficient forensic appreciation. The dangers of exaggerated devotion to the rule of benefit of the doubt at the expense of social defence and to the soothing sentiment that all acquittals are always good regardless of justice to the victim and the community demand special emphasis in the contemporary context of escalating crime and escape. The judicial instrument has public accountability. The cherished principles or golden thread of proof beyond reasonable doubt which runs through the web of our law should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubt. The excessive solicitude reflected in

> the attitude that a thousand guilty men may go but one innocent martyr shall not suffer is a false dilemma. Only reasonable doubts belong to the accused. Otherwise, any practical system of justice will then break down and lose credibility with the community. The evil of acquitting a guilty person lightly, as a learned Author [Glanville Williams in 'Proof of Guilt'] has sapiently observed, goes much beyond the simple fact that just one guilty person has gone unpunished. If unmerited acquittals become general, they tend to lead to a cynical disregard of the law, and this in turn leads to a public demand for harsher legal presumptions against indicted "persons" and more severe punishment of those who are found guilty. Thus, too frequent acquittals of the guilty may lead to a ferocious penal law, eventually eroding the judicial protection of the guiltless. For all these reasons it is true to say, with Viscount Simon, that "a miscarriage of justice may arise from the acquittal of the guilty no less than from the conviction of the innocent...." In short, our jurisprudential enthusiasm for presumed innocence must be moderated by the pragmatic need to make criminal justice potent and realistic. A balance has to be struck between chasing chance possibilities as good enough to set the delinquent free and chopping the logic of preponderant probability to punish marginal innocents. We have adopted these cautions in analysing the evidence and appraising the soundness of the contrary conclusions reached by the courts below. Certainly, in the last analysis, reasonable doubts must operate to the advantage of the appellant. In India, the law has been laid down on these lines long ago."

24. Further, what would be the standard degree of "proof" which would be required in any particular case was also discussed in the aforesaid case of ***Ramakant Rai*** (supra) in the following words:

"**23.** A person has, no doubt, a profound right not to be convicted of an offence which is not established by the evidential standard of proof beyond reasonable doubt. Though this standard is a higher standard, there is, however, no absolute standard. What degree of probability amounts to "proof" is an exercise particular to each case. Referring to (sic) of probability amounts to "proof" is an exercise, the interdependence of evidence and the confirmation of one piece of evidence by another, as the learned author says: [see ***The Mathematics of Proof II: Glanville Williams, Criminal Law Review, 1979, by Sweet and Maxwell, p. 340 (342)]***

> "The simple multiplication rule does not apply if the separate pieces of evidence are dependent. Two events are dependent when they tend to occur together, and the evidence of such events may also be said to be dependent. In a criminal case, different pieces of evidence directed to establishing that the defendant did the prohibited act with the specified state of mind are generally dependent. A juror may feel doubt whether to credit an alleged confession, and doubt whether to infer guilt from the fact that the defendant fled from justice. But since it is generally guilty rather than innocent people who make confessions, and guilty rather than innocent people who run away, the two doubts are not to be multiplied together. The one piece of evidence may confirm the other."

24. .....

.....

25. The concepts of probability, and the degrees of it, cannot obviously be expressed in terms of units to be mathematically enumerated as to how many of such units constitute proof beyond reasonable doubt. There is an unmistakable subjective element

> in the evaluation of the degrees of probability and the quantum of proof. Forensic probability must, in the last analysis, rest on a robust common sense and, ultimately, on the trained intuitions of the judge. While the protection given by the criminal process to the accused persons is not to be eroded, at the same time, uninformed legitimisation of trivialities would make a mockery of the administration of criminal justice. This position was illuminatingly stated by Venkatachaliah, J. (as His Lordship then was) in ***State of U.P. v. Krishna Gopal [(1988) 4 SCC 302: 1988 SCC (Cri) 928: AIR 1988 SC 2154***].
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> **25.** At this point, it may also be relevant to mention an observation made by Lord Denning, J. in ***Miller v. Miller of Pensions [1947] 2 All ER 372, 373***:
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> > "That degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the court of justice...."
>
> **26.** Thus, the requirement of law in criminal trials is not to prove the case beyond all doubt but beyond reasonable doubt and such doubt cannot be imaginary, fanciful, trivial or merely a possible doubt but a fair doubt based on reason and common sense. Hence, in the present case, if the allegations against the appellants are held proved beyond reasonable doubt, certainly conviction cannot be said to be illegal."

48. In the present case, the testimonies of police officials are consistent. Learned Trial Court found them to be credible. Learned counsel for the defence pointed out various contradictions, but these were not significant enough to make

the testimonies suspect. Hence, the learned Trial Court had rightly accepted the testimonies of the prosecution's witnesses that the police had recovered backpacks containing charas from the accused.

49. SI Raj Kumar (PW12) stated that he had put the recovered charas into the carry bag and polythene, which were duly put in separate parcels. The parcels were sealed with seals DPRA and DPRN, sample seal impressions were taken separately on separate pieces of cloth, and the case property was handed over to Tibati Ram (PW17). Tibati Ram (PW17) stated that ASI Raj Kumar handed over the accused person, case property and case file to him. He produced the case property, case file and the accused before Suram Singh (PW16), who stated that Tibati Ram (PW17) had produced two sealed parcels (Ex.MO1 and Ex.MO4) bearing seal DPRA and DPRM along with the NCB-1 form, the accused, and the documents. He put 03 seals bearing the impression DPRK on each parcel. He obtained the sample seal and put the seal impression on the NCB-1 form. He issued the resealing certificate and handed over the case property to MHC Pradeep Kumar. MHC Pardeep Kumar (PW5) stated that SHO had handed over one parcel sealed with 3 seals of DPRN and DPRK

each, and one parcel sealed with 3 seals of DPRM and DPRK each, along with the sample seal and NCB-1 form in triplicate. He handed over the parcels to SHO for compliance with Section 52A. Inspector Suram Singh stated that he had prepared an application (Ex. P19/PW16) and inventory (Ex. P20/PW16) and handed them over to Tibati Ram (PW17) for getting the inventory certified. Tibati Ram (PW17) stated that he had produced the parcels, application and inventory certificate before the Court, and the learned Magistrate certified the correctness of the inventory. The order (Ex. P27/PW17) passed by the learned Magistrate mentions that the sealed parcels were produced before her. These were weighed and were resealed with 3 seals of 'JMIC Court No.2 Mandi'. Thus, the seals on the parcels were intact till their analysis and till their production before the learned Magistrate.

50. HC Pradeep Singh (PW5) stated that he handed over the parcel, documents etc. to HHC Kashmir Singh with a direction to carry them to FSL Junga vide RC No. 27/19 (Ex.PW5/A). HHC Kashmir Singh (PW3) stated that he had carried the parcel, sample seal, NCB-1 Form, copy of FIR and other documents to FSL Junga vide RC No. 27/19. The statements of these witnesses

are duly corroborated by the report of analysis (Ex. P21/PW16) in which it was mentioned that one sealed cloth parcel marked as 'A' bearing 3 seals of DPRA, DPRK and JMIC Court No.2, Mandi, each and one sealed cloth parcel marked as 'B', bearing 3 seals of DPRM, DPRK, and JMIC Court No.2, Mandi each were received through HHC Kashmir Singh. The seals were found intact and tallied with the specimen seals sent by the forwarding authority, and the seal impressions of DPRA, DPRM, and DPRK were impressed on the Form NCB1. Thus, the report of analysis proves that the case property remained intact till its analysis in the laboratory. It was held in ***Baljit Sharma vs. State of H.P. 2007 HLJ 707,*** where the report of analysis shows that the seals were intact, and the prosecution's claim that the case property remained intact is to be accepted as correct. It was observed:

> "A perusal of the report of the expert Ex.PW8/A shows that the samples were received by the expert in a safe manner, and the sample seal was separately sent and tallied with the specimen impression of a seal taken separately. Thus, there was no tampering with the seal, and the seal impressions were separately taken and sent to the expert also."

51. Similar is the judgment in ***Hardeep Singh vs. State of Punjab 2008(8) SCC 557,*** wherein it was held:

> "It has also come on evidence that to date the parcels of the sample were received by the Chemical Examiner, the

> seal put on the said parcels was intact. That itself proves and establishes that there was no tampering with the previously mentioned seal in the sample at any stage, and the sample received by the analyst for chemical examination contained the same opium, which was recovered from the possession of the appellant. In that view of the matter, a delay of about 40 days in sending the samples did not and could not have caused any prejudice to the appellant."

52. In ***State of Punjab vs. Lakhwinder Singh 2010 (4) SCC 402***, the High Court had concluded that there could have been tampering with the case property since there was a delay of seven days in sending the report to FSL. It was laid down by the Hon'ble Supreme Court that the case property was produced in the Court, and there was no evidence of tampering. Seals were found to be intact, which would rule out the possibility of tampering. It was observed:

> "The prosecution has been able to establish and prove that the aforesaid bags, which were 35 in number, contained poppy husk and accordingly the same were seized after taking samples therefrom, which were properly sealed. The defence has not been able to prove that the aforesaid seizure and seal put on the samples were in any manner tampered with before they were examined by the Chemical Examiner. There was merely a delay of about seven days in sending the samples to the Forensic Examiner, and it is not proved as to how the aforesaid delay of seven days has affected the said examination, when it could not be proved that the seal of the sample was in any manner tampered with. The seal having been found intact at the time of the examination by the Chemical Examiner and the said fact having been recorded in his report, a mere observation by

> the High Court that the case property might have been tampered with, in our opinion, is based on surmises and conjectures and cannot take the place of proof.
>
> 17. We may at this stage refer to a decision of this Court in ***Hardip Singh v. State of Punjab reported in (2008) 8 SCC 557*** in which there was a delay of about 40 days in sending the sample to the laboratory after the same was seized. In the said decision, it was held that in view of cogent and reliable evidence that the opium was seized and sealed and that the samples were intact till they were handed over to the Chemical Examiner, the delay itself was held to be not fatal to the prosecution's case. In our considered opinion, the ratio of the aforesaid decision squarely applies to the facts of the present case in this regard.
>
> 18. The case property was produced in the Court, and there is no evidence to show that the same was ever tampered with."

53. Similar is the judgment of the Hon'ble Supreme Court in ***Surinder Kumar vs. State of Punjab, (2020) 2 SCC 563***, wherein it was held: -

> 10. According to learned senior counsel for the appellant, Joginder Singh, ASI, to whom Yogi Raj, SHO (PW-3), handed over the case property for producing the same before the Illaqa Magistrate and who returned the same to him after such production, was not examined, as such link evidence was incomplete. In this regard, it is to be noticed that Yogi Raj, SHO, handed over the case property to Joginder Singh, ASI, for production before the Court. After producing the case property before the Court, he returned the case property to Yogi Raj, SHO (PW-3), with the seals intact. It is also to be noticed that Joginder Singh, ASI, was not in possession of the seals of either the investigating officer or Yogi Raj, SHO. He produced the case property before the Court on 13.09.1996 vide application Ex.P-13; the concerned Judicial Magistrate of First Class, after verifying the seals on the case property, passed the order

> Ex.P-14 to the effect that since there was no judicial malkhana at Abohar, the case property was ordered to be kept in safe custody at Police Station Khuian Sarwar till further orders. Since Joginder Singh, ASI, was not in possession of the seals of either the SHO or the Investigating Officer, the question of tampering with the case property by him did not arise at all.
>
> 11. Further, he has returned the case property, after production of the same, before the Illaqa Magistrate, with the seals intact, to Yogi Raj, SHO. In that view of the matter, the Trial Court and the High Court have rightly held that the non-examination of Joginder Singh did not, in any way, affect the case of the prosecution. *Further, it is evident from the report of the Chemical Examiner, Ex.P-10, that the sample was received with seals intact and that the seals on the sample tallied with the sample seals. In that view of the matter, the chain of evidence was complete*." (Emphasis supplied)

54. Therefore, the prosecution's version is to be accepted as correct that the case property remained intact till its analysis at SFSL, Junga.

55. It was submitted that there is a discrepancy in the colour of the carry bag, which made the prosecution's version doubtful. This submission cannot be accepted. The rukka (Exhibit P9/PW12) mentions the colour of the carry bag as white, which was very dirty. The report of analysis mentions the colour of the carrybag as brown. Very dirty white can look like brown, and there is no discrepancy in the colour of the carry bag.

56. It was submitted that the seal was not produced before the Court, and this is fatal to the prosecution's case. This submission cannot be accepted. It was laid down by the Hon'ble Supreme Court in ***Varinder Kumar Versus State of H.P. 2019 (3) SCALE 50*** that failure to produce the seal in the court is not fatal. It was observed: -

> "6. We have considered the respective submissions. PW10 is stated to have received secret information at 2.45 P.M. on 31.03.1995. He immediately reduced it into writing and sent the same to PW8, Shri Jaipal Singh, Dy.S.P., C.I.D., Shimla. At 3.05 P.M., PW7, Head Constable Surender Kumar, stopped PW5, Naresh Kumar and another independent witness, Jeevan Kumar, travelling together, whereafter the appellant was apprehended at 3.30 P.M. with two Gunny Bags on his scooter, which contained varying quantities of 'charas'. PW8, Shri Jaipal Singh, Dy.S.P., C.I.D., Shimla, who had arrived by then, gave notice to the appellant and obtained his consent for carrying out the search. Two samples of 25 gms. each were taken from the two Gunny Bags and sealed with the seal 'S', and given to PW5. PW2, Jaswinder Singh, the Malkhana Head Constable, resealed it with the seal 'P'. The conclusion of the Trial Court that the seal had not been produced in the Court is therefore perverse in view of the two specimen seal impressions having been marked as Exhibits PH and PK. It is not the case of the appellant that the seals were found tampered with in any manner."

57. In the present case, sample seals of the Court, DPRN, DPRA and DPRK were produced before the Court. Sample seals of DPRA, DPRM and DPRK were also put on the NCB-1 form. Therefore, the Court had specimen impressions to compare the

integrity of the seals. Learned Trial Court noticed while recording the statement of Raj Kumar (PW12) that the first parcel was sealed with 3 seals of DPRA, DPRK, 3 seals of JMIC-2 Mandi and 03 seals of SFSL-2; another parcel was sealed with 3 seals of DPRM, DPRK, JMIC-2 and SFSL-2. Thus, the learned Trial Court had satisfied itself regarding the integrity of the seal and the submission that failure to produce the seal before the Court is fatal cannot be accepted.

58. The report of FSL (Ex. P21/PW16) mentions that the weight of charas in one parcel was 268 grams and the weight of charas in the second parcel was 97 grams. Therefore, it was duly proved on record that Rajesh Kumar was found in possession of 268 grams of charas and Pradeep Kumar was found in possession of 97 grams of charas.

59. The learned Trial Court convicted the accused of the commission of an offence punishable under Section 20 read with Section 29 of the NDPS Act. However, no charge was framed for the commission of an offence punishable under Section 20 read with Section 29 of the NDPS Act, and the charge was framed for possessing charas punishable under Section 20 of the NDPS Act. Accused Rajesh Kumar was charged with the possession of 288

grams and Pradeep Kumar was charged with the possession of under 102 grams of charas. Therefore, it was impermissible to convict the accused of possession of charas by invoking Section 29 of the NDPS Act.

60. Learned Trial Court had sentenced each of the accused to undergo rigorous imprisonment for 05 years and pay a fine of ₹70,000/-. The Central Government has notified 1 kg of charas as a commercial quantity, which means that a person possessing 1 kg of charas can be sent to imprisonment for 10 years. It was laid down by the Hon'ble Supreme Court in ***Uggarsain v. State of Haryana, (2023) 8 SCC 109: 2023 SCC OnLine SC 755***, that the Courts have to apply the principle of proportionality while imposing a sentence. It was observed at page 113:

> 10. This Court has, time and again, stated that the principle of proportionality should guide the sentencing process. In ***Ahmed Hussein Vali Mohammed Saiyed v. State of Gujarat [Ahmed Hussein Vali Mohammed Saiyed v. State of Gujarat, (2009) 7 SCC 254 : (2009) 3 SCC (Cri) 368 : (2009) 8 SCR 719]***, it was held that the sentence should "deter the criminal from achieving the avowed object to (sic break the) law," and the endeavour should be to impose an "appropriate sentence." The Court also held that imposing "meagre sentences" merely on account of lapse of time would be counterproductive. Likewise, in ***Jameel v. State of U.P. [Jameel v. State of U.P., (2010) 12 SCC 532 : (2011) 1 SCC (Cri) 582: (2009) 15 SCR 712]*** while advocating that sentencing should be fact dependent exercises, the Court also emphasised that: ***(Jameel case [Jameel v. State of U.P.,***

(2010) 12 SCC 532: (2011) 1 SCC (Cri) 582: (2009) 15 SCR 712], SCC p. 535, para 15)

> "15. ... the law should adopt the corrective machinery or deterrence based on a factual matrix. By deft modulation, the sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration." (emphasis supplied)

11. Again, in ***Guru Basavaraj v. State of Karnataka [Guru Basavaraj v. State of Karnataka, (2012) 8 SCC 734: (2012) 4 SCC (Civ) 594: (2013) 1 SCC (Cri) 972: (2012) 8 SCR 189]*** the Court stressed that: ***(SCC p. 744, para 33)***

> "33. ... It is the duty of the court to see that an appropriate sentence is imposed, regard being had to the commission of the crime and its impact on the social order" (emphasis supplied)
>
> and that sentencing includes "adequate punishment". In ***B.G. Goswami v. Delhi Admn. [B.G. Goswami v. Delhi Admn., (1974) 3 SCC 85: 1973 SCC (Cri) 796: (1974) 1 SCR 222]***, the Court considered the issue of punishment and observed that punishment is designed to protect society by deterring potential offenders as well as prevent the guilty party from repeating the offence; it is also designed to reform the offender and reclaim him as a law-abiding citizen for the good of the society as a whole. Reformatory, deterrent and punitive aspects of punishment thus play their due part in judicial thinking while determining the question of awarding appropriate sentences.

12. In ***Sham Sunder v. Puran [Sham Sunder v. Puran, (1990) 4 SCC 731: 1991 SCC (Cri) 38: 1990 Supp (1) SCR 662]***, the

appellant-accused was convicted under Section 304 Part I IPC. The appellate court reduced the sentence to the term of imprisonment already undergone, i.e. six months. However, it enhanced the fine. This Court ruled that the sentence awarded was inadequate. Proceeding further, it opined that: ***(SCC p. 737, para 8)***.

> 8. ... The court, in fixing the punishment for any particular crime, should take into consideration the nature of the offence, the circumstances in which it was committed, and the degree of deliberation shown by the offender. The measure of punishment should be proportionate to the gravity of the offence. The sentence imposed by the High Court appears to be so grossly and entirely inadequate as to involve a failure of justice. We are of the opinion that to meet the ends of justice, the sentence has to be enhanced." (emphasis supplied)

This Court enhanced the sentence to one of rigorous imprisonment for a period of five years. This Court has emphasised that sentencing depends on the facts, and the adequacy is determined by factors such as "the nature of crime, the manner in which it is committed, the propensity shown and the brutality reflected" ***[Ravada Sasikala v. State of A.P. (2017) 4 SCC 546 : (2017) 2 SCC (Cri) 436 : (2017) 2 SCR 379]***. Other decisions, like: ***State of M.P. v. Bablu [State of M.P. v. Bablu, (2014) 9 SCC 281 : (2014) 6 SCC (Cri) 1 : (2014) 9 SCR 467]; Hazara Singh v. Raj Kumar [Hazara Singh v. Raj Kumar, (2013) 9 SCC 516 : (2014) 1 SCC (Cri) 159 : (2013) 5 SCR 979]*** and ***State of Punjab v. Saurabh Bakshi [State of Punjab v. Saurabh Bakshi, (2015) 5 SCC 182 : (2015) 2 SCC (Cri) 751 : (2015) 3 SCR 590]*** too, have stressed on the significance and importance of imposing appropriate, "adequate" or "proportionate" punishments.

61. If the principle of proportionality is applied to the present case, the sentence of 5 years is excessive and requires interference.

62. Accused Rajesh Kumar was found in possession of 268 grams of charas and, applying the principle of proportionality, he is sentenced to undergo rigorous imprisonment for 2 years and 6 months and pay a fine of ₹26,000/- and in default of payment of fine, to undergo simple imprisonment for 03 months. Accused Pradeep Kumar was found in possession of 97 grams of charas. He is sentenced to undergo Rigorous imprisonment for 1 year, pay a fine of ₹10,000/- and, in default of payment of fine, to undergo simple imprisonment for 1 month. The accused will be entitled to set off the period of imprisonment undergone by them during the trial and appeal, if any.

63. In view of the above, the present appeals are partly allowed and the sentence imposed by learned Trial Court is modified as aforesaid. Subject to this modification, the rest of the judgment and order are upheld. A modified jail warrant be prepared accordingly.

64. The record of the learned Court below be sent back with a copy of this judgment for the information of the learned Trial Court.

65. Appeals stand disposed of along with pending miscellaneous application(s), if any.

(Rakesh Kainthla)
Judge

2nd November, 2026
(Chander)