**HIGH COURT OF JUDICATURE FOR RAJASTHAN**
**BENCH AT JAIPUR**

D.B. Criminal Appeal No. 182/2026
CNR: RJHC020245802026 | URN: CRLAD / 304U / 2026

Sangram Singh S/o Dola @ Daulat Singh, Aged About 56 Years, R/o Pichor, Police Station Tendua, District Shivpuri (Madhya Pradesh). (At Present Confined In District Jail Baran)

----Accused-Appellant

Versus

State Of Rajasthan, Through P.P

----Respondent

Connected With

D.B. Criminal Appeal No. 280/2025
CNR: RJHC020528052025 | URN: CRLAD / 492U / 2025

Sugar Singh @ Chaina S/o Krapan Singh @ Kripal @ Kripa, Aged About 47 Years, R/o Bitthalpur, Police Station, Sirsi District Guna Madhya Pradesh.
(At Present Confined In District Jail Baran).

----Accused-Appellant

Versus

State of Rajasthan, Through P.P.

----Respondent

D.B. Criminal Appeal No. 332/2025
CNR: RJHC020626222025 | URN: CRLAD / 596U / 2025

1. Bahadur Singh Son Of Raghuveer Singh, Aged About 39 Years, Resident Of Dhuan Jangal, Police Station Badarwas, District Shivpuri, Madhya Pradesh
   (At Present Confined In District Jail, Baran)
2. Veer Singh Alias Veeru Son Of Shankar Singh, Aged About 56 Years, Resident Of Singharai Police Station Indaar District Shivpuri (Madhya Pradesh)
   (At Present Confined In District Jail, Baran)

----Accused-Appellants

Versus

State of Rajasthan, Through PP

----Respondent

D.B. Criminal Appeal No. 333/2025

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GOURAV DHAMIJA
Date: 2026.11.26
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CNR: RJHC020575092025 | URN: CRLAD / 597U / 2025

Hari Singh S/o Shri Jeevan Lal @ Ramratan, Aged About 59 Years, Resident Of Bitthalpur Police Station Sirsi District Guna (Madhyapradesh)
(Presently Convicted At District Jail Kota)

----Accused-Appellant

Versus

State of Rajasthan, Through PP

----Respondent

S.B. Criminal Appeal No. 1437/2025

CNR: RJHC020470662025 | URN: CRLAS / 2678U / 2025

Khairuram Son Of Gajraj, Aged About 45 Years, Resident Of Garh, Police Station Badarwas District Shivpuri (Madhya Pradesh)
(At Present Confined In District Jail Baran)

----Accused-Appellant

Versus

State of Rajasthan, Through P.P.

----Respondent

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| For Appellant(s) | : | Mr. Suresh Sahni with<br>Mr. Bheem Singh Meena and<br>Mr. Ram Mohan Sharma<br>Mr. Manoj Kumar Avasthi with<br>Mr. Jagdish Nagar and<br>Mr. Nikesh Parwani<br>Mr. Girish Khandelwal with<br>Ms. Swati Sharma<br>Mr. Devan Pareek for<br>Ms. Rajani Vyas |
| For Respondent(s) | : | Mr. Rhishi Raj Singh Rathore, PP |

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**HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL**
**HON'BLE MR. JUSTICE BHUWAN GOYAL**

**Order**

**26/11/2026**

During the course of arguments, learned counsels for the appellants, inviting the attention of this Court to the findings

recorded by the learned trial Court vide impugned judgment dated 20.05.2025, would contend that it erred in relying upon the DNA report in recording their conviction despite observing that the same was not exhibited by the prosecution marking it as Court exhibit. Relying upon a judgment of a Larger Bench of the Hon'ble Supreme Court of India in the case of **Irfan alias Bhayu Mevati vs. State of Madhya Pradesh: 2025 INSC 150,** they canvassed that the matter may be remanded to the learned trial Court to examine the Scientific Expert(s) who had prepared the DNA report with an opportunity to them to cross-examine him.

Shri Rhishi Raj Singh Rathore, learned Public Prosecutor also did not oppose the prayer.

Heard. Considered.

A perusal of the impugned judgment dated 20.05.2025 reveals that the learned trial Court has relied upon the DNA report dated 21.04.2017 (Ex.C-3) in recording a finding of conviction of the appellants. The judgment further reflects that it was noticed by the learned trial court that though, this report was not exhibited by the prosecution but, was read in evidence as Court exhibit.

Dealing with an identical situation, a three-Judge Bench of the Hon'ble Supreme Court has, in the case of **Irfan alias Bhayu Mevati** (supra), held as under:

> "22. It is an admitted position that the DNA profiling report (Exhibit-157) was formally exhibited by the Superintendent of Police(PW-31) in his evidence. None of the scientific experts involved in the process of

conducting the DNA profiling examination and issuing the report have been examined by the prosecution.

23. The DNA profiling report is a document on which the entire fulcrum of the prosecution case is based. The defence has claimed grave prejudice on account of non-examination of these scientific witnesses and the non-production of the experts in evidence, thereby creating a grave doubt on the probative value of the report.

24. The aspect concerning evidentiary value of DNA report has been explained by this Court in Rahul v. State of Delhi, Ministry of Home Affairs MANU/SC/1455/2022: 2022: INSC:1176: (2023) 1 SCC 83, wherein it was held as under: -

> "36. The learned Amicus Curiae has also assailed the forensic evidence i.e. the report regarding the DNA profiling dated 18-4-2012 (Ext. P-23/1) giving incriminating findings. She vehemently submitted that apart from the fact that the collection of the samples sent for examination itself was very doubtful, the said forensic evidence was neither scientifically nor legally proved and could not have been used as a circumstance against the appellant-accused. **The Court finds substance in the said submissions made by the Amicus Curiae. The DNA evidence is in the nature of opinion evidence as envisaged under Section 45 and like any other opinion evidence, its probative value varies from case to case**.

38. It is true that PW 23 Dr B.K. Mohapatra, Senior Scientific Officer (Biology) of CFSL, New Delhi had stepped into the witness box and his report regarding DNA profiling was exhibited as Ext. PW 23/A, **however mere exhibiting a document, would not prove its contents.** The record shows that all the samples relating to the accused and relating to the deceased were seized by the investigating officer on 14-2-2012 and 16-2-2012; and they were sent to CFSL for

examination on 27-2-2012. During this period, they remained in the malkhana of the police station. Under the circumstances, the possibility of tampering with the samples collected also could not be ruled out. Neither the trial court nor the High Court has examined the underlying basis of the findings in the DNA reports nor have they examined the fact whether the techniques were reliably applied by the expert. In the absence of such evidence on record, all the reports with regard to the DNA profiling become highly vulnerable, more particularly when the collection and sealing of the samples sent for examination were also not free from suspicion."

(emphasis supplied)

25. This Court in Zahira Habibulla H. Sheikh v. State of Gujarat MANU/SC/0322/2004: 2004:INSC:256: (2004) 4 SCC 158 has emphasized that the object of the criminal trial is to search for the truth and the trial is not about over technicalities and must be conducted in such a manner as will protect the innocent and punish the guilty. The relevant extract is as follows:

> "38. A criminal trial is a judicial examination of the issues in the case and its purpose is to arrive at a judgment on an issue as to a fact or relevant facts which may lead to the discovery of the fact issue and obtain proof of such facts at which the prosecution and the accused have arrived by their pleadings; the controlling question being the guilt or innocence of the accused. Since the object is to mete out justice and to convict the guilty and protect the innocent, the trial should be a search for the truth and not a bout over technicalities, and must be conducted under such rules as will protect the innocent, and punish the guilty. The proof of charge which has to be beyond reasonable doubt must depend upon judicial evaluation of the totality of the evidence. oral and circumstantial, and not by an isolated scrutiny.

39. Failure to accord fair hearing either to the accused or the prosecution violates even minimum standards of due process of law. It is inherent in the concept of due process of law, that condemnation should be rendered only after the trial in which the hearing is a real one, not sham or a mere farce and pretence. Since the fair hearing requires an opportunity to preserve the process, it may be vitiated and violated by an overhasty, stagemanaged, tailored, and partisan trial.

40. The fair trial for a criminal offence consists not only in technical observance of the frame and forms of law, but also in recognition and just application of its principles in substance, to find out the truth and prevent miscarriage of justice."

26. The controversy in question is squarely covered by the decision of this Court in Anokhilal (supra), wherein, this Court remanded the matter to the trial Court for de-novo trial, considering the fact that the entire trial was completed in a period of less than one month and that the DNA report was received almost at the fag end of the matter, and after such receipt, though technically an opportunity was given to the accused, the issue on the point was concluded the very same day. The relevant extract is as under:

"26. Expeditious disposal is undoubtedly required in criminal matters and that would naturally be part of guarantee of fair trial. However, the attempts to expedite the process should not be at the expense of the basic elements of fairness and the opportunity to the accused, on which postulates, the entire criminal administration of justice is founded. In the pursuit for expeditious disposal, the cause of justice must never be allowed to suffer or be sacrificed. What is paramount is the cause of justice and keeping the basic ingredients which secure that as a core idea and ideal, the process may be expedited, but

fast tracking of process must never ever result in burying the cause of justice.

……

28. All that we can say by way of caution is that in matters where death sentence could be one of the alternative punishments, the courts must be completely vigilant and see that full opportunity at every stage is afforded to the accused.

29. We, therefore, have no hesitation in setting aside the judgments of conviction and orders of sentence passed by the trial court and the High Court against the appellant and directing de novo consideration. It shall be open to the learned counsel representing the appellant in the trial court to make any submissions touching upon the issues (i) whether the charges framed by the trial court are required to be amended or not; (ii) whether any of the prosecution witnesses need to be recalled for further cross-examination; and (iii) whether any expert evidence is required to be led in response to the FSL report and DNA report. The matter shall, thereafter, be considered on the basis of available material on record in accordance with law."

27. This Court in Anokhilal (supra), has further provided certain norms to remove the technical infirmities in Para 31 of the judgment, which reads as under:-

"31. Before we part, we must lay down certain norms so that the infirmities that we have noticed in the present matter are not repeated:

31.1. In all cases where there is a possibility of life sentence or death sentence, learned advocates who have put in minimum of 10 years' practice at the Bar alone be considered

to be appointed as Amicus Curiac or through legal services to represent an accused.

31.2. In all matters dealt with by the High Court concerning confirmation of death sentence, Senior Advocates of the Court must first be considered to be appointed as Amicus Curiae.

31.3. Whenever any learned counsel is appointed as Amicus Curiae, some reasonable time may be provided to enable the counsel to prepare the matter. There cannot be any hard-and-fast rule in that behalf. However, a minimum of seven days' time may normally be considered to be appropriate and adequate.

31.4. Any learned counsel, who is appointed as Amicus Curiae on behalf of the accused must normally be granted to have 24 meetings and discussions with the accused concerned. Such interactions may prove to be helpful as was noticed in Imtiyaz Ramzan Khan."

28. Further, this Court in Naveen @ Ajay v. State of Madhya Pradesh20, wherein the accused was never asked as to whether he admits the documents, as required under Section 294 CrPC and neither the scientific experts were called to prove the reports, remanded the matter to the trial Court for de-novo trial holding that no proper opportunity was granted to the accused therein to defend himself. The relevant extract from this judgment is as under:-

**"8. .....It is significant to note that the FSL report, Viscera report and DNA report were not submitted along with the charge-sheet. The same were presented before the Trial Court on 04.05.2018. The accused was never asked as**

**to whether he admits the documents, as required under Section 294 of Code of Criminal Procedure.** Neither any witnesses were called to prove these reports. After the prosecution case was closed on 08.05.2018, the accused examination was conducted on the very next day i.e. on 09.05.2018 and thereafter on the next day i.e. on 10.05.2018, the case was fixed for examination of defence witness.

It requires special notice that the accused was in jail and was not defended by a counsel of his choice but by a legal aid counsel. He was not in a position to present the witness himself yet he was directed to keep his witnesses present on the next day i.e. on 10.05.2018. On this date, he could not produce his witnesses, therefore, his defence was closed, and the case was posted for final arguments after recess.

22. In the case at hand, the prosecution is based on circumstantial evidence in which the prosecution has to prove each link in the chain of circumstantial evidence and the important chains in the link are DNA report, FSL report and Viscera report. **When the reports were challenged by the accused before the High Court, it was brushed aside by observing that even if the authors of the reports were not called for evidence, in terms of Section 293 Cr. P.C., the reports are not open to question as the defence had an opportunity to cross-examine the authors of the reports during the trial. In our considered view, the High Court was not correct in saying that the defence had an opportunity to cross-examine the experts.** The trial has been conducted on day-to-day basis wherein the accused, who was in jail and defended by a counsel from

legal aid, was compelled by the Trial Court to produce defence witness of his own in one day. It was impossible for the accused himself to produce Dr. Anil Kumar Singh and Dr. Kamlesh Kaitholiya, the authors of the Reports (Ex.P-72), in one day because the said experts are government servants and could not have attended the Court at the request of an accused in jail. The Trial Court treated the accused as if he is carrying a magic wand which is available to produce highly qualified experts, who are government servants, on a phone call. **There was no opportunity, in the real sense, to the appellant to cross-examine the experts.**" (emphasis supplied)

29. The instant case involves capital punishment and thus, providing a fair opportunity to the accused to defend himself is absolutely imperative and non-negotiable. The trial in the case at hand was concluded without providing appropriate opportunity of defending to the accused and within and within a period of less than two months from the date of registration of the case, which is reflective of undue haste. The failure of the trial Court to ensure the deposition of the scientific experts while relying upon the DNA report, has definitely led to the failure of justice thereby, vitiating the trial.

30. In the wake of the above discussion, we allow the application filed by the appellants. The case is remanded to the trial Court who shall 26 summon the scientific experts associated with the preparation and issuance of the DNA report with the entire supporting material. These scientific experts shall be summoned and examined as Court witnesses with a proper opportunity of examination to the prosecution and the defence in that order. In case the accused are not represented by a counsel of their choice, a defence

counsel having substantial experience in terms of the guidelines laid down by this Court in Anokhilal(supra) (extracted in Para 26 of this judgment) shall be appointed to defend the accused and in the de novo trial.

31. Pursuant to the testimony of the scientific experts being recorded, the accused shall be again questioned under Section 313 CrPC in context to the fresh evidence. They shall be provided a fair opportunity of leading defence evidence. Thereafter, the trial Court shall proceed to rehear the arguments and decide the case afresh as per law. The entire process as directed above, shall be completed within a period of four months from the date of receipt of this order.

32. That the discussion made above is confined to the issue of the right of the accused to seek examination of the scientific experts connected with the DNA report and the same shall not be taken to be a reflection on the merits of the matter, which shall be considered and gone into, uninfluenced by any observations made by us in this order.

33. Consequently, the judgment dated 21st August, 2018, passed by the trial Court and the judgment dated 9th September, 2021, passed by the High Court are quashed and set aside.

34. The appeals are allowed accordingly.

35. Pending application(s), if any, shall stand disposed of."

In the backdrop of the aforesaid precedential law and the factual context discussed hereinabove, we are of the considered view that it was unsafe for the learned trial Court to have relied upon the DNA report in absence of examination of the Scientific Expert(s) who had prepared the same and without affording the accused-appellants an opportunity to cross-examine him. On that

premise, we deem it just and proper to remand these matters to the learned trial Court, which shall summon the Scientific Expert(s) associated with the preparation and the issuance of the DNA report (Ex.C-3) with the entire supporting material as court witness(es). The prosecution and the defence shall be given a proper and fair opportunity of examination in that order. The accused persons shall again be subjected to examination under Section 313 Cr.P.C. in the context of the fresh evidence. They are also at liberty to lead defence evidence, if any, in this regard. The learned trial Court shall proceed to rehear the submissions and decide the case afresh as per law. Since the incident is almost ten years old, we direct the learned trial Court to complete the aforesaid process within a period of three months from the date of receipt of this order. It is made clear that the retrial shall be confined only to the aforesaid limited extent.

Resultantly, the judgment of conviction and the order of sentence dated 20.05.2025 passed by the learned Additional Sessions Judge No.2, Baran in Sessions Case No. 78/2017 (CIS No. 30/2017) is quashed and set aside. The appeals stand allowed in the aforesaid terms.

Pending application(s), if any, also stands disposed of accordingly.

(BHUWAN GOYAL),J (MAHENDAR KUMAR GOYAL),J

Crt_3/S/78-82/Gourav /Ritu