

CRA-D-49-DB-2004 (O&M)
CRA-D-165-DB-2004 (O&M)
CRA-D-169-DB-2004 (O&M) &
CRR-1406-2004

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2025:PHHC:001481-DB



In the High Court of Punjab and Haryana at Chandigarh

1. CRA-D-49-DB-2004 (O&M)
Reserved on: 17.12.2024
Date of Decision: 07.1.2025

Jatinder Singh alias Satnam SinghAppellant

Versus

State of PunjabRespondent

2. CRA-D-165-DB-2004 (O&M)

Charanjit Singh alias ChanniAppellant

Versus

State of PunjabRespondent

3. CRA-D-169-DB-2004 (O&M)

Amanpreet Singh @ MeetuAppellant

Versus

State of PunjabRespondent

4. CRR-1406-2004

Jatinder SinghPetitioner

Versus

Charanjit Singh alias Channi and othersRespondents

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

Argued by: Mr. Anmol Partap Singh Mann, Advocate
for the appellant(s) (in all appeals)

Mr. Maninderjit Singh Bedi, Addl. A.G., Punjab.

Mr. Charanjit Singh Bakshi, Advocate (Legal Aid Counsel)
for the petitioner (in CRR-1406-2004).



SURESHWAR THAKUR, J.

1. Since all the appeals (supra) as well as the criminal revision petition (supra) arise from a common verdict, made by the learned trial Judge concerned, hence both the appeals (supra) as well as the revision petition (supra) are amenable for a common verdict being made thereons.

2. All the appeals (supra) are directed against the impugned verdict, as made on 18.12.2003, upon case bearing No. 55 of 3.10.2001, by the learned Additional Sessions Judge, Ludhiana, wherethrough in respect of charges respectively drawn against the convicts-appellants qua offences punishable under Sections 302, 382, 34 IPC, thus the learned trial Judge concerned, proceeded to record a finding of conviction against the convicts-appellants.

3. Moreover, through a separate sentencing order of even date, the learned trial Judge concerned, sentenced the accuseds-appellants in the hereafter extracted manner-

Convict Charanjit Singh alias Channi

Under Section 302 IPC

To undergo rigorous imprisonment for life and to pay a fine of Rs. 5000/- and in default to undergo further rigorous imprisonment for six months.

Under Section 382 IPC

To undergo rigorous imprisonment for five years and to pay a fine of Rs. 1000/- and in default of payment of fine to undergo further rigorous imprisonment for one month.

Convict Amanpreet Singh alias Meetu

Under Section 302 IPC

To undergo rigorous imprisonment for life and to pay a fine of Rs. 5000/- and in default to undergo further rigorous imprisonment for six months.

Under Section 382 IPC

To undergo rigorous imprisonment for five years and to pay a fine of Rs. 1000/- and in default to undergo further rigorous imprisonment for one month.

Convict Jatinder Singh alias Satnam Singh

Under Section 302/34 IPC

To undergo rigorous imprisonment for life and



to pay a fine of Rs. 5000/- and in default to undergo further rigorous imprisonment for six months.

Under Section 382 IPC

To undergo rigorous imprisonment for five years and to pay a fine of Rs. 1000/- and in default to undergo further rigorous imprisonment for one month.

4. Both the above imposed sentences of imprisonment upon the convicts-appellants, were ordered to run concurrently. However, the period of detention undergone by the accused-appellants, during the investigations, and, trial of the case, was, in terms of Section 428 of the Cr.P.C., rather ordered to be set off from the above imposed sentence(s) of imprisonment.

5. Convicts-appellants Jatinder Singh alias Satnam Singh, Charranjit Singh alias Channi and Amanpreet Singh @ Meetu become aggrieved from the above drawn verdict of conviction, besides also, become aggrieved from the consequent thereto sentences of imprisonment, and, of fine as became imposed, upon them, by the learned convicting Court concerned, and, hence have chosen to institute thereagainst the criminal appeals respectively bearing Nos. ***CRA-D-49-DB-2004***, ***CRA-D-165-DB-2004*** and ***CRA-D-169-DB-2004***.

6. Criminal Revision No. 1406 of 2004 has been preferred by Jatinder Singh, father of the deceased, seeking a directions upon the accused-appellants to pay Rs. 10,00,000/- (Rs. Ten lacs) as compensation to him under Section 357 Cr.P.C.

Factual Background

7. The genesis of the prosecution case, becomes embodied in the appeal FIR, to which Ex. PE/2 is assigned. As per the prosecution case, on 24.7.2001, complainant Jaswinder Singh got recorded his statement to the



police to the effect that on 23.7.2001, at about 8.00 P.M., he alongwith his friend, namely, Amanpreet Singh alias Banni were watching television in his house. However, all of a sudden the cable connection went defective. He alongwith Banni, in his vehicle Mohindera Bolero bearing No. PB-10AS-4562 went to cable operator Parminder Singh alias Shanu at H. No. 4290 Phase II, Urban Estate, LIG Quarter Dugri as Banni had taken the cable connection from him. He further stated therein, that Banni stopped his jeep near the office of said Shanu, and, after alighting from the vehicle, he went to the office of Shanu to lodge a complaint, whereas, he kept on sitting in the vehicle (supra), the engine of which was still in motion. After 2-3 minutes, Banni came out of the office of Shanu. Amanpreet Singh alias Meeta, brother of Shanu alongwith Charanjit Singh alias Channi, who was holding a cricket bat, and, Satnam Singh who is also known to him were quarreling with him and were exchanging hot words, came out of the office. The complainant further stated that when he went near them and tried to persuade them, thereupon Charanjit Singh alias Channi gave a bat blow on the head of Banni, as a result of which, he fell on the ground. Satnam Singh alias Jatinder Singh raised a Lalkara that today they should not be spared. In the meantime, Meetu brought a cricket bat from his office, and gave a blow with the same on the head of Banni. Satnam Singh caught hold of the complainant and Channi and Meetu gave bat blows to him. On raising hue and cry by the complainant, one Avtar Singh son of Basant Singh came at the spot, and told that and he will settle the dispute. On seeing Avtar Singh, all the three accused escaped from the spot alongwith their weapons in the above vehicle. He further stated therein, that in the jeep (supra), the



licenced pistol of Banni and some other articles belonging to Banni were lying. The complainant called Tejinder Singh, who reached the spot in his car, and, they took Banni, who was in an unconscious condition, in the car to Arora Neuro Hospital for treatment. In the said occurrence, the complainant also received injuries. After C.T.Scan, and, due to serious condition of Banni, he was removed to D.M.C. Hospital Ludhiana, where on 24.7.2001, at about 9.00 A.M, he succumbed to his injuries. The complainant also stated that, the motive behind the occurrence, is that a cable connection, supplied by Shanu, was running in the house of Banni, which used to generally remain defective and with regard to the above, they had also made complaints to Shanu 2-3 times prior to the above incident for not removing the defect in time. Due to the said reason, the accused were nursing a grudge and, had caused injuries to them. On the basis of the said statement, the appeal formal FIR became registered

Investigation proceedings

8. During the course of investigations, the accused were arrested. The disclosure statements of the accused were recorded, pursuant to which, they got recovered the incriminatory weapons of offence and other incriminatory items, which were taken into police possession. After conclusion of investigations, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned committal Court concerned.

Committal Proceedings

9. Since the offence under Section 302 of the IPC was exclusively triable by the Court of Session, thus, the learned committal Court concerned,



through a committal order made on 20.9.2001, hence proceeded to commit the accused to face trial before the Court of Session.

Trial Proceedings

10. The learned trial Judge concerned, after receiving the case for trial, after its becoming committed to him, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw charge against accused-appellants Charanjit Singh @ Channai, and Amanpreet Singh @ Meetu, for the offence punishable under Section 302 IPC, whereas, he drew charge against accused-appellant Jatinder Singh @ Satnam Singh under Section 302 read with Section 34 IPC. The learned trial Judge concerned, also drew charge(s) against all the accused-appellants qua commission of an offence punishable under Section 382 IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

11. In proof of its case, the prosecution examined 12 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence.

12. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused pleaded innocence, and, claimed false implication. The accused-appellants led six defence witnesses into the witness box.

Submissions of the learned counsel for the appellant(s)

13. The learned counsel for the aggrieved convicts-appellants has argued before this Court, that both the impugned verdict of conviction, and, the consequent thereto order of sentence, thus require an interference. He



supports the above submission on the ground, that they are based on a gross misappreciation, and, non-appreciation of evidence germane to the charge. They further rest the above submissions *inter alia* on the ground,

(i) That there is inordinate delay in lodging the present FIR, inasmuch as the alleged occurrence took place on 23.7.2001, at about 8.00 P.M., whereas the present FIR was lodged on 24.7.2001 at 12.05 P.M.

(ii) That the medical evidence does not corroborate the ocular account.

(iii) That since the alleged occurrence took place all of a sudden and that too after some altercation being taken place, therefore, the offence under Section 302 IPC was not made out against the appellants, rather the offence, if any, as became committed by the accused, was the one thus falling within the exceptions to an offence of culpable homicide amounting to murder, exceptions whereof become embodied in Section 300 of the IPC, exceptions whereof become extracted hereinafter.

“300. Murder.-

Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

(Secondly) If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

(Thirdly)- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

(Fourthly)- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act



without any excuse for incurring the risk of causing death or such injury as aforesaid.

Exception 1.- *When culpable homicide is not murder.— Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident. The above exception is subject to the following provisos:—*

(First)- That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

(Secondly)- That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

(Thirdly)- That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.— Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Exception 2 - *Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.*

Exception 3 - *Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.*

Exception 4 - *Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.*

Explanation.— It is immaterial in such cases which party



offers the provocation or commits the first assault.

Exception 5 - Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.”

Submissions of the learned State counsel

14. On the other hand, the learned State counsel has argued before this Court, that the verdict of conviction, and, consequent thereto sentence(s) (supra), as become imposed upon the convicts, are well merited, and, do not require any interference, being made by this Court in the exercise of its appellate jurisdiction. Therefore, he has argued that all the appeals (supra), as preferred by the convicts-appellants be dismissed.

Submissions of the learned counsel for the petitioner

15. The learned counsel for the petitioner has argued before this Court the judgment of conviction and order of sentence, passed by the learned convicting Court below, be upheld. However, he has prayed that sum of Rs. 10.00 lacs (Rs. Ten lacs) be ordered to be paid as compensation to the petitioner, who is the father of the deceased.

Analysis of the depositions of the eye witnesses to the occurrence, who respectively stepped into the witness box as PW-2 and PW-3

16. Complainant Jaswinder Singh, who is the purported eye witness to the occurrence, stepped into the witness box as PW-2, and, deposed that when on 23.7.2001, at about 8.00 P.M., he and deceased Amanpreet Singh @ Bani were watching television in the house of the deceased, then all of a sudden the cable connection went out of operation. Thereupon PW-1 and the deceased went to the house of Parminder Singh @ Shanu in Mahindra Ballero vehicle bearing registration No. PB-10AS-4562, belonging to the deceased. They parked their vehicle near the office of Paramjit Singh @



Shanu. PW-2 further deposed that the deceased went to the office of Shanu to lodge a complaint, whereas he remained in the vehicle (supra). He further deposed that after 2 or 4 minutes, the deceased came out of the office of Shanu along with three accused, who at that time were quarreling with the deceased. The said witness also alighted from the vehicle and went near them, while the engine of the said vehicle was not stopped. The said witness further testified that when he was trying to intervene, accused Charanjit Singh alias Channi, who was having a cricket bat, gave a blow with the same on the head of the deceased, as a result of which, the deceased fell on the ground. Accused Satnam Singh raised a lalkara that they should not be allowed to go and that their task would be finished. Thereupon accused Amanpreet Singh alias Mittu brought a cricket bat from his office and delivered blow thereof on the head of deceased, yet when the deceased was lying down. PW-2 further deposed that accused Satnam Singh caught hold of him and accused Charanjit Singh @ Channi and Amanpreet Singh @ Mittu, started inflicting bat blows on his person, whereupons the complainant started crying. In the meantime, Avtar Singh resident of Jawaddi reached at the spot, who intervened and assured that he would settle their dispute. Subsequently, all the three accused fled from the spot with their weapons in the vehicle (supra), whose engine was still in motion. The said witness was asked a question about the articles, which were lying in the Bollero Vehicle, whereupon the said witness answered that a licenced pistol of the deceased as well as his purse were lying in the said vehicle.

17. Therefore, the supra voicings made by PW-2, in his examination-in-chief, qua the genesis of the prosecution case, are naturally



in complete alignment with his previously made statement, in writing, to which Ex. PE becomes assigned. Moreover, though he was subjected to the ordeal of a grilling cross-examination by the learned counsel for the accused, but he remained unscathed in the said ordeal.

18. Significantly, since a wholesome reading of her testification, as carried in his examination-in-chief, and, in his cross-examination, does not unfold, qua thereins rather becoming carried any rife improvements or embellishments viz-a-viz his previously recorded statement, in writing, nor when his testification suffers from any further taint of its being ridden with any *intra se* contradiction, thus *intra se* his examination-in-chief, and, his cross-examination, therefore, utmost sanctity is to be assigned to his testification.

19. The deposition of PW-2 is supported by the deposition of the other eye witness to the occurrence, namely Avtar Singh, who stepped into the witness box as PW-3. The echoings occurring in the examination-in-chief of PW-3 are in complete harmony with the echoings, as became rendered in respect of the crime event by PW-2.

20. Conspicuously also immense credence is to be assigned to the testification of the injured eye witness to the occurrence. Moreover, when the injuries entailed by him in the crime event become corroborated from the MLR as became drawn qua the said entailed injuries. The said MLR becomes assigned Ex. PN, and, the contents thereof become extracted hereinafter.

1. *Bruise 10 x 14 cm on superior aspect or right scapula.*
2. *Bruise 25x8 cm on medical on scapula extending below the interior border of scapula.*
3. *Bruise 10x10 cm cm on left plank.*



4. *Bruise 5 x 3 cm on med forearm.*

21. Since the contents (supra), as borne in Ex. PN became proven by PW-8 Dr. Sachin Jindal, therebys the witness (supra) lends corroboration to the supra credible eye witness account, as became rendered by him vis-a-vis the crime event.

22. In sequel, the testifications rendered by PW-2, and, by PW-3 vis-a-vis the crime event, when rather are in complete inter se alignment, as such, their respectively made testifications were amenable to become relied, upon, as aptly done by the learned trial Court concerned.

Signature disclosure statements of convicts-appellants Charanjit Singh alias Channi, Amanpreet Singh alias Mittu and of Jatinder Singh @ Satnam Singh respectively Ex. PG, Ex. PH and Ex. PJ

23. During the course of investigations, being made into the appeal FIR, convicts-appellants Charanjit Singh alias Channi, Amanpreet Singh alias Mittu and Jatinder Singh @ Satnam Singh, thus made their respective signature disclosure statements, to which respectively Ex. PG, Ex. PH and Ex. PJ become assigned. The signature disclosure statements, as made by all the accused are ad verbatim extracted hereinafter.

Disclosure Statement of convict-appellant Charanjit Singh alias Channi

“x x x x
On 23-7-2001, at the place of occurrence, i.e. where I had inflicted injuries on the person of the deceased, with cricket bat alongwith my companions, Mitu alias Amanprit Singh and Satnam Singh alias Satinder Singh, a jeep was parked at the spot, in which Banny and Sonu had come from the said spot Mitu and Satnam Sngh, who were also armed with bats had run away in that jeep and on going for some distance the jeep had been parked on Dhandra road. A pistol was lying in it and I had picked up the said pistol and a leather purse was lying close it and that purse had also been lifted by me. I searched the purse which



contained currency and some papers. I took out the money from the said purse alongwith Rs.500/- and then passed on the purse to Satnam Singh. A sum of Rs.500/- was also given to Mitu. Then we separated from each other and then ran away. I have kept concealed the pistol and bat in the bushes standing in the cremation ground on Dhandra road and I alone have got knowledge about them which are lying on the eastern side and I can get the same recovered after pointing out."

x x x x"

Disclosure Statement of convict-appellant Amanpreet Singh alias

Mittu

"x x x x

On 23-7-2001, Channi and Satnam Singh, had took away the jeep from the place of occurrence, which had been parked there, after inflicting Injuries to Binny, alongwith our bats on the said jeep being driven by Satnam Singh, which had been later parked on Dhandra Road. A pistol was lying in the jeep and one purse was also lying which had been picked up by Channi. He had taken the money out of the purse. Out of that money he paid Rs.500/- to me. He also put back Rs. 500/- in the same purse alongwith some papers. The purse was then given to Channi by Satnam Pingh. Then we separated from each other. The bat with which I had given injuries has been kept concealed me in the bushes standing in the pits on the Dhandhra road in the open plot and I can get the same recovered after pointing out.

x x x x"

Disclosure Statement of convict-appellant Jatinder Singh @

Satnam Singh

"x x x x

On 23-7-2001 on the place of occurrence, I alongwith my companion Channi alias Charanjit Pal Singh and Mitu alias Amanpriti Singh, who were having bats took out the jeep in which Banny had come, as he had parked there and we three thus had fled away from the spot on Dhandhra road. A pistol was lying in the jeep and one purse was also lying in the said jeep. That had been picked up by Channi. The purse contained money and empty papers. Channi had taken out the money and after putting some money and papers, he handed over the purse to me. I then ran away from the place. I noticed a purse lying in the pits situated by the railway line leading towards Dhuri from Ludhiana and it contained Rs. 500/- and some papers. I took out the money from the purse and the same purse was kept concealed by me in the pits



there and I alone have got its knowledge and can get the same recovered.

x x x x”

24. Pursuant to the above made signed disclosure statement (Ex. PG), convict-appellant Charanjit Singh alias Channi rather ensured the effectuation of recovery(ies) of one pistol and a wooden cricket bat. Upon checking of the said pistol, four live cartridges were also recovered from the magazine. All the above items were taken into police possession, through recovery memo, Ex. PG/2.

25. Pursuant to the above made signed disclosure statements (supra), convicts-appellants Amanpreet Singh alias Mittu and Jatinder Singh alias Satnam Singh rather ensured the effectuation recovery(ies) respectively of a cricket bat and of a purse containing certain papers, which were taken into police possession, through recovery memos, to which respectively Ex. PH/1 and Ex. PJ/1 become assigned.

26. The disclosure statements (supra), carries thereons the signatures, of the convicts-appellants. In their signed disclosure statements (supra), the convicts, confessed their guilt in inflicting injuries on the person of the deceased, hence with the recovered weapon(s). The further speaking therein is qua their keeping, and, concealing the incriminatory weapons of offence/incriminatory material. Moreover, the said signed disclosure statements do also make speakings about their alone being aware about the location of their hiding and keeping the same, and, also revealed their willingness to cause the recoveries of the incriminatory weapons/incriminatory material, to the investigating officer concerned, from the place of their hiding, and, keeping the same.



27. Significantly, since the appellants have not been able to either ably deny their signatures as occur on the exhibits (supra) nor when they have been able to prove the apposite denial. Moreover, since they have also not been able to bring forth tangible evidence but suggestive that the recovery(ies) is/are either contrived or invented. Therefore, the exhibits(supra) are *prima facie* concluded to be holding the utmost evidentiary tenacity.

28. Significantly also, since post the making of the said signed disclosure statements, thus by the convicts to the investigating officer concerned, he through the recovery memos (supra), thus caused the recovery(ies) of the weapons of offence/incriminatory material to the investigating officer concerned. Consequently, when the said made recovery(ies) is/are also not suggested by any cogent evidence to be planted recovery(ies). Resultantly, the effect thereof, is that, valid recovery(ies) was/were made vis-a-vis the incriminatory weapons of offence/incriminatory material by the convicts, to the investigating officer concerned. In sequel, the making of the valid signed disclosure statements, by the convicts besides the pursuant thereto effectuation of valid recover(ies) of the incriminatory weapons of offence/incriminatory material, thus by the convicts to the investigating officer concerned, but naturally *prima facie* corroborates and supports the case of the prosecution.

29. However, yet for assessing the vigor of the said made disclosure statements and consequent thereto made recovery(ies), it is apt to refer to the principles governing the assigning of creditworthiness to the said made disclosure statement and to the consequent thereto made recovery. The principles governing the facet (supra), become embodied in paragraphs Nos.



23 to 27 of a judgment rendered by the Hon'ble Apex Court in **Criminal Appeal Nos.1030 of 2023, titled as "Manoj Kumar Soni V. State of Madhya Pradesh", decided on 11.8.2023**, relevant paragraphs whereof become extracted hereinafter.

*23. The law on the evidentiary value of disclosure statements under Section 27, Evidence Act made by the accused himself seems to be well established. The decision of the Privy Council in **Pulukuri Kotayya and others vs. King-Emperor** holds the field even today wherein it was held that the provided information must be directly relevant to the discovered fact, including details about the physical object, its place of origin, and the accused person's awareness of these aspects. The Privy Council observed:*

The difficulty, however great, of proving that a fact discovered on information supplied by the accused is a relevant fact can afford no justification for reading into s. 27 something which is not there, and admitting in evidence a confession barred by s. 26. Except in cases in which the possession, or concealment, of an object constitutes the gist of the offence charged, it can seldom happen that information relating to the discovery of a fact forms the foundation of the prosecution case. It is only one link in the chain of proof, and the other links must be forged in manner allowed by law.

*24. The law on the evidentiary value of disclosure statements of co-accused too is settled; the courts have hesitated to place reliance solely on disclosure statements of co-accused and used them merely to support the conviction or, as Sir Lawrence Jenkins observed in **Emperor vs. Lalit Mohan Chuckerburty**, to "lend assurance to other evidence against a co-accused". In **Haricharan Kurmi vs. State of Bihar**, this Court, speaking through the Constitution Bench, elaborated upon the approach to be adopted by courts when dealing with disclosure statements:*

13. ...In dealing with a criminal case where the prosecution relies upon the confession of one accused person against another accused person, the proper approach to adopt is to consider the other evidence against such an accused person, and if the said evidence appears to be satisfactory and the



court is inclined to hold that the said evidence may sustain the charge framed against the said accused person, the court turns to the confession with a view to assure itself that the conclusion which it is inclined to draw from the other evidence is right.

25. *In yet another case of discrediting a flawed conviction under Section 411, IPC, this Court, in **Shiv Kumar vs. State of Madhya Pradesh** overturned the conviction under Section 411, declined to place undue reliance solely on the disclosure statements of the co-accused, and held:*

24. *..., the disclosure statement of one accused cannot be accepted as a proof of the appellant having knowledge of utensils being stolen goods. The prosecution has also failed to establish any basis for the appellant to believe that the utensils seized from him were stolen articles. The factum of selling utensils at a lower price cannot, by itself, lead to the conclusion that the appellant was aware of the theft of those articles. The essential ingredient of mens rea is clearly not established for the charge under Section 411 IPC. The prosecution's evidence on this aspect, as they would speak of the character Gratiano in Merchant of Venice, can be appropriately described as, "you speak an infinite deal of nothing." [William Shakespeare, Merchant of Venice, Act 1 Scene 1.]*

26. *Coming to the case at hand, there is not a single iota of evidence except the disclosure statements of Manoj and the co-accused, which supposedly led the I.O. to the recovery of the stolen articles from Manoj and Rs.3,000.00 from Kallu. At this stage, we must hold that admissibility and credibility are two distinct aspects and the latter is really a matter of evaluation of other available evidence. The statements of police witnesses would have been acceptable, had they supported the prosecution case, and if any other credible evidence were brought on record. While the recoveries made by the I.O. under Section 27, Evidence Act upon the disclosure statements by Manoj, Kallu and the other co-accused could be held to have led to discovery of facts and may be admissible, the same cannot be held to be credible in view of the other evidence available on record.*



27. While property seizure memos could have been a reliable piece of evidence in support of Manoj's conviction, what has transpired is that the seizure witnesses turned hostile right from the word 'go'. The common version of all the seizure witnesses, i.e., PWs 5, 6, 11 and 16, was that they were made to sign the seizure memos on the insistence of the 'daroga' and that too, two of them had signed at the police station. There is, thus, no scope to rely on a part of the depositions of the said PWs 5, 6, 11 and 16. Viewed thus, the seizure loses credibility.

30. Furthermore, in a judgment rendered by the Hon'ble Apex Court in **Criminal Appeal No.2438 of 2010, titled as "Bijender @ Mandar V. State of Haryana", decided on 08.11.2021**, the relevant principles governing the apposite assigning of creditworthiness become set forth in paragraph 16 thereof, paragraph whereof becomes extracted hereinafter.

*16. We have implored ourselves with abounding pronouncements of this Court on this point. It may be true that at times the Court can convict an accused exclusively on the basis of his disclosure statement and the resultant recovery of inculpatory material. However, in order to sustain the guilt of such accused, the recovery should be unimpeachable and not be shrouded with elements of doubt. We may hasten to add that circumstances such as (i) the period of interval between the malfeasance and the disclosure; (ii) commonality of the recovered object and its availability in the market; (iii) nature of the object and its relevance to the crime; (iv) ease of transferability of the object; (v) the testimony and trustworthiness of the attesting witness before the Court and/or other like factors, are weighty considerations that aid in gauging the intrinsic evidentiary value and credibility of the recovery. (See: **Tulsiram Kanu vs. The State; Pancho vs. State of Haryana; State of Rajasthan vs. Talevar & Anr and Bharama Parasram Kudhachkar vs. State of Karnataka**).*



31. Furthermore, in another judgment rendered by the Hon'ble Apex Court in **Special Leave Petition (Criminal) No.863 of 2019, titled as "Perumal Raja @ Perumal V. State, Rep. By Inspector of Police", decided on 03.01.2024**, the relevant principles governing the assigning of creditworthiness become set forth in paragraphs 22 to 25 thereof, paragraphs whereof become extracted hereinafter.

*22. However, we must clarify that Section 27 of the Evidence Act, as held in these judgments, does not lay down the principle that discovery of a fact is to be equated to the object produced or found. The discovery of the fact resulting in recovery of a physical object exhibits knowledge or mental awareness of the person accused of the offence as to the existence of the physical object at the particular place. Accordingly, discovery of a fact includes the object found, the place from which it was produced and the knowledge of the accused as to its existence. To this extent, therefore, factum of discovery combines both the physical object as well as the mental consciousness of the informant accused in relation thereto. In **Mohmed Inayatullah v. State of Maharashtra**¹², elucidating on Section 27 of the Evidence Act, it has been held that the first condition imposed and necessary for bringing the section into operation is the discovery of a fact which should be a relevant fact in consequence of information received from a person accused of an offence. The second is that the discovery of such a fact must be deposed to. A fact already known to the police will fall foul and not meet this condition. The third is that at the time of receipt of the information, the accused must be in police custody. Lastly, it is only so much of information which relates distinctly to the fact thereby discovered resulting in recovery of a physical object which is admissible. Rest of the information is to be excluded. The word 'distinctly' is used to limit and define the scope of the information and means 'directly', 'indubitably',*



‘strictly’ or ‘unmistakably’. Only that part of the information which is clear, immediate and a proximate cause of discovery is admissible.

23. The facts proved by the prosecution, particularly the admissible portion of the statement of the accused, would give rise to two alternative hypotheses, namely, (i) that the accused had himself deposited the physical items which were recovered; or (ii) only the accused knew that the physical items were lying at that place. The second hypothesis is wholly compatible with the innocence of the accused, whereas the first would be a factor to show involvement of the accused in the offence. The court has to analyse which of the hypotheses should be accepted in a particular case.

24. Section 27 of the Evidence Act is frequently used by the police, and the courts must be vigilant about its application to ensure credibility of evidence, as the provision is vulnerable to abuse. However, this does not mean that in every case invocation of Section 27 of the Evidence Act must be seen with suspicion and is to be discarded as perfunctory and unworthy of credence.

25. The pre-requisite of police custody, within the meaning of Section 27 of the Evidence Act, ought to be read pragmatically and not formalistically or euphemistically. In the present case, the disclosure statement (Exhibit P-37) was made by the appellant – Perumal Raja @ Perumal on 25.04.2008, when he was detained in another case, namely, FIR No. 204/2008, registered at PS Grand Bazar, Puducherry, relating to the murder of Rajaram. He was subsequently arrested in this case, that is FIR. No.80/2008, which was registered at PS Odiansalai, Puducherry. The expression “custody” under Section 27 of the Evidence Act does not mean formal custody. It includes any kind of restriction, restraint or even surveillance by the police. Even if the accused was not formally arrested at



the time of giving information, the accused ought to be deemed, for all practical purposes, in the custody of the police.

32. Now the principles set forth therein are that the defence, is required to be proving;

- i) That the disclosure statement and the consequent thereto recovery being forged or fabricated through the defence proving that the discovery of fact, as made in pursuance to a signed disclosure statement made by the accused to the investigating officer, during the term of his custodial interrogation, rather not leading to the discovery of the incriminatory fact;
- ii) That the fact discovered was planted;
- iii) It was easily available in the market;
- iv) It not being made from a secluded place thus exclusively within the knowledge of the accused.
- v) The recovery thereof made through the recovery memo in pursuance to the making of a disclosure statement, rather not being enclosed in a sealed cloth parcel nor the incriminatory item enclosed therein becoming sent, if required, for analyses to the FSL concerned, nor the same becoming shown to the doctor concerned, who steps into the witness box for proving that with the user of the relevant recovery, thus resulted in the causings of the fatal ante mortem injuries or in the causing of the relevant life endangering injuries, as the case may be, upon the concerned.
- vi) That the defence is also required to be impeaching the credit of the marginal witnesses, both to the disclosure



statement and to the recovery memo by ensuring that the said marginal witnesses, do make speakings, that the recoveries were not made in their presence and by making further speakings that they are compelled, tutored or coerced by the investigating officer concerned, to sign the apposite memos. Conspicuously, despite the fact that the said recovery memos were not made in pursuance to the accused leading the investigating officer to the site of recovery. Contrarily the recovery memo(s) becoming prepared in the police station concerned.

vii) The defence adducing evidence to the extent that with there being an immense gap *inter se* the making of the signed disclosure statement and the consequent thereto recovery being made, that therebys the recovered items or the discovered fact, rather becoming planted onto the relevant site, through a stratagem employed by the investigating officer.

33. Therefore, unless the said defence(s) are well raised and are also ably proven, thereupon the making of a disclosure statement by the accused and the consequent thereto recovery, but are to be assigned credence. Conspicuously, when the said incriminatory link in the chain of incriminatory evidence rather is also the pivotal corroborative link, thus even in a case based upon eye witness account.

34. Be that as it may, if upon a prosecution case rested upon eye witness account, the eye witness concerned, resiles therefrom his previously made statement. Moreover, also upon his becoming cross-examined by the learned Public Prosecutor concerned, thus the judicial conscience of the



Court become completely satisfied that the investigating officer concerned, did record, thus a fabricated apposite previously made statement in writing, therebys the Courts would be led to declare that the said made apposite resilings are well made resilings by the eye witness concerned, thus from his previously made statement in writing.

35. Moreover, in case the Court, in the above manner, becomes satisfied about the well made resilings by the eye witness concerned, to the crime event, thereupon the Court may consequently draw a conclusion, that the recoveries made in pursuance to the disclosure statement made by the accused, even if they do become ably proven, yet therebys may be the said disclosure statement, and, the consequent thereto made recoveries also loosing their evidentiary tenacity. The said rule is not a straitjacket principle, but it has to be carefully applied depending upon the facts, circumstances and evidence in each case. Tritely put in the said event, upon comparative weighings being made of the well made resilings, thus by the eye witness concerned, from his previously made statement in writing, and, of the well proven recoveries made in pursuance to the efficaciously proven disclosure statement rendered by the accused, the Court is required to be drawing a conclusion, as to whether evidentiary tenacity has to be yet assigned to the disclosure statement and the pursuant thereto recovery memo, especially when they become ably proven and also do not fall foul from the above stated principles, and/or to the well made resiling by the eye witness concerned, from his previously recorded statement in writing. Emphatically, the said exercise requires an insightful apposite comparative analyses being made.



36. To a limited extent also if there is clear cogent medical account, which alike, a frailly rendered eye witness account to the extent (supra), vis-a-vis the prosecution case based upon eye witness account rather unfolds qua the ante mortem injuries or other injuries as became entailed on the apposite regions of the body(ies) concerned, thus not being a sequel of users thereovers of the recovered weapon of offence. Resultantly therebys too, the apposite signed disclosure statement and the consequent thereto recovery, when may be is of corroborative evidentiary vigor, but when other adduced prosecution evidence, but also likewise fails to connect the recoveries with the medical account. In sequel, thus therebys the said signed disclosure statement and the consequent thereto recovery, thus may also loose their evidentiary vigor. Even the said rule has to be carefully applied depending upon the facts, circumstances, and, the adduced evidence in every case.

37. However, in a case based upon circumstantial evidence when the appositely made signed disclosure statement by the accused and the consequent thereto prepared recovery memos, do not fall foul, of the above stated principles, therebys they acquire grave evidentiary vigor, especially when in pursuance thereto able recoveries are made.

38. The makings of signed disclosure statement and the consequent thereto recoveries, upon able proof becoming rendered qua both, thus form firm incriminatory links in a case rested upon circumstantial evidence. In the above genre of cases, the prosecution apart from proving the above genre of charges, thus also become encumbered with the duty to discharge the apposite onus, through also cogently proving other incriminatory links, if they are so adduced in evidence, rather for sustaining the charge drawn against the accused.



39. Consequently, since the statutory provisions enclosed in Section 25 of the Indian Evidence Act, provisions whereof becomes extracted hereinafter, do not assign statutory admissibility to a simpliciter/bald confession made by an accused, thus before the police officer, rather during the term of his suffering custodial interrogation, but when the exception thereto, becomes engrafted in Section 27 of the Indian Evidence Act, provisions whereof becomes extracted hereinafter. Therefore, therebys when there is a statutory recognition of admissibility to a confession, as, made by an accused before a police officer, but only when the confession, as made by the accused, before the police officer concerned, but becomes made during the term of his spending police custody, whereafters the said incriminatory confession, rather also evidently leads the accused, to lead the investigating officer to the place of discovery, place whereof, is exclusively within the domain of his exclusive knowledge.

“25. Confession to police-officer not to be proved.—No confession made to a police-officer, shall be proved as against a person accused of any offence.

x x x x x

27. How much of information received from accused may be proved.— Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

40. Significantly, it would not be insagacious to straightaway oust the said made signed disclosure statement or the consequent thereto recovery, unless both fall foul of the above principles, besides unless the said principles become proven by the defence. Contrarily, in case the disclosure statement and the consequent thereto recovery enclosed in the respective



memos, do not fall foul of the above principles rather when they become cogently established to link the accused with the relevant charge. Resultantly, if the said comprises but a pivotal incriminatory link for proving the charge drawn against the accused, thereby the snatching of the above incriminatory link from the prosecution, through straightaway rejecting the same, but would result in perpetration of injustice to the victim or to the family members of the deceased, as the case may be.

41. Now coming to the facts at hand, since the disclosure statement and the consequent thereto recovery do become efficaciously proven by the prosecution. Moreover, when none of the marginal witnesses, to the said memos become adequately impeached rather for belying the validity of drawings of the memos nor also when it has been proven that the said memos are fabricated or engineered, besides when it is also not proven that the disclosure (supra) did not lead to the discovery of the apposite fact from the relevant place of hiding, thus only within the exclusive knowledge of the accused.

42. Conspicuously also, when the said disclosure statement is but not a bald or simpliciter disclosure statement, but evidently did lead to the making of efficacious recovery(ies), at the instance of the accused, to the police officer concerned.

43. Consequently, when thereby the above evident facts rather do not fall foul of the above stated/underlined principles in the verdicts (supra). Consequently, both the disclosure statement, and, the consequent thereto recovery, when do become efficaciously proven, thereby theretos immense evidentiary tenacity is to be assigned. Preeminently also when thus they do



corroborate the rendition of a credible eye witness account as becomes rendered the prosecution witnesses (supra). Moreover, when the memos (supra) also lend corroboration to the medical account, thereby through all the links (supra), the charge drawn against the accused becomes proven to the hilt.

44. In addition, the prosecution has also proved the recovery of the jeep used in the crime incident through recovery memo Ex.PF, besides has proven registration certificate of the said vehicle (Ex. P3), which was in the name of the father of the deceased, and, has also proven the arms licence (Ex. P4), as became issued in the name of the deceased.

45. Moreover thereby corroboration is lent to the supra credible eye witness account rendered vis-a-vis the crime event by PW-2 and by PW-3 besides also thereby corroboration is lent to the supra recoveries, as became respectively effected through recovery memos (supra).

Post-mortem report

46. The post-mortem report, to which Ex. PB is assigned, became proven by PW-1. PW-1 in his examination-in-chief, has deposed that on making an autopsy on the body of deceased Amanpreet Singh alias Banni, by him and by Dr. Mohinder Singh, thus theirs noticing thereons the hereinafter extracted ante mortem injuries-

- “1. Surgical stitched wound 8” long with convexity upwards on the left frontal parietal and occipital areas. The red contusion 6”x4” above and below the stitched wound along with deffused swelling was present.*
- 2. Red contused swelling 4”x2” on the top of head just right to the midline with swelling.*
- 3. Both eyes were blackened.*
- 4. Red contusion 6”x1” vertical on the anterior part of the left deltoid.*



5. *Red contusion 5"x1" parallel and 1½ behind the injury No. 4.*
6. *Abrasion ½" x ½" on the lateral side of the left elbow.*
7. *Three red contusions 6" x 2" placed obliquely midlateral side of the left thigh.*
8. *Abraded contusion 3"x4" on the left maxillary and zygomatic area.*
9. *Abrasion ¾" x ½" on the left angle of mandible.*
10. *Multiple liner abrasion ¾" x 1/6" on the left side of face.*
11. *Two liner abrasions 5" x 1/6" on the mid left lateral side of chest.*
12. *Abraded area 2 ½" x 2" on the left parasternal area.*
13. *Abrasion ¾" x ½" on the lateral and of right cleical.*

On exploration of injury No. 1 there was haemotoma under the scalp and bone piece measuring 5" x 4" was missing."

47. Furthermore, PW-1 also made a speaking in his examination-in-chief, that the cause of demise of the deceased was owing to shock as a result of head injuries, which were stated to be ante mortem in nature, and, also sufficient to cause death in the ordinary course of nature.

48. The above made echoings by PW-1, in his examination-in-chief, became never challenged through any efficacious cross-examination, being made upon him, by the learned defence counsel. Therefore, the opinion, as made by PW-1 qua the demise of the deceased, thus acquires formidable force. Consequently, the above echoings, as made by PW-1, in his examination-in-chief, do relate, the fatal ante-mortem injuries to the time of the crime event hence taking place at the crime site.

49. Though the defence witnesses DW-1 and DW-3 have deposed that two days prior to the alleged occurrence, the deceased went to the house of a lady namely Balbiro, who was having bad reputation and the people of the locality were having objection on his visiting the house of said lady.



They further deposed that on the day of alleged occurrence, the accused again visited the house of the said lady, whereupon people of their locality gathered there and surrounded the house of Balbiro. Some boys who were playing cricket there had a scuffle with the deceased, and the the deceased suffered a bat injury in the said scuffle.

50. However, the testifications made by the said witnesses do not render an eye witness account vis-a-vis the crime event, but was only suggestive, that the deceased was a regular visitor to the house of one Balbiro. If so, the above is only suggestive of some iota of inimicality between the accused and the deceased, but yet any inimicaility which was prevailing amongst the accused and the deceased, thus becomes eclipsed from all the supra made inferences by this Court.

51. Consequently, with the afore observations, all the criminal appeals (supra) filed by the appellants are dismissed.

52. Insofar as *CRR-1406-2004*, filed by the father of the deceased, is concerned, keeping in view the old age of the petitioner, who is the father of the deceased, the accused-respondents No. 1 to 3 are directed to pay Rs. 50,000/- each as compensation amount to the petitioner.

Final Order

53. The result of the above discussion, is that, this Court does not find any merit in the appeals preferred by the appellants, and, is constrained to dismiss them. Consequently, all the criminal appeals (supra) are dismissed. The impugned verdict of conviction, as becomes recorded upon the convicts-appellants, by the learned convicting Court, is maintained, and, affirmed. Moreover, the consequent thereto order of sentence is also



affirmed. If the convicts-appellants are on bail, thereupon, the sentence as imposed upon them, be ensured to be forthwith executed by the learned trial Judge concerned, through his drawing committal warrants. The case property be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal.

54. *CRR-1406-2004* stands disposed of in the above terms.
55. Records be sent down forthwith.
56. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

January 07, 2025
Gurpreet

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