

**Court No. - 43**

**Case :- CRIMINAL APPEAL No. - 5011 of 2021**

**Appellant :- Rajendra Yogi**

**Respondent :- State of U.P.**

**Counsel for Appellant :- Subhash Chandra Raghav**

**Counsel for Respondent :- Anubhav Sinha,G.A.**

**Hon'ble Ashwani Kumar Mishra,J.**

**Hon'ble Dr. Gautam Chowdhary,J.**

*(Delivered by Hon'ble Ashwani Kumar Mishra,J.)*

1. This criminal appeal is directed against the judgment and order dated 4.2.2020, passed by the learned Additional Sessions Judge, Court No. 8, Mathura in Sessions Trial No. 477 of 2015, arising out of Case Crime No. 188 of 2015, under Section 304(1) IPC, Police Station – Refinery, District – Mathura; whereby the appellant Rajendra Yogi has been convicted under section 304(1) IPC and sentenced to life imprisonment along with fine of Rs.1,00,000/- and in default of payment of fine to undergo one year additional imprisonment.

2. Informant Kushalpal Singh (PW-1) is the son of Ramesh Chandra (PW-4) and is resident of Village Sirsa, Police Station Farah, District Mathura. His mother-in-law Smt. Meenakshi (PW-2) lives in a rented house in Giriraj Vatika owned by Radhaballabh. On 18.5.2015, on receiving information of death of the deceased the informant came and was told by his brother-in-law that on 17.5.2015 Dharmendra (deceased) had taken bread/food from a neighbour aunt and when the father Rajendra Singh (accused appellant) came to know of it, he mercilessly beat Dharmendra due to which, he fainted. When accused appellant saw Dharmendra in the morning, he fled. The neighbour aunt informed that Dharmendra has died and, therefore, he has come to lodge the report. With these contents the first information report came to be lodged in Case Crime No. 188 of 2015, under Section 304 IPC in Police Station Refinery, District Mathura at 12:30 hours in the afternoon on 18.5.2015.

3. Investigation proceeded in the matter and the investigating officer recovered a bloodstained bed-sheet from the bed where deceased was sleeping. Inquest followed and concluded at 3.30 pm. The witnesses of inquest including Ramesh Chandra (PW-4) observed bloodstains on the nose and face of the deceased. In the opinion of the inquest witnesses, deceased died on account of beating as a result of which various injuries were caused to him on his face and head. However, in order to ascertain the correct cause of death, it was resolved that postmortem be conducted. The body was accordingly sealed and sent to mortuary for postmortem.

4. Postmortem on the dead body has been conducted by Dr. K.K. Mathur (PW-7). Cause of death is ascertained as asphyxia due to throttling. Hyoid bone of the deceased was found fractured. Lungs were found congested. Apart from multiple small abrasion on both sides of the neck, there are no other signs of injury on the deceased. The relevant observations made in the postmortem report of the deceased conducted at 5.30 pm on 18.5.2015 are as under:-

"Name of deceased - Dharmendra

Age - 6 years/male

Body - Average body built

Postmortem Changes - Rigor mortis all over body

Skull - Brain Congested

Orbital, Neck, Mouth, Tongue and Pharynx - Filled with blood & blood clots

Hyoid Bone - Hyoid Bone Fractured

Lungs - Lungs congested

Heart - Right full, Left empty

Stomach - Stomach contain 100 ml of pasty fluid.

Liver, Spleen, Kidney - congested

Time since dead - About 1/2 day back

Cause of death - Asphyxia due to throttling

**Antemortem Injuries** - Multiple Small Abrasion, Both side front of neck."

5. Age of the deceased has been determined as 6 years. Statement of witnesses was recorded whereafter charge-sheet came to be filed against the accused appellant under Section 304 IPC.

6. The concerned magistrate took cognizance of the charge-sheet

and referred the matter to the Court of Sessions, where it was registered as Sessions Trial No. 477 of 2015. The charges were explained to the accused of committing offence under Section 304 IPC, who pleaded not guilty and claimed to be tried.

7. The trial commenced in which the prosecution has adduced following documentary evidence:-

- “1. FIR dated 18.05.2015 as Ex.Ka.4
2. Written Report dated 18.05.2015 as Ex.Ka.1
- 3 Recovery Memo of blanket of the deceased as Ex.Ka. 3
4. Postmortem Report dated 18.5.2015 as Ex.Ka.6
5. Panchayatnama dated 18.5.2015 as Ex.Ka.2
6. Chargesheet dated 1.6.2015 as Ex.Ka.15”

8. The prosecution has also adduced oral testimony of Kushalpal Singh (PW-1), Smt. Meenakshi (PW-2), Jitendra (PW-3), Ramesh Chandra (PW-4), Ajeet Singh (PW-5), Manoj Kumar (PW-6), Dr. K.K. Mathura (PW-7) Suresh Chandra Yadav (PW-8).

9. PW-1 Kushalpal Singh who is the first informant has supported the prosecution case, according to which the accused mercilessly beat the deceased after he came to know that the deceased had taken bread/food from a neighbour aunt. Informant came to know of the incident from Jitendra (PW-3), who is real brother of the deceased. Jitendra also was beaten but he hide himself in the toilet and slept there throughout the night and only in the morning he came out. He found his brother bleeding from the nose and face and that there were various signs of injury on the face and head of the deceased. After having caused the death of the deceased, the accused apparently left him lying naked on the bed by covering him with a bed-sheet. Jitendra was also locked from outside. When Jitendra asked for help from inside the house, it was the neighbour aunt, who opened the door and found the deceased to have died.

10. It appears that the accused appellant had not engaged any

counsel and the learned Sessions Judge had provided him the services of an amicus curiae. In the cross-examination, PW-1 has stated that the deceased was his brother-in-law. His father-in-law had already died. His mother-in-law (PW-2) had two daughters and two sons from her first husband. After death of her first husband, she solemnized marriage with accused Rajendra, with whom she had no child. PW-1 has stated that he does not know the name of the neighbour aunt. He had come to the place of occurrence at about 11.00 in the morning and found the police present at the spot. He has stated that he has not seen the incident himself and the basis of his statement is the information given to him by Jitendra (PW-3).

11. PW-2 Smt. Meenakshi is the mother of the deceased and is aged about 32 years. She worked as a labour. Her husband Surendra Singh had died about three and half years back. She had five children with Surendra Singh consisting of three daughters and two sons. The youngest daughter has already died due to illness. Two elder daughters were already married. Jitendra and Dharmendra were her two sons. She remarried accused Rajendra and was living with him in a rented house in Giriraj Vatika. The house was of Radhaballabh. She has stated that on 17.5.2015, she had gone for some personal work to her village leaving the two sons with her husband Rajendra. On account of urgent work, she stayed in the village at night. She tried to telephone Rajendra but his phone was continuously switched off. She called the son of landlord namely Prakash, who informed that her six years old son was badly beaten by the accused as a result of which he died. Since the witness PW-2 was at Teekamgarh, Madhya Pradesh, she immediately rushed and arrived at Mathura on 19.5.2015. She came to know that her son was already cremated by the police and the informant.

12. In the cross-examination, PW-2 admitted that she came to know of the incident on 18.5.2015 evening and she left Teekamgarh at about 11.00 in the night so as to arrive at Mathura on 19.5.2015 at 8.00 am. She was informed about the entire incident by Jitendra

(PW-3). She has further stated that neither deceased was assaulted in her presence, nor her other son was locked in latrine.

13. Sheet-anchor of the prosecution case is PW-3 Jitendra, inasmuch as, it is on his information that the FIR has been lodged. He is 12 years of age and on the basis of questions posed to him, the court of sessions has held that he is capable of giving statement before the court. He has supported the prosecution case, as per which, her mother had gone to village to collect money from the farm and he alongwith his younger brother were at home alongwith accused, to whom he called Papa. Deceased Dharmendra had taken food from a neighbour aunt and informed the accused appellant that since he already had his food, as such, he may cook food for himself and Jitendra. On this, the accused got annoyed and beat Dharmendra with fists and kicks and banged his head on the wall. Accused appellant had a knife in his hand and had locked him in the toilet. Accused also knocked on the toilet and threatened that he would kill Jitendra too. The witness was instructed not to raise any alarm. Thereafter the accused fled by locking the door from outside. PW-3 then raised an alarm whereafter the neighbour aunt came and opened the door and found his brother dead. The incident of beating occurred at about 10.00-10:30 in the night. The witness on coming out made a telephone call to the police on helpline no.100 and also informed his brother-in-law (Jija) Kushalpal. Kushalpal alongwith his family then arrived. Deceased was cremated by the witness.

14. In the cross-examination, PW-3 has stated that the deceased had not taken food from the neighbour aunt in the presence of accused, nor had he eaten food in his presence and before locking the witness in the toilet the accused had beaten the deceased. Accused initially slapped the deceased and thereafter beat him with fists and kicks and banged his head on the wall. The door was opened later by the neighbour aunt. He could see from the space below the door. He had called neighbour aunt from inside the toilet. He could not open the toilet door as it was locked from outside.

Ration distributor in the neighbourhood informed the Police about the incident by dialing no. 100. He had not himself telephoned the police. Accused had also beaten the deceased 2-3 weeks before when his mother was not there. He has then explained the manner in which informant came and the report was lodged with the police. He was taken out of the toilet at about 9-10 am by the neighbour aunt. He was locked in the toilet at about 10.30 in the night by the accused. This witness has denied the suggestion that only because of differences between his mother and accused that he is making a false statement against the accused and that he has not himself seen the incident.

15. PW-4 is Ramesh Chandra, who is an inquest witness and proved the inquest report. PW-5 is Ajeet Singh, who is the computer operator and has proved the GD Report. Manoj Kumar has been produced as PW-6, who was also a tenant in the other part of the house where PW-2 and her family lived. He has stated that the deceased had taken food from his wife Smt. Madhu and being annoyed by this act the accused had beaten the deceased and PW-3 at about 12.00 in the night. He had seen the incident from the window. He also heard the deceased weeping. There was light inside the house. Jitendra (PW-3) was seen by him standing frightened. PW-6 has stated that accused banged the head of the deceased on wall whereafter he fainted and later the witness came to know that he has died.

16. In the cross-examination, PW-6 has claimed that he saw the incident in which the accused had beaten the deceased to death. At the time of incident, he did not know the name of two children. He used to call the deceased as Chhotu. At the time of incident there was no light. There was open space in front of the room. He is a tempo driver and returned home at about 8.00 pm. His statement was not recorded by the I.O. with regard to the incident occurred at about 12.00-12.30 the previous night. He alleged that accused while was being beating, the other son Jitendra (PW-3) had locked himself

inside the toilet. He has stated that accused kept beating the deceased almost for one and half hours. He made no attempts to save the child. His wife also made no attempt in that regard. Witness has stated that he was not aware that the accused would kill the boy. Deceased was earlier slapped and he could hear noise coming from inside of the house. He had not seen the deceased being banged on the wall by the accused. This witness has denied the suggestion that due to close association with the mother of the deceased, he is making false deposition.

17. PW-7 is Dr. K. K. Mathur, who has conducted the postmortem. He has clearly stated that there were no signs of any beating or injury on the deceased except the abrasions on both sides of the neck. The doctor has clearly stated that there was no sign of any injury on the forehead or face of the deceased. Specific statement of the doctor in that regard is as under:-

“मृतक के सिर पर माथे पर और चेहरे पर किसी भी प्रकार की कोई जाहिरा चोटें नहीं थीं। मृतक की गर्दन में दोनों तरफ और सामने और दोनों बगलों पर खुरसट के निशान थे।”

18. PW-8 is retired Sub-Inspector Suresh Chandra Yadav, who was the Investigating Officer of the case and has proved the police papers. As per him, the deceased had multiple marks of injury on his face and he was bleeding from his face and nose. In the cross-examination, the I.O. has stated that he does not know the name of the neighbour aunt from whom the deceased had taken food which became the cause for the deceased to be beaten by the accused. Name of the lady aunt has also not been mentioned in the case diary. He has denied the suggestion that the deceased died for some other reason and accused has been falsely implicated.

19. The accused has been confronted with the evidence led by the prosecution against him during trial so as to record his statement under Section 313 Cr.P.C. The accused has stated that allegation against him that he had beaten the deceased, which became the cause of his death, is false. He claimed to be innocent. He has

specifically stated that neither he beat Dharmendra, nor had any concern with it. He has claimed that he had no concern with the two children or their mother. He has denied that he stayed with PW-2. In reply to Question No. 11 the accused has stated that possibly it was the neighbour aunt, who had beaten the child as a result of which he sustained injuries and PW-6 Manoj Kumar has misled everybody and a false story has been cooked up to implicate him.

20. Trial Court on the basis of aforesaid evidence led by the prosecution has found the charges levelled against the accused-appellant under Section 304 I.P.C. to be proved beyond reasonable doubt and has consequently convicted the accused and sentenced him to life imprisonment.

21. Aggrieved by the conviction of the accused-appellant under Section 304 I.P.C., the accused appellant is before this Court in the present appeal.

22. Sri Subhash Chandra Raghav, learned counsel for the appellant strenuously urged that this is a case of false implication, inasmuch as, the consistent case of the prosecution is that the deceased was assaulted by the accused appellant, due to such injuries caused by fists and kicks the deceased died. It is argued that the entire prosecution story stands belied by the postmortem report in which absolutely no signs of any injury on the face, forehead or other part of the body has been noticed on the deceased, nor such injuries were the cause of death. It is submitted that the cause of death is throttling and the injuries on the body of the deceased are only suggestive of death being caused by throttling. It is alleged that none of the two witnesses of fact namely PW-3 and PW-6 have even remotely alleged that the accused appellant had throttled the deceased to death. It is also submitted that non-existence of injury on the face, forehead or nose clearly proves that the witnesses of fact have actually not seen the incident and the actual cause of death is something else. Submission is that the finding of the trial



court that accused appellant had caused homicidal death of deceased by causing injuries on him are contrary to the weight of evidence on record and, therefore, the finding of guilt and consequential sentence is unsustainable. Learned counsel has placed reliance upon the judgment of the trial court to show that the findings contained therein are wholly perverse, inasmuch as, the court of sessions has ignored the specific argument raised on behalf of the defence during trial that the injuries on the deceased are inconsistent with the ocular testimony and, therefore, the finding of guilt is unsustainable.

23. Learned A.G.A. on the other hand has supported the finding of guilt recorded by the court of sessions and has argued that the conviction and sentence of the accused appellant suffers from no infirmity and, therefore, does not warrant any interference.

24. We have heard the counsel for the parties and perused the materials on record including the original records of the trial court.

25. The prosecution case is that while mother of the minor deceased had gone to her village at Teekamgarh, Madhya Pradesh leaving her two sons Dharmendra (deceased) and Jitendra (PW-3) in the care and custody of the accused appellant that the accused appellant committed the murder of the deceased after he had taken food/bread from a neighbour aunt.

26. Evidence on record has been carefully scanned by us. It transpires that the witnesses of fact produced by the prosecution fall into two distinct categories. The informant Kushalpal Singh is married to the elder sister of the deceased. He has lodged the FIR on the basis of the facts disclosed to him by the brother of the deceased namely Jitendra (PW-3). Source of information about the actual incident in which death of the deceased was caused is based on hearsay. Similarly, PW-2 is the mother of the deceased, who also was not present at the time of incident. She has neither seen the incident, nor was even present at the place of occurrence. Her source of information is the disclosure made by PW-3 Jitendra and

PW-6 Manoj Kumar, who happens to be the neighbour and was living in other part of the house on rent. These two witnesses of fact, therefore, do not throw much light on the prosecution case about the manner in which the incident occurred. Their testimony, therefore, is not much helpful for the prosecution case.

27. PW-3 is the eye-witness and his disclosure forms the basis of statement of PW-1 and PW-2. PW-3 is the elder brother of the deceased. This witness has categorically supported the prosecution case that the deceased had taken bread/food from the neighbour aunt and later this fact was disclosed by him to the accused on which he got infuriated. As per PW-3, the accused appellant slapped Dharmendra and thereafter beat him by fists and kicks and ultimately pushed him to the wall as a result his head banged on the wall on account of which Dharmendra fainted. PW-3 then comes up with a conflicting version regarding his being locked inside the toilet. At one stage, he claims that he locked himself in the toilet while at other places he claims that he was locked in the toilet, by the accused appellant. There are also two versions of PW-3, as to how, he came out of the toilet. One version is that he came out of the toilet in the morning and on seeing his brother dead raised an alarm whereafter the neighbour aunt came from outside after opening the door of the house which was bolted from outside. The other version of PW-3 is that he raised alarm in the morning from inside the toilet whereafter the neighbour aunt came from outside and brought him out of the toilet.

28. The above inconsistent version of PW-3 has not been explained by the prosecution. This is particularly so as PW-3 clearly states that the accused appellant knocked the toilet door and had threatened that he would kill him too. This version suggests that PW-3 had locked himself from inside as a result of which he was saved since the accused appellant could not enter the toilet and, therefore, could get no access to PW-3. If that was so, the statement of PW-3 that he was brought out of the toilet by neighbour aunt since the toilet door

was closed from outside remains unexplained.

29. In the facts of the present case, we find that the neighbour aunt was an important witness of the incident, inasmuch as, it was she who gave bread/food to the deceased; brought out PW-3 from the toilet on hearing his alarm; was the first to open the gate and enter the house where the incident had occurred. However, for reasons unknown the neighbour aunt has neither been interrogated by the I.O., nor has been produced as a witness, even during the course of trial. This is a serious lapse on part of the prosecution. The neighbour aunt had a crucial role in the entire incident and was possibly the best person to have reported the manner in which the entire incident occurred. Her non-production, therefore, has weakened the prosecution case.

30. Coming next to the testimony of PW-3 it transpires that the accused on coming to know that the deceased had consumed bread/food mercilessly beat the deceased. PW-3 has alleged that initially Dharmendra was slapped, then he was beaten by fists and kicks and lastly his head was banged on the wall whereafter the deceased Dharmendra became unconscious and was later found dead. This version of PW-3 is similar to what is stated by other prosecution witness of fact namely Manoj Kumar (PW-6). The version of Dharmendra having been beaten by the accused appellant finds support from the inquest in which the witnesses of inquest have observed signs of injury on the face and forehead of the deceased. It is alleged that there were hematoma (neelgu marks) and other signs of injury on the face and forehead of the deceased.

31. Curiously, when the postmortem was conducted on the same day just two hours after the inquest, at 5.30 pm., except for some abrasions on the neck the doctor has found no injury on the face or forehead of the deceased. The hyoid bone of deceased was also found fractured. This dichotomy between the ocular testimony and the medical evidence on record remains wholly unexplained. In the

event deceased was beaten by the accused such that the deceased died due to such beating some apparent signs of injury marks were expected to be observed in the postmortem report. The fact that absolutely no marks of injury are shown on the face and forehead of the deceased in the postmortem report raises questions about the correctness of the ocular version of PW-3 and PW-6.

32. The medical evidence in the form of postmortem report as well as testimony of autopsy surgeon categorically narrates that the deceased died on account of throttling. Ligature mark is present on the neck of the deceased. There is absolutely no explanation forthcoming in the testimony of any of the prosecution witnesses of fact suggesting that the accused appellant had throttled the deceased. PW-3 has been consistent in saying that he saw the entire incident. PW-6 also says that he substantially saw the incident. None of these two witnesses even remotely suggest that Dharmendra was throttled or that the accused had strangulated him to death. The cause of death as per postmortem report and the opinion of autopsy surgeon is at crossroads with the oral testimony of the witnesses of fact. This apparent contradiction in the version of prosecution case remains wholly unexplained.

33. We have perused the judgment of the trial court and it is observed that this dichotomy between the oral testimony of witnesses and the medical evidence was specifically highlighted before the court of sessions on behalf of the appellant. The submission has been noticed by the trial judge in following words:-

“दौरान बहस बचाव पक्ष की ओर से तर्क प्रस्तुत किया गया कि जिस प्रकार की मारपीट अभियोजन साक्षियों द्वारा कहा जा रहा है उस प्रकार की कोई भी चोटें मृतक के शरीर पर नहीं हैं यह भी उल्लिखित किया गया कि सिर को दीवार से मारे जाने की बात कही गयी है परन्तु सिर पर कोई भी चोट नहीं पायी गयी। इस सम्बन्ध में साक्षी पी०डब्लू० 7 डा० के० के० माथुर की जिरह की ओर ध्यानाकृष्ट कराया गया जिन्होंने अपनी जिरह में स्वीकार किया है कि मृतक के सिर, माथे और चेहरे पर किसी प्रकार की कोई जाहिरा चोट नहीं थी।”

34. The above contention has been rejected by the trial judge observing as under:-

“प्रश्न उठता है कि क्या इस साक्षी के साक्ष्य के आधार पर अभियोजन कथानक को संदिग्ध माना जायेगा। इसका उत्तर कदाचित नकारात्मक है क्योंकि यह आवश्यक नहीं है कि जिस प्रकार का साक्ष्य अभियोजन के मौखिक / चक्षुदर्शी साक्षी पेश करें उसी प्रकार की चोट मृतक के शरीर पर शवविच्छेदन करने वाले चिकित्सक के द्वारा पायी जाये। कई बार अभियोजन साक्षी उत्साह में और डरवश घटना को थोड़ा बढ़ाकर न्यायालय के समक्ष प्रस्तुत करते हैं वहीं दूसरी ओर चिकित्सक के द्वारा जो भी साक्ष्य न्यायालय के समक्ष प्रस्तुत की जाती है, वह साक्ष्य विशेषज्ञ साक्ष्य तो होती है परन्तु उनकी साक्ष्य मात्र एक राय पर आधारित होती है इसलिए दोनों ही साक्ष्यों का सम्यक् विश्लेषण किया जाये तो स्पष्ट है कि ऐसे मामले जिसमें एक छह वर्षीय बालक को मारापीटा गया हो और जिसकी हायड्र बोन फ्रेक्चर पायी गयी हो उसमें चिकित्सीय साक्ष्य के प्रकाश में जो मौखिक साक्ष्य पेश की गयी है, उसको अस्वीकार नहीं किया जा सकता। इस सम्बन्ध में न्यायिक नजीर उ.प्र. राज्य बनाम हरवंश सहाय 1998 (37) ए.सी.सी. 14 सुप्रीम कोर्ट का उल्लेख करना न्यायालय समीचीन पाता है जिसमें माननीय उच्चतम न्यायालय द्वारा उपरोक्त सिद्धान्त प्रतिपादित किया गया है कि चिकित्सीय आख्या के प्रकाश में मौखिक साक्ष्य को अस्वीकार नहीं किया जा सकता।”

35. We are not impressed by the reasoning assigned by the trial judge to reject the defence version regarding contradiction in the ocular testimony and the medical evidence. In the facts of the case, we are of the opinion that the specific case of the eye-witnesses is completely belied by the medical evidence on record. Witnesses of fact alleged that deceased Dharmendra was badly beaten with fists and kicks and later his head was banged on the wall but neither any injury is found on the head nor any signs of injury are shown on the face or forehead of the deceased. Since the deceased was a minor child of six years, any serious beating on him, leading to his death, is bound to carry some signs of injury. This is not the case as per the medical evidence. The contradiction, therefore, remains unexplained. Similarly, medical evidence shows cause of death to be throttling with hyoid bone fractured but the two witnesses of fact do not allege anywhere that the deceased was throttled. This contradiction also remains unexplained. In our opinion, the material contradiction in the medical evidence viz-a-viz the eye-witness account clearly creates a doubt on the prosecution case. We do not subscribe to the view taken by the Sessions Court that these are aspects which could be overlooked.

36. Hon'ble Supreme Court has dealt with a similar issue in Viram @ Virma Vs. The State of Madhya Pradesh, reported in (2022) 1 SCC

341, wherein in Para 13, the Court has observed as under:-

“13. The oral evidence discloses that there was an indiscriminate attack by the accused on the deceased and the other injured eye-witnesses. As found by the Courts below, there is a contradiction between the oral testimony of the witnesses and the medical evidence. In Amar Singh v. State of Punjab (supra), this Court examined the point relating to inconsistencies between the oral evidence and the medical opinion. The medical report submitted therein established that there were only contusions, abrasions and fractures, but there was no incised wound on the left knee of the deceased as alleged by a witness. Therefore, the evidence of the witness was found to be totally inconsistent with the medical evidence and that would be sufficient to discredit the entire prosecution case”

37. We have already observed that the ocular version of the incident is irreconcilable with the medical evidence on record and the inconsistency remains unexplained by the prosecution. Once that be so, it cannot be said that prosecution has succeeded in proving its case beyond reasonable doubt. Consequently, the applicant is entitled to get the benefit of doubt.

38. For the discussions and deliberations held above, we find that the prosecution has not been able to establish its case beyond reasonable doubt. The conviction and consequential sentence awarded by the Court of Sessions, therefore, cannot be sustained. The appeal consequently succeeds and is allowed. The judgment and order dated 4.2.2020, passed by the learned Additional Sessions Judge, Court No. 8, Mathura in Sessions Trial No. 477 of 2015, arising out of Case Crime No. 188 of 2015, under Section 304(1) IPC, Police Station – Refinery, District – Mathura, is set aside.

39. The accused-appellant Rajendra Yogi shall be set to liberty, forthwith, unless he is wanted in any other case, subject to compliance of Section 437A Cr.P.C.

**Order Date:-** 6.8.2024

Ranjeet Sahu

(Dr. Gautam Chowdhary, J.) (Ashwani Kumar Mishra, J.)