In the High Court of Punjab and Haryana at Chandigarh

1. **CRA-S-2294-SBA-2003**
Reserved on: 24.09.2024
Date of Decision: 28.10.2024

U.T. Chandigarh

.....Appellant

Versus

Satnam Singh and others

.....Respondents

2. **CRA-S-179-SB-2003**

Balwinder Singh

.....Appellant

Versus

The State of U.T. Chandigarh

.....Respondent

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

Present: Mr. Rajiv Vij, Addl. PP for U.T. Chandigarh

Ms. Ekta Thakur, Advocate
for the appellant (in CRA-S-179-SB-2003) and
for respondents No.1, 4 and 6 (in CRA-S-2294-SBA-2003)

Mr. Ranjan Lakhanpal, Advocate with
Mr. Shubhkarnan Singh Sandhu, Advocate
for respondent Nos.1, 2, 3, 4, 5, 8 and 10.

Mr. R.S. Bains, Senior Advocate (Legal Aid Counsel) with
Mr. Amarjit Singh, Advocate
for respondent Nos.7 and 9 (in CRA-S-2294-SBA-2003).

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SURESHWAR THAKUR, J.

1. Since both the above appeals arise from a common verdict, made by the learned trial Judge concerned, hence both the appeals (supra) are amenable for a common verdict being made thereons.

2. Both the appeals (supra) are directed against the impugned verdict, as made on 14.01.2003, upon Sessions Case No.11 of 6.10.1998/ 21.8.1999, by the learned Additional Sessions Judge, Chandigarh, wherethrough in respect of charges drawn against the accused qua offences punishable under Sections 419, 420, 225-B, 468, 120-B of the IPC, besides for offences punishable under Sections 4, 5 and 6 of the Explosive Substances Act, 1908 (hereinafter referred to as 'the Act') thus the learned trial Judge concerned, proceeded to record a finding of conviction against appellant-convicts Satnam Singh and Balwinder Singh vis-a-vis offences punishable under Sections 419, 468, 471 of the IPC. However, the other co-accused namely Baljit Singh, Jaswant Singh, Jaswinder Singh, Sheetla Parshad Misha, Daljit Singh Rajput, Jaspal Singh Dhillon, Jagtar Singh Hawara and Jagtar Singh @ Tara, were acquitted from the charges drawn against them. Moreover, through a separate sentencing order of 15.01.2003, the learned trial Judge concerned, sentenced the appellants-convicts in the hereinafter extracted manner.

> *"xxx*
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> *Keeping in mind the age of the convicts and also other surrounding circumstances as mentioned above, I sentence convicts Satnam Singh and Balwinder Singh under section 419 IPC to undergo rigorous imprisonment for a period of two years. Both the convicts are sentenced under section 468 IPC to undergo rigorous imprisonment for a period of four years and to pay an amount of Rs.4000/- as fine. In default of payment of fine each convict shall undergo rigorous imprisonment for a period of nine months more. Similarly both the convicts are sentenced under section 471 IPC to undergo rigorous imprisonment for a period of four years and to pay an amount of Rs.4000/- as fine. In default of payment of fine each convict shall undergo rigorous imprisonment for a period of nine months more."*

3. All the above imposed sentences of imprisonment, were ordered to run concurrently. The period spent in prison by the convict, thus during the investigation or trial of the case, was, in terms of Section 428 of Cr.P.C., ordered to be set off from the above imposed substantive sentence(s) of imprisonment, upon the convicts.

4. The accused-convict Balwinder Singh becomes aggrieved from the above drawn verdict of conviction, besides also, becomes aggrieved from the consequent thereto sentence(s) of imprisonment, and, of fine as became imposed, upon him, by the learned convicting Court concerned, and, hence has chose to institute thereagainst criminal appeal bearing No.CRA-S-179-SB-2003. However, accused-convict Satnam Singh has not challenged the verdict of conviction, and the consequent thereto sentence(s) of imprisonment, and, of fine.

5. The U.T. Chandigarh has filed criminal appeal bearing No.CRA-S-2294-SBA-2003, seeking the conviction of all the accused for the charged offences.

Factual Background and investigation

6. The genesis of the prosecution case are that in the month of August, 1995 Sh. Beant Singh, the then Chief Minister, Punjab was assassinated in front of the Civil Secretariat building, Punjab, Chandigarh by a bomb blast. Number of accused were arrested in connection with the assassination of Sh. Beant Singh and two of them are Jagtar Singh Hawara and Jagtar Singh @ Tara who are accused in this case also. According to the prosecution version, accused Satnam Singh used to visit Burail Jail to meet Jagtar Singh Hawara and Jagtar Singh @ Tara who were confined in Model Jail, Chandigarh, mentioning his name in the jail record as Charanjit Singh

son of Bahadur Singh, resident of Village Rally, Distt. Fatehgarh Sahib. In fact Satnam Singh accused is son of Chamba Singh, resident of village Salempur, Distt. Ropar. Prior to the date of alleged occurrence Satnam Singh visited Model Jail, Burail on 23.4.1998, 22.5.1998 and 8.6.1998 mentioning his name in the jail record as Charanjit Singh. Keeping in view the seriousness of the Beant Singh murder case the movement of accused Jagtar Singh Hawara and Jagtar Singh @ Tara was restricted to Model Jail, Chandigarh, thus through notification issued by the Chandigarh Administration under section 268 Cr.P.C. On suspicion a letter was written by the Asstt. Supdt. Jail to the Superintendent Jail requesting him to verify the address supplied by said Charanjit Singh. The necessary verification in this regard was made by SI Balkar Singh of Crime Branch Office (CBO) and constable Nirmal Singh of CID Branch of Chandigarh police and it was found that no person exists in the name of Charanjit Singh son of Bahadur Singh resides at village, Rally. About two days prior to the date of occurrence a secret information was received by SI Dilsher Singh that one person representing himself as Charanjit Singh used to frequently meet dreaded terrorists Jagtar Singh Hawara lodged in Burail Jail, Chandigarh, thus is likely to send explosive material in the shape of sweets in the Jail, to cause blast of Model Jail, Burail, so that the accused in Beant Singh's murder case may be able to escape from custody. On 11.6.1998, a police party headed by SI Dilsher Singh including Samsher Singh public witness was holding a nakabandi at a little distance from the main outer gate of the jail. At about 12:00 noon, accused Satnam Singh appeared from Chandigarh side. The said accused was apprehended on suspicion and on search one box of sweet box shape was recovered from the possession of the accused

containing RDX in the shape of Pinnies. Weight of RDX in the Pinnies shape was found to be one kg and 100 gms. Two pinnies of 100 gms, each were separated for sample. Two sample parcels containing two Pinnies were sealed with seal BS and were taken in police possession along with remaining case property. Accused Satnam Singh admitted that his real name is Satnam Singh and he is resident of village Salempur. During the course of investigation on the same date in accordance with the disclosure statement of accused Satnam Singh one Kg. and 700 gms. of Explosive Substances (RDX) along with two wireless sets was recovered from a wheat drum kept in a room of the house of Satnam Singh situated in village Salempur. Out of the explosive material two samples of 100 gms. each, were separated. Sample parcels were sealed with the seal of BS and were taken in police possession along with the remaining case property as became recovered from the house of accused Satnam Singh. Seal after its use was handed over to Samsher Singh witness. Accused disclosed that he was called by Jagtar Singh Hawara to meet him in the jail with explosive substance in the shape of sweet Pinnies. Two bus tickets were also recovered from his possession. Upon one of bus ticket telephone No. 694753 of Baljit Singh Khalsa along with house number was mentioned. On the second ticket, cellular telephone numbers of Bittu and Toni were found written who are residing abroad.

7. After the registration of the case the other co-accused mentioned above were also taken in custody on different dates. It is alleged that in the month of September, 1997, Jaswant Singh accused met accused Jagtar Singh Hawara and Jagtar Singh @ Tara in Burail Jail, Chandigarh, and later on with the help of accused Daljit Singh Rajput Advocate, he purchased a cellular phone and obtained a cellular phone connection in his

own name. After getting some mechanical and technical defects, in the cellular phone bearing No.98140 11957, becoming removed, subsequently it was sent to the accused in jail with the help of Sheetla Parshad Mishra, Assistant Supdt. Model Jail, Chandigarh. It is also alleged that later on keeping in view the needs of the accused Jagtar Singh Hawara and Jagtar Singh @ Tara, accused Daljit Singh Rajput and Jaswant Singh obtained another cellular phone and SIM card in the name of Lakhwinder Singh. In the month of February, 1998, accused Daljit Singh Rajput pressurized his neighbour Gurpreet Singh @ Chinku, who is owner of City Portrait and threatened him, that he is working for Khalistan and is advocate of Jagtar Singh Hawara. D.S. Rajput pressurized Gurpreet Singh to supply mobile phones and SIM cards with STD and ISD facility. The payment of mobile phones purchased in the name Jaswant Singh was made through S.P. Mishra, Asstt. Supdt. Model Jail. S.P. Mishra paid an amount of Rs.15,000/- in this regard to Jaswant Singh. It is alleged that when Jaswant Singh had come to purchase mobile phone, he was provided with mobile phone and SIM card, only on account of the influence of D.S. Rajput, Advocate, who maintains his office on the first floor of the building where City Portrait shop exists. For this purpose Jaswant Singh had taken an amount of Rs.15,000/- from the office of Sh. D.S. Rajput. D.S. Rajput took responsibility of payment of the remaining amount of Rs.7,000/- on behalf of Jaswant Singh, thereafters D.S. Rajput also used his influence to obtain mobile phones on cheaper rates. Mobile Telephone with SIM card No. 98140 11957 and 98150 78457 were managed and provided to the accused as per allegations of prosecution. Mobile telephone bearing SIM card No. 11957 was supplied from City Portrait Centre, whereas, Mobile phone SIM card No. 78457 was supplied

by the Sales Executive of Essar Company. Earlier the mobile phone connection could not be provided with ISD facility by Spice Co. It is alleged that in the beginning the efforts were made to obtain Mobile SIM Card in the month of February, 1998 also in the name of Jaswant Singh but he could not give his proper address and identity as he had shifted his place of residence by that time. Thereafter owing to the influence of accused D.S. Rajput, Advocate, the address of Lakhwinder Singh who used to work in City Portrait Centre was supplied and mobile phone SIM card was obtained in his name. Lakhwinder Singh agreed to give his address as he was asked to do so by Gurpreet Singh @ Chiku. It is alleged that accused D.S. Rajput used to send Jaswant Singh accused and few other persons to use telephone facilities in the STD PCO which was being run by Harish Kumar Passi in SCO No.18, Sector 22, Chandigarh. D.S. Rajput also used to send fax messages etc. and on one occasion he talked on telephone No. 89140 11957 in connection with conspiracy of the Burail Jail blast.

8. It is also alleged that Satnam Singh was directed by Jagtar Singh Hawara to collect Rs.1,44,000/- from Baljit Singh Khalsa resident of Sector 40, Chandigarh from his STD Booth, situated at the gate of Gurudwara, Sector 40-C, Chandigarh, and to hand over that amount to accused Balwinder Singh as price of the explosive material. Baljit Singh accused was also instructed to hand over the amount of Rs. three lacs received from Hawala by Jagtar Singh Hawara. It is alleged that the said amount was taken from Baljit Singh by Satnam Singh and he purchased three kgs. of explosive material from Balwinder Singh. As per allegations of the prosecution during investigation Jaswant Singh disclosed that Jagtar Singh Hawara, gave him address and telephone number 001-7187848316 of

one Banti alias Didar Singh alias Dari who lives in America. Jaswant Singh talked to one Banti alias Didar Singh on telephone. Apart from it accused Balwinder Singh as per instructions of Jagtar Singh Hawara contacted Professor Devinder Singh on telephone at Amritsar and asked him to arrange meeting with Banti alias Didar Singh. Balwinder Singh went to Amritsar and met Banti alias Didar Singh and Tonny. Accused Balwinder Singh met Jagtar Singh Hawara and Jagtar Singh @ Tara mentioning his father's name as Nagina Singh. In this case the Hawala amount could not be received in time and an amount of Rs. two lacs was received from Dr. Jasmer Singh son of Teja Singh, resident of Mohali with the undertaking that this amount will be sent to his daughter who was then living abroad. The payment of this amount of Rs. two lacs was arranged by Jaspal Singh Dhillon, from Dr. Jasmer Singh. Jaspal Singh Dhillon, distributed the amount to Jagtar Singh Hawara and families of terrorists which came from Hawala channel with the help of S.P. Mishra, Asstt. Supdt. Jail and accused Jaswinder Singh Jail warden.

9. As per prosecution version, Labh Singh son of Mit Singh told the police that when he had gone to jail, then he disclosed that he listened to the talks which occurred between Jaswant Singh, Jagtar Singh Hawara and Additional Supdt, Model Jail, in the month of September, 1997. The said talks related to the jail break conspiracy which happened between these persons. At that time Jaswant Singh was given necessary directions to arrange mobile telephone etc. In the month of February, 1998 Labh Singh witness again went to Burail Jail where he heard the conversation between Balwinder Singh, Jagtar Singh Hawara and Jaswinder Singh, Jail Warden, in connection with the conspiracy, to blast Model Jail, Chandigarh, thus for

making it easy for breaking the jail to facilitate the accused to escape from the prison. S.P. Mishra used to make arrangements to bring in jail Pizaa etc. and other eatables of the liking of the accused, and S.P. Mishra used to make payment of these eatables. During investigation, two registers of the jail containing entries of the visitors were taken in police possession. Sample writing and signatures of Satnam Singh, Balwinder Singh and Baljit Singh were obtained and the handwriting expert opined that the disputed writing and signatures in jail registers are in the hand of Satnam Singh the and Balwinder Singh accused. The sample parcels containing explosive substance were sent to the Director, CFSL, Chandigarh. The CFSL report declared that the sample parcels contained explosive substances (PETN). As per version of the prosecution all the accused mentioned above hatched a conspiracy with each other under the guidance of Jagtar Singh Hawara to blast the Model Jail, Burail, so that the accused Jagtar Singh Hawara and Jagtar Singh @ Tara, may escape conveniently from the prison. Apart from them S.P. Mishra, Asstt. Supdt. Jail, Jaswinder Singh Jail Warden and D.S. Rajput, advocate provided full support and co-operation and took active part for the success of this mission. On these allegations after recording statements of the prosecution witnesses, preparing site plan and completion of necessary investigation all the ten accused were challaned Sections 419, 420, 225-B, 468, 120-B IPC and Sections 4, 5, & 6 of the Act.

10. On appearance, the copies of documents were supplied to the accused free of costs and thereafter the case was by order dated 28.9.1998 thus committed the accused for facing trial before the Court of learned Sessions Judge, Chandigarh. Accused Satnam Singh and Balwinder Singh were served charge sheet under Sections 419, 468, 471, IPC. Accused

Satnam Singh was served charge sheet under Section 5 of the Act, and all the ten accused were served charge sheet under sections 4 of the Act. Except Satnam Singh all accused by order dated 16.10.1998 made by Sh. S.S. Lamba, the then learned Additional Sessions Judge, Chandigarh, thus were served charge sheet under Section 6 of the Act.

Committal Proceedings

11. Since the offences punishable under Sections 4, 5 and 6 of the Act, were exclusively triable by the Court of Session, thus, the learned committal Court concerned, through a committal order, hence proceeded to commit the accused to face trial before the Court of Session.

Trial Proceedings

12. The learned trial Judge concerned, after receiving the case for trial, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw a charge against accused, for the commission of offences respectively punishable under Sections 419, 468, 471 of the IPC, besides for offences punishable under Sections 4, 5 and 6 of the Act. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

13. In proof of its case, the prosecution examined 26 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but thereins, the accused pleaded innocence, and, claimed false implication. However, they led 14 witnesses in their defence into the witness box.

Submissions of the learned counsel for the appellant-convict

14. The learned counsel for the aggrieved convict-appellant has

argued before this Court, that the impugned verdict of conviction, and, consequent thereto order of sentence, thus require an interference. He supports the above submission on the ground, that it is based on a gross misappreciation, and, non-appreciation of evidence germane to the charge.

Submissions of the learned counsel for U.T. Chandigarh

15. 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-appellant, are well merited, and, do not require any interference, being made by this Court, thus in the exercise of its appellate jurisdiction. Therefore, he has argued that the appeal, as preferred by the convict-appellant, be dismissed. He further submitted that all the accused have been erroneously acquitted of the charges drawn against them and further prayed that all the accused be convicted under the charged offences.

Reason for acquittal of accused Satnam Singh as assigned by the learned trial Court

16. The learned trial Court acquitted accused Satnam Singh for the reason, that his date of arrest was doubtful. According to the defence witnesses', who are police officials who unrebuttedly caused the arrest of accused Satnam Singh, the said accused became arrested on 08.06.1998, whereas, the prosecution case is that the accused Satnam Singh was arrested on 11.06.1998. The further effect of the above discrepancy, as arising from the contra distinct dates' of arrest of accused Satnam Singh, as became deposed by the defence witnesses concerned, rather to occur on 08.06.1998, whereas, the prosecution alleging that the said accused becoming arrested on 11.06.1998, was that, it resulted in a further inference, that the making of the disclosure statement by the accused Satnam Singh, thus on 11.06.1998, and

the consequent thereto recovery of explosive material, in the shape of pinnies, as became effected on 11.06.1998, but also coming under a shroud of grave doubt, resultantly the benefit of doubt was given to the accused. Emphasizingly also when the said recovery was made on 11.06.1998, near Model Jail, Burail, besides when then, the accused Satnam Singh was already under arrest, therebys a more deeper cloud of doubt engulfed the prosecution case, especially when the prosecution case, is that the accused Satnam Singh was not under arrest, at the stage of seizure (supra), rather taking place. Resultantly, when therebys a more sombre cloud of doubt engulfed the prosecution case relating to the discrepancy appertaining to the actual date of arrest of accused Satnam Singh, therebys the benefit of doubt became assigned to the accused concerned.

Reason(s) for acquittal of accused Jaspal Singh Dhillon

17. As per the prosecution, the said accused is alleged to have arranged a sum of Rs.2 lacs from Jasmer Singh (prosecution witness No.24) to arrange RDX for blowing Model Jail, Burail. Since the said witness while stepping into the witness box turned hostile, as such, the allegation levelled against the accused Jaspal Singh Dhillon, thus could not be proved. One more prosecution witness No.5 (Labh Singh) is also alleged to have overheard the conversation between accused Jaswant Singh and accused Jagtar Singh, whereins, there were incriminatory expressions against the present accused Jaspal Singh Dhillon, but since Labh Singh while stepping into the witness box as PW-5 rather resiled from his previously made statement in writing. Therefore, no reliance can be placed upon the previously made statement of PW-5. Furthermore, thereby the incriminatory role assigned to Jagtar Singh in his conspiring with the accused concerned,

for breaking Model Jail, Burail, but also become concluded to be suffering from erosion. Resultantly, the acquittal made vis-a-vis (supra), is a well made acquittal.

Reason for acquittal of accused Baljit Singh Khalsa

18. As per the prosecution case, accused Baljit Singh Khalsa is alleged to have received the hawala amount, thus for further handing over the said amount to accused Satnam Singh. The sole witness in this regard, i.e. prosecution witness No.18 (Nawab Ali), however turned hostile upon his stepping into the witness box, and, denied qua the happening of any transaction between accused Satnam Singh and accused Baljit Singh Khalsa. Resultantly, the acquittal made vis-a-vis (supra), is a well made acquittal.

Reason for acquittal of accused Balwinder Singh

19. As per the prosecution case, accused Balwinder Singh is alleged to have sold 3 kilograms of RDX to accused Satnam Singh. Since the role attributed to co-accused Jaspal Singh Dhillon, and accused Baljit Singh could not be proved, as the link chain (supra) was missing, hence the role attributed to the present accused Balwinder Singh also could not be proved. It is further the case of the prosecution that PW-5 (Labh Singh) had overheard inside the jail, the conspiratorial conversation which occurred inter se accused Jagtar Singh Hawara, Jagtar Singh @ Tara, Balwinder Singh and S.P. Mishra, with expressions that Balwinder Singh will arrange RDX, but since the said witness while stepping into the witness box turned hostile, and, as such the incrimination attributed to (supra), was declared to remain unproven. Resultantly, the incrimination drawn against the accused (supra) becomes well concluded to not become cogently established.

Reason for acquittal of accused Sheetla Parshad Mishra and Jaswinder Singh

20. As per the prosecution case, both the accused misused their influence to help the accused so that their conspiracy to blow up the Model Jail, Burail, thus succeeds. Sheetla Parshad Mishra is further alleged to have made arrangements to bring pizza and other eatables from Domino's. In this regard also, the prosecution witness No.4 (Harsharan Marwaha) turned hostile and did not support the case of the prosecution while stepping into the witness box, therebys the incrimination (supra) attributed to the accused became well declared to remain unproven.

Reason for acquittal of accused Jaswant Singh and Daljit Singh Rajput

21. As per the prosecution case, the accused Jaswant Singh is alleged to have purchased mobile phone with sim card in his own name, besides in the name of Lakhwinder Singh, thus with the influence of accused Daljit Singh Rajput. Regarding these two accused persons, it has been observed by the learned trial Court, that nothing incriminating came in evidence against both them. Moreover, since no such mobile phones nor the apposite sim cards became recovered from the jail premises, so as to connect both the accused (supra) vis-a-vis the incriminatory role assigned to them. Furthermore, since the learned trial Court concerned, while acquitting both the accused and S.P. Mishra, thus well observed, as under.

> *"34. As a result as per discussion above in detail, I have no hesitation in holding that prosecution miserably failed to prove its case beyond reasonable shadow of doubts that a conspiracy was hatched by all the accused to smuggle explosive material (RDX), two wireless sets and other required instruments to blast Model Jail. The prosecution also failed to*

prove that the accused used their influence to receive money from Hawala and utilized that money for success of this conspiracy in any way. The prosecution also failed to prove that D.S. Rajput, Jaswant Singh and S.P. Mishra used their influence or supplied money as and when needed for obtaining cellular phones and that these mobile phones were used for commitment of the crime as alleged. Resultantly, I have no hesitation in holding that the prosecution failed to prove beyond reasonable shadows of doubts that any of the accused has committed an offence punishable under Sections 4, 5 and 6 of the Explosive Substance Act, 1908."

22. Resultantly, the above assigned reasons' for making an acquittal vis-a-vis the accused (supra) are well made reasons and are not required to be interfered with by this Court. Importantly, also when two wireless sets which were allegedly used inside the jail by Jagtar Singh @ Tara and Jagtar Singh Hawara, for theirs thereovers making conspiratorial talks with the other accused rather remained unrecovered from the jail premises.

Finding of this Court

22. Initially, insofar as the verdict of conviction as pronounced by the learned trial Judge concerned, upon convict Satnam Singh, thus is concerned, since the same has remained unassailed, thereby the said verdict of conviction and the consequent thereto order of sentence rather is required to be upheld, given the same as such acquiring binding and conclusive effect.

Signatured disclosure statement of convict Satnam Singh canvassed to be an important incriminatory link against the accused Jagtar Singh @ Tara and accused Jagtar Singh Havara.

23. During the course of investigations, being made into the appeal FIR, accused Satnam Singh, made a signatured disclosure statement, to which Ex. PW20/B is assigned. The signatured disclosure statement, as

made by the accused is ad verbatim extracted hereinafter.

> *"x x x x x*
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> *In the presence of witnesses accused Satnam Singh S/o Chamba Singh, R/o Village Salampur, PS Morinda, Distt. Ropar has disclose during the arrest and police custody that he had some more explosive in polythene then in bag and two wireless set written upon made in Japan keep store in wheat drum in our house. Which I only know. I can go with you and get it recovered. Hence disclosure statement of accused was taken and also get the signature's of witnesses. Complete the disclosure memo.*
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> *x x x x x"*

24. The disclosure statement (supra), carries thereons the signatures, of the accused concerned. In his signatured disclosure statement (supra), accused Satnam Singh, confessed his guilt in keeping some more explosive in polythene bag and qua also his keeping two wireless sets. The further speaking therein is qua his keeping, and, concealing the same, in the residential room. Moreover, the said signatured disclosure statement does also makes speakings about his alone being aware about the location of his hiding and keeping the same, and, also revealed his willingness to cause the recovery of the same, to the investigating officer concerned, from the place of his hiding, and, keeping the same.

25. Significantly, since the appellant has not been able to either ably deny his signatures as occur on Ex.PW20/B nor when he has been able to prove the apposite denial. Moreover, since he has also not been able to bring forth tangible evidence but suggestive that the recovery is either contrived or invented. Therefore, prima facie though the said memo is concluded to be holding the utmost evidentiary tenacity.

26. Significantly also since post the making of the said signatured

disclosure statement, by the accused to the investigating officer concerned, the accused concerned, through recovery memo Ex.PW20/C, thus caused the recovery of the explosive substance and two wireless set to the investigating officer concerned. Consequently, when the said made recovery is also not suggested by any cogent evidence to be a planted recovery. Resultantly, the effect thereof, is that a valid recovery being made vis-a-vis the (supra), thus by the accused, to the investigating officer concerned. In sequel, the makings of the valid signatured disclosure statement, by the accused concerned, besides the pursuant thereto effectuation of valid recovery (supra), thus by the accused concerned, to the investigating officer concerned, thus prima facie acquire some probative vigor.

27. However, yet for assessing the vigor of the said made disclosure statements and consequent thereto made recoveries, it apt to refer to the principles governing the assigning of creditworthiness to the said made disclosure statements and to the consequent thereto made recoveries. 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 11.08.2023***, 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.]*
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> *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.*
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> *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.*

28. 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 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 consideraions 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)***.

29. 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.

30. Now the principles set forth thereins 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 signatured 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 signatured 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.

31. 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.

32. 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.

33. 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.

34. 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, therebys too, the apposite signatured 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, therebys the said signatured 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.

35. However, in a case based upon circumstantial evidence when the appositely made signatured 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.

36. The makings of signatured 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.

37. 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.*
>
> *Xxx*
>
> ***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."*

38. Significantly, it would not be insagacious to straightaway oust the said made signatured 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, therebys 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.

39. Now coming the facts at hands, since the disclosure statement and the consequent thereto recovery does 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 drawing of the memo nor also when it has been proven that the said memo is fabricated or engineered, besides when it is also not proven that the recovery (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.

40. 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.

41. Consequently, when therebys 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 recoveries, when do become efficaciously proven, therebys prima facie theretos immense evidentiary tenacity is to be assigned.

CFSL Report

42. A reading of the report (Ex.PI), as made by the CFSL concerned, whereto the relevant seizure became sent for an examination being made of the stuff inside the sealed cloth parcels, though reveals, that the examined stuff inside the sealed cloth parcels, as became sent to it for examination, thus being explosive substance(s). The said report is *ad verbatim* extracted hereinafter.

> *"xxx*
>
> *6.* ***Articles Received****: Two sealed cloth parcels. The seals were intact and tallied with the specimen seals as per forwarding authority letter.*
>
> *Xxx*
>
> *7.* ***Purpose of reference****: Chemical examination and report*
>
> ***REPORT***
>
> *Various laboratory test such as color test, chromatographic analysis and instrumental analysis were carried out with exhibit-1 and 2 under reference. The results thus obtained have been analysed as given below:-*
>
> *(i) Pentaerythritoltetranitrate (PETN) a high explosive has been detected in exhibit-1 and 2.*
>
> *(ii) The percentage of PETN in exhibit-1 is 73.24% and percentage of PETN in exhibit-2 is 72.01%.*
>
> ***NOTE****: After examination all the remnants of exhibits were sealed with the seals of CFSL EXPL CHD."*

Reason(s) for disabling the vigor of the above memos

43. Emphasizingly when Mr.B.D. Bector in his enquiry report has detailed therein, that the accused was arrested on 08.06.1998, besides when the said date of arrest is not incontemporaneity to the seizure of RDX taking place outside the jail, on 11.06.1998 from accused Satnam Singh, wherebys the findings (supra) made by the Inquiry Officer, when do acquire utmost evidentiary tenacity. Resultantly, therebys the incriminatory role of the accused concerned, rather remained not cogently proven. The seizure memo becomes extracted hereinafter.

> *"**Search Memo***
>
> *In the presence of witness, after searching the accused Satnam Singh s/o Chamba Singh, R/o Village Salampur, PS Morinda, Distt. Ropar, Punjab, a purple color cloth bag in his right hand with black color flowers, in which a yellow color balls (pinni) were found in the sweet box. The weight of all the recovered balls (Pinni) were one KG and 100 gram. From these recovered balls (High Explosive), 2/2 were separated weight 100/100 grams as a sample and each of them were put into a 2 separate cloth parcel then put in polythene and sealed with the 7 seals of seal "BS". The remaining high explosive i.e. 900 grams along with above both sealed parcels taken into police custody as proof. The stamp was handed over to the witness Shamsher Singh after use. After completing the search memo the signatures of witnesses were also taken."*

44. Furthermore, since the said date of arrest of the above, has been thereins unrebuttedly expressed to happen rather not incontemporaneity to the date of the seizure taking place on 11.06.1998. Resultantly, therebys this Court is led to unflinchingly conclude that the prosecution has projected a false and invented stand, that the accused Satnam Singh was arrested on 11.06.1998. Moreover, therebys the recording of the disclosure statement of

accused Satnam Singh, by the Investigating Officer, on 11.06.1998 leading to the consequent thereto recovery becoming made, does reiteratedly rather negate the effect of the (supra). Moreover, thereby prima facie (supra) inferences, as become recorded by this Court, that therebys prima facie evidentiary worth is required to be assigned to the said respectively made disclosure statement and to the consequent thereto made recovery memo, but do also become rendered nugatory.

45. Moreover, therebys the incriminatory effect, if any of any incrimination drawn against the other co-accused also but naturally looses the apposite evidentiary effect.

46. Be that as it may, it is enigmatic that the Inquiry Report (supra) drawn by Mr. B.D. Bector, became never adduced into evidence either by the prosecution or by the defence, whereas, the (supra) carried thereins unrebutted findings thus unfolding:

a) that the accused becoming arrested on 08.06.1998 wherebys, a dent is caused to the prosecution story that the accused (supra), became arrested, on 11.06.1998.

b) That therebys reiteratedly a deep cloud of doubt engulfs the makings of memos (supra) wherebys the drawing of the memos concerned, becomes completely vitiated wherebys no credence is to be assigned theretos.

c) As but a natural corollary thereto, from the factum qua the overhearings by Labh Singh (PW-5) vis-a-vis the conspiratorial talks which became exchanged inside the jail inter se Jagtar Singh Hawara, Jagtar Singh @ Tara, Balwinder Singh, Jaswant Singh and Sheetla Prasad, thus for reasons

(supra), rather not acquiring any evidentiary worth, besides with the two wireless sets' which became used, as such, by the accused concerned, inside the Model Jail, Burail, remaining unrecovered from the jail premises, but naturally sparks a conclusion, that the incriminatory role of conspiracy which becomes attributed to the accused concerned, thus remaining unproven through adduction of firm clinching evidence.

47. Reiteratedly, the pivotal incriminatory link in the chain of incriminatory circumstance, is that, (PW-5 Labh Singh) overhearing inside the jail, thus the conspiratorial talk between Jagtar Singh Hawara, Jagtar Singh @ Tara, Balwinder Singh, Jaswant Singh and Sheetla Prasad, regarding the blowing of Model Jail, Burail. However, reiteratedly when he stepped into the witness box, he denied his having made the above previous statement before the police officer concerned. The said denial(s) do have a telling exculpatory effect, thus on the hereinafter counts:

a) When the investigating officer concerned, stepped into the witness box, thus in his examination-in-chief, he openly spoke that though he did record the statement of Labh Singh. However, when he became cross-examined, the said speakings become attempted to be shred of their evidentiary efficacy, through the defence counsel making suggestions to him that the said previously made statement before the police rather was fabricated and doctored. Even though the said suggestions become denied. However, the said denial may have had an inculpatory effect, but only if further speakings occurred in the cross-examination of the investigating officer concerned, thus to the effect, that the said previously made statement by PW-5, rather was in the presence of certain other persons and who also

subsequently became led him into the witness box, thus for speaking the fact(s) (supra), as became subsequently spoken by the investigating officer concerned. However, for want of the speakings (supra) becoming made by the investigating officer concerned, subsequent to his denying the suggestions (supra), during the course of his facing cross-examination, but leads to an inference, that the said apposite previous statement was doctored and engineered, thus merely for obviously creating a false incriminatory role against the accused concerned. As such, the non placings of reliance thereons by the learned trial Judge concerned, appears to be both apt as well as worthy of acceptance.

b) Moreover, the reasons for acquittal as made by the learned trial Judge concerned, vis-a-vis accused are also well made reasons. The said inference becomes erected on the ground that the prosecution witnesses concerned, resiled from their respectively previously made statements in writing. Moreover, when the prosecution witnesses concerned, after becoming declared hostile by the learned trial Judge concerned, whereafters they became subjected to a rigorous cross-examination by the learned Public Prosecutor concerned, yet thereins, they did not make any speakings, wherebys the denials as made in their respective examinations-in-chief, vis-a-vis, theirs respectively making their previous statements in writing, before the police officer, rather could be construed to be ill made renegings or ill made denials, thus therefroms. Therefore, the said made renegings are well made renegings. In sequel, no credible evidence exists on record to support the charge against the accused concerned, that a conspiracy occurred for blowing up the Model Jail, Burail whereins the accused concerned, became lodged.

48. Insofar as, the allegation regarding providing mobile phone inside the jail is concerned, the learned trial Judge concerned, has discussed the same in detail and observed, that though a mobile phone with SIM card with STD facility, rather become purportedly arranged by Jaswant Singh in his name from Gurpreet Singh alias Chiku, Proprietor of City Portrait Centre and another mobile phone became arranged in the month of February, 1998 with STD and ISD facility, in the name of Lakhwinder Singh, thus with the influence of accused D.S. Rajput. However, for want of recovery thereof being made from the jail concerned, therebys the incrimination (supra) was concluded to be not becoming unflinchingly proven. During investigation, relevant CDR records were obtained and produced in Court. From the perusal of those documents, the learned trial Court observed that it does not appear that any inter se cellular conversation took place, inter se the seized cellular phones, thus engaging the hardcore terrorists or any other person having a criminal background. In any case, the said inference is a well made inference, as the incriminatory inter se conversations over the seized mobile phones would have been proven to have, occurred with the jailed terrorists but only when the latter had a facility to receive those communications over either cell phones issued in their names or over wireless sets. Since neither the cell phones if issued to the jailed accused became recovered nor when the wireless sets were recovered from the jail, therebys no inter se conspiratorial conversations can be concluded to occur either over the cellular phones concerned, nor over the wireless sets allegedly kept inside the jail premises by the accused concerned, or over the cellular phones as became legally/ illegally held by them. As such, the verdict of acquittal recorded insofar as, the said incrimination is concerned, does not require any

interference.

49. Be that as it may, the verdict of conviction recorded against accused Balwinder Singh relating to a charge drawn for offences punishable under Sections 419, 468, 471 of the IPC, thus is a well made findings. The reason for so concluding becomes banked upon the deposition of PW-10, who after comparing the disputed signatures of accused Balwinder Singh, on Ex.PW/4 and Ex.PW10/6, with the specimen signatures Ex. S22 to S25 of the accused (supra), thus made an unchallenged report Ex.PW10/26, whereins, he opined that the disputed signatures as occur in the entries in the jail register, to which respectively Ex.PW/4 and Ex.PW10/6 become assigned, were in the handwriting of accused Balwinder Singh, given both the disputed signatures and the specimen signatures bearing inter se compatibility. Since no evidence became adduced by the learned defence counsel for belying the report of the Handwriting Expert (Ex.PW14/26), therebys immense evidentiary worth is required to be assigned to the report of the Handwriting Expert. Reiteratedly, since no evidence became adduced by the learned counsel for the accused to bely the report of the Handwriting Expert, therebys the report of the Handwriting Expert, does acquire evidentiary worth. In aftermath, the charge (supra), drawn against accused Balwiner Singh is to be declared to become cogently established. As such, the recordings of the conviction in respect of the said charges is a well recorded findings, besides the consequent thereto awarding of sentence(s) upon the accused (supra), are also well awarded sentence(s).

FINAL ORDER

CRA-S-2294-SBA-2003

50. In aftermath, there is no merit in the instant appeal, and the

same is dismissed. The verdict of acquittal, as become rendered by the learned trial Judge concerned, is upheld and maintained.

CRA-S-179-SB-2003

51. The impugned verdict of conviction, and, also the consequent therewith order of sentence, as becomes respectively recorded, and, imposed, upon the appellant-convict-Balwinder Singh, by the learned trial Judge concerned, does not suffer from any gross perversity, or absurdity of gross mis-appreciation, and, non-appreciation of the evidence on record. In consequence, there is no merit in the apposite appeal, and, the same is dismissed qua the present appellant.

52. Records of the Court below, be sent down forthwith. Case property, if any, if not required, be dealt with, and, destroyed after the expiry of the period of limitation.

53. Miscellaneous application(s), if any, is/are, also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

28.10.2024
Ithlesh

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