Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.937 of 2008

State of Rajasthan …. Appellant

VERSUS

Chandgi Ram & Ors. …. Respondents

J U D G M E N T

Fakkir Mohamed Ibrahim Kalifulla, J.

1. This appeal, at the instance of the State of Rajasthan is directed against the judgment of the Division Bench of the High Court of Rajasthan, Jaipur Bench dated 08.02.2007 in D.B. Criminal Appeal No.977 of 2002.

2. By the impugned judgment, the Division Bench set aside the conviction and sentence imposed on the Respondents-accused by the trial Court in Sessions Case No.3/2001 (108/2000) vide judgment dated 10.07.2002. The trial Court found the Respondents-accused guilty of the offence under Section 302 read with 34, IPC for which they were sentenced to life imprisonment, apart from imposing a fine of Rs.500/- each and in

default to undergo simple imprisonment for 15 days each. They were also convicted for the offence under Section 452 IPC and sentenced to 3 years rigorous imprisonment apart from fine of Rs.200/- each and in default to undergo simple imprisonment for 7 days each.

3. The case of the prosecution as projected before the trial Court was that on 12.03.2000, at around 9 p.m., the deceased Surender was conversing with his wife Choti (PW-1) and children Kumari Sarita (PW-3) and Vikram (PW-15) in their house. At that moment, the four accused suddenly barged into the house of the deceased declaring that they wanted to kill him, and that in order to save himself from them, the deceased ran to the back side of the house and hid himself in the *Khudi*, from where the accused pulled him out, dragged him to the house of Rajesh (A-3 herein) s/o Pitram and while dragging him to the house of A-3 they kept on assaulting him with the aid of iron rod, iron pipe and *lathis*. After killing the deceased, the accused brought back the body to the house of the deceased and left the same on a cot lying in the verandah.

4. According to Choti (PW-1), her husband was killed by the Respondents-accused due to prior animosity. It is not in dispute

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that Rajesh (A-3) and the deceased are second cousins as their grand fathers are blood brothers. The prosecution examined as many as 15 witnesses (PWs-1 to 15) and marked 29 documents (Exhibits P-1 to 29). On the defence side, 2 witnesses (DWs-1 and 2) were examined and 24 documents (Exhibits D-1 to 24) were marked. Of the 15 witnesses examined on behalf of the prosecution, PWs-1, 3, 8, 12 and 15 were eye witnesses. The High Court, having interfered with the conviction and sentence imposed by the trial Court, the State has come forward with this appeal.

5. We heard Mr.Ram Naresh Yadav, learned Standing Counsel for the Appellant and Mr.Abhishek Gupta, learned Counsel for the Respondents-accused. Learned Counsel for the Appellant took us through the evidence of the eye witnesses, the evidence of Dr. Nathu Singh (PW-7), the post-mortem doctor, Exhibit P-1, the written report filed by Choti (PW-1), Exhibit P-10, the post-mortem certificate and Exhibit P-29, the FSL report and submitted that the prosecution proved the offence alleged against the Respondents-accused with substantive legal evidence and the interference by the High Court was wholly unjustified.

6. As against the above submissions, Mr.Abhishek Gupta, learned Counsel for the Respondents-accused contended that the version of the eye witnesses was wholly unnatural, contradictory with each other and was improbable in nature. The learned Counsel contended that there were material discrepancies in the version of the eye witnesses account and, therefore, it was wholly unreliable in order to convict the Respondents-accused. He also contended that the delay in lodging the FIR was inexplicable which was fatal to the case of the prosecution as the real genesis of the occurrence was suppressed. The learned Counsel further contended that considering the stand of the Respondents-accused in their 313 statement which was also supported by the defence witnesses and the other evidence placed before the Court, the judgment of the High Court does not call for interference.

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7. In support of his submission, learned Counsel for the Respondents-accused relied upon the decisions in **Yeshwant and others The State of Maharashtra** – (1972) 3 SCC 639, **Kansa Behera v. State of Orissa** – (1987) 3 SCC 480 and **Surinder Singh v. State of Punjab** - 1989 Supp. (2) SCC 21, **Din Dayal v. Raj Kumar alias Raju and Others** – (1999) SCC

(Crl.) 892, **Raghunath v. State of Haryana and another –** (2003) 1 SCC 398, **Mahtab Singh and Another v. State of Uttar Pradesh** – (2009) 13 SCC 670, **Lahu Kamlakar Patil and Another v. State of Maharashtra –** (2013) 6 SCC 417.

8. Having heard the learned Counsel for the Appellant and the Respondents-accused and having bestowed our serious consideration to the judgments of the High Court and the trial Court and the evidence placed before us, we are of the view that the reasoning of the High Court in interfering with the conviction imposed on the Respondents-accused by the trial Court lacks in very many aspects when considered based on the abundant evidence laid before the trial Court at the instance of the prosecution.

9. When we peruse the evidence of PWs-1, 3, 8, 12 and 15, who were all eye witnesses, though learned Counsel for the Respondents-accused attempted to point out certain variations in the eye witnesses account, we find that as far as the overall genesis of the occurrence was concerned, the evidence of all the above eye witnesses was cogent and there was not much of discrepancy or contradiction in their versions. The evidence of Choti (PW-1), as regards the narration of the occurrence, was

clear and categoric when she referred to the approximate time at which the occurrence took place when her husband was dragged by the Respondents-accused from the *Khudi* to the house of A-3 and in that process he was severely beaten with iron rod, iron pipe and *lathis* by each one of the accused.

10. The said version of Choti (PW-1) was fully corroborated by PWs-3 and 15 who are none other than the children of the deceased and Choti (PW-1). In fact, at the time of occurrence Kumari Sarita (PW-3) was 7½ years old and Vikram (PW-15) was 1½ year younger than Kumari Sarita (PW-3). Further, in the orientation of the witnesses, the trial Court has found that they were fully conscious of what they were to state before the Court and their answers to the questions did disclose that they were able to understand the whole purpose of giving their evidence in Court and as to on what matter they were supposed to give their evidence. Even while narrating the incident, both the above witnesses were able to fully support the version of Choti (PW-1) as regards the involvement of each one of the accused, the weapons used by them in that process and the ultimate death of the deceased after such severe beating with the weapons used.

11. The learned Counsel for the Respondents-accused, while making reference to the version of Kumari Sarita (PW-3) in the cross-examination that on the date of occurrence at about 9-9.30 p.m. they went to sleep and submitted that the evidence of the said eye witness cannot be relied upon. We see no good reason to accept the said submission inasmuch as in our considered opinion, considering the extent of statement made by the said witness as regards the incident in a graphic manner, the said stray statement about their going to sleep by 9-9.30 p.m. was an insignificant one and on that basis it will be wholly inappropriate to disbelieve the version of Kumari Sarita (PW-3), whose version in all other respects was natural and fully supported the eye witness account of Choti (PW-1).

12. Similarly, we find absolutely no discrepancy in the version of Vikram (PW-15), who was even younger than Kumari Sarita (PW-3) in age at the time of the occurrence but yet his version before the Court as recorded by the trial Court disclosed that he was only speaking the truth and he was able to give the required details as regards the manner in which the occurrence took place, the involvement of the Respondents-accused and the

weapons which they used in that process and the ultimate killing of his father at the instance of the Respondents-accused.

13. In this context, it is relevant to rely on a decision of this Court reported in **State of Madhya Pradesh v. Ramesh and another** – (2011) 4 SCC 786 wherein it laid down as to how the evidence of a child witness should be assessed. Paragraphs 7, 11 and 14 which are relevant for our purpose, are as under:

> "7. In *Rameshwar* v. *State of Rajasthan* this Court examined the provisions of Section 5 of the Oaths Act, 1873 and Section 118 of the Evidence Act, 1872 and held that (AIR p. 55, para 7) every witness is competent to depose unless the court considers that he is prevented from understanding the question put to him, or from giving rational answers by reason of tender age, extreme old age, disease whether of body or mind or any other cause of the same kind. There is always competency in fact unless the court considers otherwise. The Court further held as under: (AIR p. 56, para 11)
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> > "*11.* … it is desirable that Judges and Magistrates should always record their opinion that the child understands the duty of speaking the truth and state why they think that, otherwise the credibility of the witness may be seriously affected, so much so, that in some cases it may be necessary to reject the evidence altogether. But whether the Magistrate or Judge really was of that opinion can, I think, be gathered from the circumstances when there is no formal certificate."
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> 11.<u>The evidence of a child must reveal that he was able to discern between right and wrong and the court may find out from the cross-examination whether the</u>

defence lawyer could bring anything to indicate that the child could not differentiate between right and wrong. The court may ascertain his suitability as a witness by putting questions to him .and even if no such questions had been put, it may be gathered from his evidence as to whether he fully understood the implications of what he was saying and whether he stood discredited in facing a stiff cross-examination. A child witness must be able to understand the sanctity of giving evidence on oath and the import of the questions that were being put to him. (Vide *Himmat Sukhadeo Wahurwagh* v. *State of Maharashtra*.)

14. In view of the above, the law on the issue can be summarised to the effect that the deposition of a child witness may require corroboration, but in case his deposition inspires the confidence of the court and there is no embellishment or improvement therein, the court may rely upon his evidence. The evidence of a child witness must be evaluated more carefully with greater circumspection because he is susceptible to tutoring. Only in case there is evidence on record to show that a child has been tutored, the court can reject his statement partly or fully. However, an inference as to whether child has been tutored or not, can be drawn from the contents of his deposition."

(Emphasis added)

14. To the same effect is the decision reported in **Shivasharanappa and others v. State of Karnataka** (2013) 5 SCC 705. Paragraph 17 can be referred to as under:

"17. Thus, it is well settled in law that the court can rely upon the testimony of a child witness and it can form the basis of conviction if the same is credible, truthful and is corroborated by other evidence brought on record. Needless to say, the corroboration is not a must to record a conviction, but as a rule of prudence, the court thinks it desirable to see the corroboration

> from other reliable evidence placed on record. The principles that apply for placing reliance on the solitary statement of the witness, namely, that the statement is true and correct and is of quality and cannot be discarded solely on the ground of lack of corroboration, apply to a child witness who is competent and whose version is reliable."
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> (emphasis added)

15. The learned Counsel for the Respondents-accused was repeatedly contending that the version of the above witnesses was wholly unnatural by pointing out that when the head of the family was being attacked mercilessly by the four accused persons, the witnesses were not taking any effort to seek the help of their neighbours in the village, where all the houses were closely situated. Here again, we are not able to accept or appreciate the said contention for more than one reason. In the first place, Choti (PW-1) is the wife of the deceased who at that point of time was more concerned in rescuing her husband from the attack of the Respondents-accused who were four in number and who were fully armed with iron rod, iron pipe and *lathis*. Therefore, when her husband was being beaten mercilessly by four different persons, as rightly deposed by her, she could only make a hue and cry while taking every possible effort to rescue him from the merciless onslaught of the assailants. If at all

anything can be said based on such cries of Choti (PW-1), those who were living nearby could have come for her rescue in saving her husband. If no one came and were not prepared to extend a helping hand, then Choti (PW-1) cannot be blamed for that reason. On seeing the plight of Choti (PW-1), Bhateri (PW-8) her niece, who happened to come at the place of occurrence appeared to have rushed back to inform her uncle, namely, Subhash (PW-12) who is the elder brother of the deceased and who tried to intervene and save the deceased from the ruthless attack of the Respondents-accused.

16. According to Choti (PW-1) and Subhash (PW-12), the Respondents-accused were so keen in eliminating the deceased that they were stated to have warded off any attempt made by Choti (PW-1) and Subhash (PW-12) in saving the deceased from the dreadful attack by them. Therefore, we do not find any conduct which is not normal or unnatural from what was stated by Choti (PW-1) or Subhash (PW-12). As far as Kumari Sarita (PW-3) and Vikram (PW-15) are concerned, they are children of the deceased and when they witnessed the gruesome attack of the Respondents-accused on their father, they could have made noise and being children of a very tender age, it cannot be stated

as to in what manner they were expected to behave at that point of time. But on that score, it cannot be held that the whole of their evidence should be eschewed from consideration. While witnessing such an inhuman behaviour of the assailants, the young children might have become paralysed out of shock and fear. Therefore, the contention made on behalf of the Respondents-accused that the behaviour of the eye witnesses was unnatural, does not stand to any reason and, therefore, the said contention deserves to be rejected.

17. It was contended that all the witnesses were family members of the deceased and being interested witnesses, their version cannot be relied upon *in toto*. When we consider the same, we fail to understand as to why the evidence of the witnesses should be discarded solely on the ground that the said witnesses are related to the deceased. It is well settled that the credibility of a witness and his/her version should be tested based on his/her testimony vis-à-vis the occurrence with reference to which the testimonies are deposed before the Court. As the evidence is tendered invariably before the Court, the Court will be in the position to assess the truthfulness or otherwise of the witness while deposing about the evidence and the persons on

whom any such evidence is tendered. As every witness is bound to face the cross-examination by the defence side, the falsity, if any, deposed by the witness can be easily exposed in that process. The trial Court will be able to assess the quality of witnesses irrespective of the fact whether the witness is related or not. Pithily stated, if the version of the witness is credible, reliable, trustworthy, admissible and the veracity of the statement does not give scope to any doubt, there is no reason to reject the testimony of the said witness, simply because the witness is related to the deceased or any of the parties. In this context, reference can be made to the decision of this Court reported in **Mano Dutt and another v. State of Uttar Pradesh** – (2012) 4 SCC 79. Paragraph 24 is relevant which reads as under:

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> "24. Another contention raised on behalf of the appellant-accused is that only family members of the deceased were examined as witnesses and they being interested witnesses cannot be relied upon. Furthermore, the prosecution did not examine any independent witnesses and, therefore, the prosecution has failed to establish its case beyond reasonable doubt. This argument is again without much substance. Firstly, there is no bar in law in examining family members, or any other person, as witnesses. More often than not, in such cases involving family members of both sides, it is a member of the family or a friend who comes to rescue the injured. Those alone

are the people who take the risk of sustaining injuries by jumping into such a quarrel and trying to defuse the crisis. Besides, when the statement of witnesses, who are relatives, or are parties known to the affected party, is credible, reliable, trustworthy, admissible in accordance with the law and corroborated by other witnesses or documentary evidence of the prosecution, there would hardly be any reason for the Court to reject such evidence merely on the ground that the witness was a family member or an interested witness or a person known to the affected party."

(emphasis added)

18. Reliance can also be placed upon **Dinesh Kumar v. State of Rajasthan –** (2008) 8 SCC 270, wherein in paragraph 12, the law has been succinctly laid down as under:

"12. In law, testimony of an injured witness is given importance. When the eyewitnesses are stated to be interested and inimically disposed towards the accused, it has to be noted that it would not be proper to conclude that they would shield the real culprit and rope in innocent persons. The truth or otherwise of the evidence has to be weighed pragmatically. The court would be required to analyse the evidence of related witnesses and those witnesses who are inimically disposed towards the accused. But if after careful analysis and scrutiny of their evidence, the version given by the witnesses appears to be clear, cogent and credible, there is no reason to discard the same. Conviction can be made on the basis of such evidence."

(Underlining is ours)

19. It was then contended on behalf of the Respondents-accused that there was inexplicable delay in lodging of the FIR. It was pointed out that the occurrence took place at 9 p.m. while

the FIR was lodged only at 10.15 a.m. on the next day. During the whole night the relatives of the deceased were informed about the killing of the deceased by Choti (PW-1) and some of whom also arrived at the place of occurrence. When the said contention is considered, as noted by us earlier, the occurrence took place at around 9-9.30 p.m. and even according to the eye witnesses, the attack on the deceased went on for about an hour. Therefore, by the time the whole incident was over, namely, the deceased was dragged to the house of Rajesh (A-3) beaten up there and brought back dead and thrown on the cot in the verandah of the house of the deceased, it would have crossed 10 p.m. Choti (PW-1), being the wife of the deceased who is a rustic village woman and shocked while witnessing the incident, it cannot be said that she should have made every effort to lodge the complaint with the police immediately after the killing of her husband. Being a village lady with two minor children, who were also pathetically witnessing the gruesome killing of their father, she would have been only crying helplessly seeking the support of her close relatives.

20. If at all anyone could have done anything, Subhash (PW-12) who is the brother of the deceased, could have been expected to

take some steps to inform the police. It must be remembered that the occurrence had taken place in a remote place and the police station is more than a kilometre away from the place of occurrence. In the night hours, as villagers, having found that the person was killed and was lying dead, they must have been in a bewilderment and, therefore, the complaint was lodged only on the next day morning and that to after the police arrived at 10 a.m. No definite reason can be attributed for not lodging the complaint expeditiously, but as stated by us earlier, it was due to the helplessness of the poor lady who lost her husband in the late night. In this context, it will be worthwhile to keep in mind the version of Jagram (PW-2) brother of Choti (PW-1) who in his testimony has confirmed that when he went to the house of Lalchand to report the incident to Bagor Police Station, he briefly informed the SHO about the incident. It was also informed by him that after making the telephone call, the SHO reached the spot within half an hour and got the first information written under Exhibit P-1, which was handed over to the SHO who thereafter, prepared Exhibit P-2 map when Jagram (PW-2) who was also present, affixed the signatures on Exhibit P-2. But on that score, it cannot be held that there would have been a total variation in

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the genesis of the case, considering the eye witnesses account of the witnesses whose version we have found to be fully credible and corroborative in every respect. Therefore, merely because there was some delay in the lodging of the FIR, which cannot be wholly attributed to the aggrieved party Choti (PW-1), on that score, there is no scope to hold that the Respondents-accused are to be given a clean chit when there was strong evidence both oral and documentary and material objects placed before the trial Court confirming their involvement in the occurrence. Therefore, the said submission of the alleged delay in lodging of the FIR also does not merit acceptance.

21. As far as the reliance placed upon the defence version is concerned, the same was rightly rejected by the trial Court for well founded reasons. Apart from the version of the eye witnesses, the admissible part of the evidence of Ranjit Singh (PW-13), the Investigating Officer, insofar as it related to the recoveries made with the aid of *Panch* witnesses, established the weapons used by the Respondents-accused in the process of the killing of the deceased. Exhibit P-29 was marked through PW-13, which is the FSL report. The contents of the FSL Report (Exhibit

P-29), have been dealt with by the trial Court which is stated as under:

> "The report of Exhibit P-29 has been issued by the FSL Office on 02.08.2001 which confirms the traces of human blood on the blood-soaked soil, blood-stained cotton, the shirt of deceased Surender, his pant and baniyan, the iron pipe recovered from accused Suresh, iron rod recovered from accused Rajesh, *laathi* recovered from Chandagi and Anvi.
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> Traces of "A" group blood have been found on the piece of cotton on which human blood sample was recovered from the cot where the dead body of Surender was lying and also on the shirt, pant and baniyan of Surender. No suspicion can be raised about the blood present on the clothes worn by the deceased and the blood recovered below the cot, that it was the blood of deceased Surender. The group of blood present on other articles could not be ascertained for the reason that quantity of blood was quite low, but keeping in view the evidences available on record and finding the traces of human blood, it can be said beyond doubt that it was also the blood of deceased Surender. The report of Exhibit P-29 in itself is a clinching evidence to hold accused guilty to the offence. There remains no doubt in holding conviction of the accused for the offence of murder of Surender by the accused."
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> (Underlining is ours)

22. The above discussion made by the trial Court amply demonstrates that in the process of investigation, the Investigating Officer was able to recover the blood stained clothes, soil and other materials and the FSL report (Exhibit P-29)

confirmed traces of human blood. Simply because the blood stained apparels of Choti (PW-1) was not exhibited, it cannot be held that on that score the material part of the evidence of eye witnesses should be eschewed from consideration. Apart from the involvement of the accused in the crime as spoken to by the eye witnesses, the FSL report (Exhibit P-29) confirmed the brutal killing of the deceased which was the result of the attack on his body with various weapons. The post-mortem Doctor Nathu Singh (PW-7), who confirmed the injuries found on the body of the deceased as per the post-mortem report (Exhibit P-10), disclosed that there were as many as 14 injuries of which the head injury was fatal. The said version of the doctor also confirmed the injuries sustained by the deceased on his head, as well as, other vital parts of his body. Therefore, a cumulative consideration of the above evidence amply established the crime in which the Respondents-accused were involved, resulted in the killing of the deceased.

23. Reliance was placed by the learned counsel for the Respondents-accused on the decision reported in **Surinder Singh (supra)**. In this case the prosecution witness informed neither his relatives nor the police authorities or officials after he

witnessed the act of murder committed by the Appellant, in a timely manner. In fact, PW-2 went back to his house and dozed off and it was only after sometime did he go and inform PW-3 who advised him to go to the police. We have to state, at this juncture, that the facts and circumstances of this case are distinguishable from the present appeal and hence, reliance on this judgment will be futile as in the case on hand, although the police were not informed immediately, the relatives of the deceased were informed instantly and it was only natural that a village woman having two minor children could not go and inform the police about the incident at late hours in the night, especially when the police station was more than one and half kilometres away. Therefore, the said decision is of no assistance to the Respondents-accused.

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24. Reliance was also placed on **Lahu Kamlakar Patil (supra)**, wherein the ground urged before this Court was that the sole witness in the case ran away from the spot of occurrence and did not inform the police about the incident, but on the contrary hid himself until early morning of the next day, and also that he did not come to the spot where the police arrived out of fear for three hours. He had, in fact, contrary to normal human

behaviour, gone to his house in Pune and did not inform his family members. He chose to inform the police about the entire incident after three days, when his wife informed him that the police had come to his house, looking for him. Reliance was placed on the above judgment to state that the conduct of the witness in the present appeal seems to be unnatural i.e., by approaching the police and filing the FIR in a belated manner. We will have to state that in the above case, the sole witness approached the police out of fear and, in fact, did not even lodge the FIR with the police in the first instance. Therefore, this fact is clearly distinguishable from the present appeal, wherein, Choti (PW-1) had genuine reason to lodge the FIR on the morning of next day. Hence, reliance on the above case is also not helpful to the Respondent.

25. The learned Counsel for the Respondents-accused, placed reliance on **Din Dayal (supra)** wherein this Court held that the conduct of the witnesses was unnatural and unreasonable in not informing the police about the incident as they had quietly gone back to their home after the said occurrence. They had also not disclosed the name of the accused to the police constable who was on duty, even though they disclosed other facts regarding

the incidents and hence on this ground, the Court had reasons for doubting the truthfulness of the evidence of the witnesses. In the present appeal, there were cogent reasons as has been clearly explained above for the lodging of the FIR on the next morning and the conduct of the witnesses were not in any way similar to the above stated case and, therefore, the same cannot be relied upon. Hence, on this ground, this case is also not helpful to the Respondents-accused.

26. As far as reliance on **Mahtab Singh (supra)** was concerned, it will have to be noted that in the said case, this Court found that inspite of the fact that the police station was a furlong away, the complainant did not choose to go to police station straightway, but instead he went to a person called Charan Singh for preparing a report and only thereafter, went to police station which resulted in a delay of 45 minutes. It was in these peculiar facts of the case, it was held that delay in lodging the FIR, created doubt. In the case on hand, we have noted that the occurrence took place in the late night in a remote village where the sufferers of the incident were the widow and her two minor children, apart from the fact that police station was one

and a half kilometres away. Therefore, we are not inclined to rely on the said decision to the case on hand.

27. Reliance to paragraph 21 of **Yeshwant (supra)** was placed by the counsel for the Respondents-accused to submit that there was no conclusive evidence to prove that the blood stains on the body were that of the deceased and whether they were of human origin and, therefore, the connection of the evidence with the occurrence under consideration was not shown by anything on record. We will have to state here that the FSL report (Exhibit- P-29) has specifically mentioned that the blood stains found on the articles were of human origin, while also determining the blood group to be as 'A positive'. Also according to the statement of the Investigating Officer Ranjit Singh (PW-13), during the course of investigation all the weapons described by the eyewitnesses, which had blood stains on them, were recovered from the possession of the Respondents-accused. It can also be inferred from the post-mortem report (Exhibit P-10) of Dr. Nathu Singh (PW-7), the medical officer that the various injuries caused on the deceased were from the weapons recovered at the instance of the accused. Therefore, these findings are strong factors in establishing the culpability of the Respondents-accused in

committing the murder. For the very same reasons, reliance placed on paragraphs 7 and 8 of the decision **Raghunath (supra)** and on paragraph 12 in **Kansa Behera (supra)** is also rejected.

28. When we examine the reasoning of the Division Bench in concluding that the offence was not made out, it was mainly on the ground that there was delay in the lodging of the FIR and the conduct of the witnesses as spoken to by them did not inspire confidence. In our considered view, when the High Court had interfered with the conviction imposed by the trial Court, it ought to have examined the evidence meticulously and expressed cogent and convincing reasons as to why the detailed consideration of the evidence did not inspire confidence in order to interfere with the conclusion of the trial Court. In our considered view, the High Court had miserably failed to carry out the said exercise and without assigning reasons, much less convincing reasons, has chosen to interfere with the conviction imposed by the trial Court in a light hearted manner.

29. Having regard to our above conclusion, we find that none of the decisions relied upon by learned counsel for the Respondents-accused can be applied to the case, inasmuch as

we have found that the eye witnesses account of the concerned witnesses were all convincing and were corroborative in every minute aspect of the occurrence. We have also found that their version was natural and there was nothing to suspect their version in narrating the occurrence. We have also found that the defence version was rightly rejected by the trial Court as the same was wholly unreliable. Apart from eye witnesses account, we have also found the recoveries of the weapons, the medical evidence and the FSL reports fully supporting the case of the prosecution.

30. Having regard to our above conclusions, the judgment of the trial Court ought not to have been interfered by the High Court. We, therefore, allow this appeal and set aside the judgment of the High Court and restore the judgment of the trial Court along with the conviction and sentence imposed. The Respondents-accused shall, therefore, surrender forthwith and undergo the unexpired portion of the sentence imposed on them.

……………………………………………………J.
[Fakkir Mohamed Ibrahim Kalifulla]

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..............................J.
[Shiva Kirti Singh]

New Delhi;
September 09, 2014.

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