
(2007) 08 MP CK 0050
In the Madhya Pradesh High Court

Keshav Pratap Singh and Others

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 31-08-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 157, 161
Penal Code, 1860 (IPC) — Section 30, 302, 304, 323, 326

Citation : (2007) 08 MP CK 0050

Hon'ble Judges : S.A. Naqvi, J;Arun Mishra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Arun Mishra, J.—The appeal has been preferred by accused/appellants aggrieved by their conviction and sentence imposed by Sessions Judge, Satna in ST No.14/92 as per judgement and order dated 16th July,1998. Accused Pappu alias Ramnaresh Singh has been convicted for commission of an offence u/s 302 IPC, remaining three accused persons have been convicted u/s 302 read with Section 34 of IPC for causing death of Santsingh, they have also been convicted u/s 323 read with Section 34 of IPC for causing injuries to Upendra Singh (PW.3). They have been sentenced to life imprisonment and fine of Rs.1,000 each, in default of payment of fine to undergo 2 months R.I., and for causing injuries to Upendra Singh, all the accused have been sentenced to six months" R.I. and fine of Rs.200 each, in default of payment of fine to undergo 10 days R.I.

2. Prosecution case in brief is that on 6.11.91 murder of Santsingh was committed by accused persons, deceased Santsingh was resident of Siding Colony,Bamuraha, District Satna. On next day of Deepawali festival in the evening on 6.11.91 when he had gone to a barber shop of Chhotelal for the purpose of shaving, as Chhotelal was not available, he went to Chhulhani near siding colony to talk with labours and came back along with Upendra Singh (PW.3) to the barber shop of Chhotelal (PW.1), at that time Chhotelal was busy in shaving of Chandrapal Singh as such deceased Sant Singh set on the bench in

front of shop near flour mill of Chandrapal Singh (PW.11) along with Jaheer Khan (PW.4), Mohd.Latif (PW.12). Upendra Singh (PW.3) was standing near the bench, at that time accused came on the motor cycles, initially accused Keshav Pratap Singh and Bablu came and asked who was doing the leadership (Netagiri) , at the same time accused Manmohan Singh also came on other motor cycle, he was armed with 315 bore gun, Pappu also accompanied him, Manmohan Singh threatened the deceased of firing gun shot and pointed the gun on the deceased, accused Keshav Pratap Singh and Bablu alias Shivmangal Singh caught hold of neck of deceased Sant Singh, accused Pappu alias Ramnaresh Singh inflicted several injuries in his abdomen, accused Manmohan Singh also gave him blow with the butt of gun,, Bablu alias Shivmangal Singh also gave lathi blows to the deceased, when Upendrasingh (PW.3) intercepted, he was beaten by Manmohan Singh with the butt of gun, thereafter accused persons went away on two motorcycles.

3. The incident took place at about 4 PM, report of the incident was lodged at 7 PM at PS-Kolgawan situated 7 kms.away from the place of incident, investigation was set in, medical examination of Upendra Singh (PW.3) was performed. One full pant (Article-A), full shirt (Article-A1) were seized, spot map has been prepared, inquest was done, seizure of blood stained and control soil, one bamboo stick, one pair of Chappals, Rajdoot motorcycle was also made, dead body of Santsingh was sent for autopsy, several injuries were found on the person of deceased caused by sharp and cutting weapons and hard and blunt object. On the persons of Upendra Singh (PW.3) two injuries were found in the form of bruise and abrasion on chest and forearm. Accused Pappu was arrested on 20.11.91, at his instance knife (Article-A) and Rajdoot motorcycle were seized, another motorcycle was seized at the instance of Keshav Pratap Singh, at the instance of accused Manmohan Singh one 315 bore gun was seized along with 2 live cartridges, clothes of injured Upendra Singh were also seized along with clothes of deceased. They were sent to FSL for chemical examination. On full pant and full shirt, and on the blood stained soil seized from the spot, on lathi, slippers and on clothes of deceased, dagger seized from Pappu, presence of human blood was found, to determine the blood group the articles were sent for serological examination, on shirt, full pant of Upendra Singh (PW.3), on shirt, sweater, full pant and on underwear of deceased Santsingh presence of human blood was found. On full pant of Upendra Singh (PW.3) and on full pant of deceased Sant Singh, blood group "O" was found. On other articles the blood group could not be ascertained due to disintegration of blood.

4. Accused abjured the guilt and contended that some unknown person committed murder of deceased, they had been falsely implicated, market remained closed on the next day of Deepawali, barber shop of Chhotelal was also not open, Manmohan Singh had gone to Chitrakoot for performing the Parikrama. Upendra Singh (PW.3) was not an eye witness of the incident, he had not sustained any injury in the incident, no independent witness has supported the prosecution case.

5. The prosecution has examined 20 witnesses, in defence 2 witnesses were examined. Aggrieved by the conviction and sentence imposed by trial Court, the appeal has been preferred by appellants.

6. None had appeared on several dates fixed in the instant case as such Ms. Rukhsana, learned Counsel was appointed from the Panel of High Court Legal Services Committee to assist this Court on 9.8.07, thereafter the case was listed on 10.8.07, it was ordered to be listed in week commencing 20th August, 2007.

7. Ms. Rukhsana, learned Counsel appearing for appellants has submitted that FIR in the instant case was not recorded at 7 PM, it was recorded later on, some unknown person had committed murder of deceased, due to enmity. Accused persons had been falsely implicated in the case. There was no independent corroboration of the evidence of Upendra Singh (PW.3) and Jamir Khan (PW.4), most of the witnesses Chandrapal Singh (PW.11), Mohd. Latif (PW.12), Ramavtar (PW.13), Achhelal (PW.14), Jankiprasad Gupta (PW.17) and Golai (PW.19) had turned hostile, they did not support the prosecution case. Injuries on person of Upendra Singh (PW.3) were simple in nature, they could have been self-inflicted injuries, there were certain contradictions in his statement made in the Court as to the FIR and police statement. Statements of Anand Kumar (PW.1), Jamir Khan (PW.4) and Mohd. Latif (PW.12) were also recorded belatedly by the police u/s 161 Cr.P.C., they were the stock witnesses of the police, thus, could not have been relied upon. There were no sign of throttling the neck as such the medical evidence did not corroborate the ocular version, Upendra Singh (PW.3) did not mention the names of the witnesses in the FIR, compliance of Section 157 Cr.P.C. has not been proved. She has lastly submitted that case would not fall u/s 302 of IPC, as accused Manmohan was carrying the gun, he did not use the gun, thus, intention was not to commit murder, it was only one of the accused Pappu alias Ramnaresh Singh who had inflicted injuries on the person of deceased, he could be convicted u/s 326 IPC, the accused did not share the common intention, thus, other accused persons ought to have been acquitted and the sentence already undergone by the accused persons be held to be commensurate punishment.

8. Shri Tej Kumar Modh, learned Dy. AG appearing for State has supported the conviction, he has mainly relied upon the statements of Upendra Singh (PW.3), Jameer Khan (PW.4) and Mohd. Latif (PW.12) and statement of Dr. Anil Shrivastava (PW.8) who had performed autopsy and submitted the postmortem report (P/11). He has also referred to statement of Dr. Hemant Pandey (PW.18) and the injury report of Upendra Singh (Ex.P/22). He submitted that presence of Upendra Singh was corroborated by the injuries found on his person. An injured witness is not likely to implicate the accused persons falsely and to spare actual assailant, the incident had taken place in broad day light, there was independent corroboration to the prosecution case not only by Jameer Khan (PW.4) but Mohd. Latif (PW.12) has also supported in part the prosecution version. There was absolutely nothing to discard the statements of aforesaid witnesses including that

of injured witness Upendra Singh (PW.3).

9. In the instant case, the conviction is based mainly on the statements of Upendra Singh (PW.3) and Jameer Khan (PW.4) beside other corroborating evidence on record. Thus, it is necessary to go into the question of the reliability of the version of aforesaid witnesses and whether prosecution has gained the time in order to give shape to the case, in other words whether FIR was ante timed. FIR had been lodged by Upendra Singh (PW.3) at PS- Kolgawan situated at 8 kms. away from the siding colony of Village-Bamuraha, District-Satna. The incident had taken place at 4 PM, FIR (P/2) had been recorded by C.B.Singh (PW.16). He has stated it was lodged by Upendra Singh (PW.3), Upendra Singh had signed it in the portion A-A ,his signatures were in portion B-B. Upendra Singh was sent for medical examination after recording the FIR and he had proceeded towards the spot along with the police force. Medical requisition form (P/20) relating to medical examination of Upendra Singh was filled by head constable Jaibahadur Singh. Jaibahadur Singh has signed the same in portion A-A. He had also sent the body for postmortem as per the requisition memo (P/10). He has stated in the cross-examination that entry was also made in general diary of lodging of FIR and intimation of lodging of FIR was also sent to concerned Magistrate. He has denied the suggestion that no such intimation was sent to the Magistrate. He has withstood the cross examination. He has stated that he went in search of accused at 8.20 PM and again reached back to the spot at 6-7 AM on the next day. Diary was closed at 12 PM and thereafter was reopened at 7 AM as during that period he had searched the accused. Thus, it is quite apparent that investigation was done forthwith and the statement was made by C.B.Singh (PW.16) with the help of diary. Thus, we have no iota of doubt that FIR was lodged at 7 PM ,it was not ante timed. Upendra Singh (PW.3) has also supported lodging of FIR at the time and on the date it was recorded, thus, considering the distance of police station from the place where the incident had taken place, in our opinion, we reject the submission raised by appellants' counsel that FIR was recorded subsequently. It could not be said to be a manipulated document in the instant case. We are satisfied that FIR was lodged at the time when it was recorded,as such strict proof of compliance of Section 157 Cr.P.C. does not cause any dent to the prosecution case.

In Betal Singh Vs. State of M.P., the Apex Court has held that even if the FIR was not immediately sent to the concerned Magistrate was of no consequence since the FIR had been lodged within 30 minutes of incident and clearly described basic prosecution case.

Beside the FIR, we find the requisition of inquest was sent to witnesses on 6.11.91, beside that we find on record requisition (P/20) for medical examination of Upendra Singh (PW.3)has also been proved by C.B.Singh (PW.16) that also goes to show that police had registered the case on 6.11.91, it was only thereafter Upendra Singh was sent for medical examination and he was medically examined by Dr. Hemant Pandey (PW.18) on 6.11.91 itself, that also supports

lodging of FIR at the time and place it was recorded on 6.11.91.

10. Now, we come to examining the reliability of version of Upendra Singh (PW.3), Jameer Khan (PW.4) and support if any, rendered to the prosecution by Mohd. Latif (PW.12) and the corroboration by other evidence. When we consider statement of Upendra Singh (PW.3), though he is related to accused as well as to deceased, but he appears to be a quite truthful witness. We have gone through the entire deposition of the witness. He has withstood the lengthy cross examination and we have not found any significant contradiction or omission in his version mentioned in FIR, in the police statement recorded u/s 161 Cr.P.C. and the deposition made in the Court. He has stated that he knew the accused very well, he has given the relationship in detail, he has stated that at about 3-3.30 PM, Dada Santsingh had asked him to accompany him to barber's shop, he went along with him to siding colony to the shop of Chhotelal barber who was not in the shop at the relevant time as such he along with Santsingh went to Labour Colony, Chhulhini and stopped the motorcycle at the tea shop of Bablu and enquired from Bablu about the theft in the shop and asked on whom he had a doubt as to theft. Santsingh assured him that he would assist him in finding out the theft. Then Santsingh went towards tea shop of Jeevan Pandit, Bablu son of accused Manmohan who was sitting in the shop of Jeevan Pandit, went away to the village as soon as Santsingh reached there. We find that Upendra Singh (PW.3) was not a chance witness, it could not be said to be uncommon to the family members to accompany the other, his presence was quite obvious as he had accompanied the deceased and had given detailed description how they proceeded, where they went. He has further stated that after sometime they again proceeded to barber's shop. Santsingh walked down, some other persons had also accompanied Santsingh, he asked him to come on motorcycle to the shop of Chhotelal as other persons accompanied the Santsingh. Upendra Singh went on motorcycle, Santsingh followed him to the shop, as Chandrapal Singh was having shave, Santsingh set on a bench along with other persons, at that time accused persons came on two motorcycles, Keshav and Bablu on one motorcycle and on other motorcycle Pappu and Manmohan came, Keshav initially uttered who was involved in Netagiri, they would settle the score. On that Keshav Singh and Bablu caught hold of neck of Santsingh, Manmohan Singh pointed his 315 bore rifle and threatened Santsingh of firing the gun shot, in the meantime Pappu inflicted injuries on the abdomen of deceased. Keshav took out a Gupti (pointed sharp edged weapon) and inflicted injury on Santsingh with the help of Gupti then Manmohan also inflicted injury with the butt of rifle, beside Bablu also inflicted injury with the help of lathi. When other persons wanted to save Santsingh, Manmohan threatened them with the gun. Upendra Singh (PW.3) asked Manmohan whether he wanted Santsingh to die and asked them to stop beating and to leave Santsingh, Manmohan Singh gave blow on him with the butt of gun on left shoulder. Keshav was also carrying a country made revolver, he also threatened him with the same. Accused Manmohan asked other accused Keshav and Pappu whether Santsingh had died or not, Keshav told that

he has died, even thereafter Manmohan had asked Keshav and Pappu to cut the neck of Santsingh in order to ensure that he died, thereafter Keshav and Pappu pierced the neck again and again of the deceased Santsingh with the help of knife and Gupti. Manmohan threatened the persons present on the spot that if anybody would depose against them, his fate will be the same as that of deceased Santsingh. Thereafter they went away on motorcycles. The house of witness Upendra (PW.3) was situated by the side of Santsingh being relative. There appears to be omission in the FIR with respect to carrying of Gupti. In the police statement, it was mentioned that Gupti was carried by accused Keshav, in FIR it was not so mentioned, but that is insignificant in the facts and circumstances of the case as the common intention of the accused persons being writ large from the facts projected in the instant case. They shared common intention to kill Santsingh. They ensured that Santsingh die on the spot itself before they left the spot and even after knowing that he was dead his neck was pierced mercilessly by knife and Gupti as apparent from corroborating medical evidence on record. The criticism made of Upendra Singh (PW.3) that he could not give detailed description in para 52 of his deposition that how many injuries were inflicted by whom, as a matter of fact he had been cross examined at undue length which was not necessary, same questions were repeated time and again, it was quite difficult if not impossible to give kind of description asked in para 52 of cross-examination. The witness has stated that he did not count how many injuries were inflicted by the particular accused. The Apex Court in *Kallu @ Masih and Others Vs. State of Madhya Pradesh*, has laid down that minor inconsistencies and discrepancies regarding the exact place or the point at which the incident took place or as to who landed the blows is not sufficient to disbelieve the evidence of injured eye witnesses. It is not necessary that all eye-witnesses should specifically refer to the distinct acts of each member of an unlawful assembly. Infact, it is difficult, if not impossible.

In the instant case, accused were sharing common intention and still detailed description has been given by Upendra Singh (PW.3). Upendra Singh (PW.3) has also sustained injuries in the incident, he was sent for medical examination as per requisition (P/20), his medical examination was performed on the date of incident, i.e., on 6.11.91 itself by Dr. Hemant Pandey (PW.18). Dr. Pandey has stated that he had examined Upendra Singh (PW.3) at 7.25 PM on 6.11.91, he was brought by police constable Mangal Prasad Verma, he has found abrasion on his left arm and found bruise of 2 x .5 Inch on left side of chest. Injury no.1 was caused by hard and rough object and injury no.2 was caused by hard and blunt object. He has proved the report (P/22) of the medical examination, thus, statement of Upendra Singh (PW.3) finds medical corroboration from the version of Doctor. It appears that he was beaten during the course of incident itself, within three hours he had been medically examined by doctor. Thus, we find that medical evidence also corroborates presence of Upendra Singh (PW.3) on the spot. His version is otherwise also found to be quite reliable and inspires confidence. Merely by the fact that he had attributed some more injuries which

may not have been visible being caused by butt of gun or were not noticed by the doctor, his presence on the spot was not rendered doubtful.

11. Jameer Khan (PW.4) is an independent witness, he was having no enmity with the accused. He has clearly stated that on the date of incident about 3.30 PM he had gone to Chhulhani colony, he met there Santsingh and Upendra Singh, he has also corroborated the version of Upendra Singh (PW.3) as to the fact of Santsingh going to the tea shop of Jeevan Pandit and thereafter approaching the barber's shop of Chhotelal. He has specifically named the accused persons and the method and manner in which incident had taken place. He has given detailed description in para 6 and 7 of his deposition and has also stated that Manmohan Singh ensured after several injuries were inflicted whether Santsingh has died or not and on being told he was dead asked Pappu Singh and Keshav again to inflict injuries on the neck of deceased Santsingh, the accused Pappu Singh and Keshav followed his command, thus, common intention of accused was writ large, they all actively participated in the offence. Santsingh was done to death in merciless and brutal manner. He has also supported that Upendra Singh was also beaten by Manmohan Singh and when accused were going away, they threatened the witnesses. After going to the village, witness went to inlaws place. He has stated that due to fear, he had gone to in laws place. His police statement had been recorded on 8.11.91. We do not find any significant omission or contradiction in his entire version so as to render his deposition to be doubtful. With respect to omission whether one gun was carried or two by Manmohan Singh and whether identification of the gun was made or not was not of significance in the instant case when the presence of accused persons had been established by cogent and reliable evidence. Omission in police statement of Jameer Khan (PW.4) whether this fact was mentioned that they had proceeded towards the barber's shop being minute detail was also of no consequence and did not cause any dent to his version, each and every detail is not required to be mentioned in the police statement as in the case of FIR also. Mohd.Latif (PW.12) is another witness, though he was declared hostile, he has partially corroborated the prosecution case. He has stated that he knew the accused persons as well as deceased, Santsingh had died, on seeing Santsingh he wished to him and accompanied him to Chhotelal's barber shop, Santsingh set there on the bench waiting for his turn, in the meantime two motorcycles came, on one motorcycle Keshav and Bablu and on other motorcycle Pappu and Manmohan Singh came to the spot, Accused Manmohan Singh was carrying 2 guns, Bablu was carrying lathi, thereafter Keshav Singh abused Santsingh, and Bablu and Keshav caught hold of neck of deceased Santsingh, Manmohan Singh pointed his rifle towards deceased Santsingh and threatened him of firing the gun shot in case he moved, thereafter the witness ran away from the spot. At this juncture, he was declared hostile as he did not support, later part of the prosecution case of subsequent details of beating given by accused, but he has substantially lent the support to the prosecution case that four accused persons came to the spot, they came on two motorcycles, surrounded the deceased and that accused were armed, thus, he

has also rendered substantial corroboration to the statement of injured witness Upendra Singh (PW.3) and Jameer Khan (PW.4).

12. Apart from that we find on record version of Anand Kumar Shukla (PW.1). He has corroborated to the extent that Santsingh and Upendra Singh came to his shop and thereafter went ahead to the tea shop of Jeevan Pandit, Bablu son of Manmohan Singh was sitting on the tea shop of Jeevan Pandit, Bablu had left tea shop on seeing Santsingh and Upendra Singh thereafter Santsingh went towards the flour mill of Chandrapal Singh as barber's shop of Chhotelal was situated in front of flour mill of Chandrapal Singh. After Santsingh and Upendra Singh had left, he saw accused Bablu, Keshav, Manmohan and Pappu on two motorcycles. Accused Bablu Singh asked the witness that why only Santsingh was called by him and thereafter witness was slapped by accused Keshav and Bablu Singh, accused Keshav asked the witness where Santsingh had gone, then accused Manmohan said that leave the witness, first we would see Santsingh, thereafter accused proceeded towards the barber's shop and then the witness heard hue and cry and found Santsingh was lying dead in front of flour mill, Upendra Singh also sustained injuries, he has also stated that he had seen all the four accused going on motorcycles towards Bamurha. Man may lie but the circumstances do not is the cardinal principle of evaluation of evidence. The evidence of this witness is relevant to the extent of immediate happening and renders support to the prosecution case.

11. Coming to the medical corroboration in the form of postmortem report, following 15 injuries were found on the person of deceased:

(1) Incised wound (later on called as I.W.) over middle of neck just below the thyroid cartilage 2 cm x 2 cm x cutting through the soft tissue and trachea. Blood clot deeper in middle.

(2) Three I.W. over Rt. side of neck between midline and left sterno mustid muscle 0.75 cm. x 0.5 cm. x 0.5 cm. deep in middle. They are placed 1 cm apart to each other.

(3) Two I.W. over left paratracheal region size 1 cm. x 0.5 cm. x 0.5 cm. deeper in middle.

(4) four I.W. over Rt. side of chest anteriorly in lower parts placed about 8 cm. below the Rt. nipple to Rt. subcestral margin. They are horizontally placed size 2.5 x 0.75 x 0.5 cm. deep in middle.

(5) One I.W. over Rt. inframammary region about 5 cm. below Rt. nipple 2.5 cm. x 0.5 cm. x through and through cutting the inter cestial muscle.

(6) Two I.W. on either side of umbilicus size. 1.5 cm. x m.d. x through and through the ant.abd. wall and peritoneum.

(7) Five I.W. over left side of abdomen between subcestral and trans umbilical line size 2 cm. x .75 cm. x cutting and abdomen wall.

- (8) I.W. Rt. hypochondriac region 5 cm. below costal margin size 2 cm.x .5 cm through and through ant. abd wall.
- (9) I.W. over public region just left to midline size 1.75 cm. x .75 cm. through and through ant. abdominal wall.
- (10) One I.W. over Rt.leg at the function of upper 2/3 lower 1/3rd size 3 cm. x 1 cm. x bone deep.
- (11) Abrasion below Rt. Knee Joint Size 3 cm. x 2 cm.
- (12) I.W.between left thumb & left index finger size 2.5 cm. x 1.5 cm. x 1 cm.
- (13) Contusion bluish black over left size of forehead size 3 cm. x 2 cm.
- (14) I.W. Rt. parasagittal region over scalp 2 cm.lateral midline size 4 cm. x 1.5 cm. x bone deep/deep in middle.
- (15) I.W. left parasagital resion over scalp size 4 cm. x 1 cm. x bone deep.

All the above described injuries are antemortem in nature. Postmortem had been performed by Dr.Anil Shrivastava (PW.8). He has stated that beside aforesaid 15 injuries, multupal injuries within the injuries were contained. Plural cavity was found to be cut, trachea was found to be torn, there was tear in right lung, blood was also found in both the verticals. There were several tears in the small intestine, blood was also found in peritoneal cavity, three tears were found over the liver. The nature of injuries on neck, chest and in the abdomen goes to indicate that how the injuries were inflicted in brutal manner on the person of deceased, thus, ocular version has been supported in toto by medical evidence. There were large number of incised wounds as well as injury no.11 was caused by hard and rough object, injury no.13 was caused by hard and blunt object, remaining injuries were inflicted by shard edged weapon, injuries were sufficient in ordinary course of nature to cause death, the report of Autopsy (P/11) proved by Dr.Anil Shrivastava (PW.8) renders support to the prosecution case.

12. Merely by the fact that due to one reason or the other, other witnesses, namely, Chandrapal Singh (PW.11), Ramavtar (PW.13), Acchelal (PW.14), Janki Prasad Gupta (PW.17) and Golai (PW.19) turned hostile, no dent is caused to the prosecution case. We also found no merit in the submission raised by appellants' counsel that independent witnesses have not been examined in the instant case. It was not necessary to multiply the witnesses particularly when evidence of Upendra Singh (PW.3) and Jameer Khan (PW.4) supports the prosecution case. Apart from that we have found that some corroboration has been rendered by statement of Mohd. Latif (PW.12) and Anand Kumar Shukla (PW.1), the investigation part, seizure of the weapons,etc. has been proved. Samhan Singh (PW.20), Sub-Inspector has proved the seizure of articles, recording of statement of Upendra Singh and has also stated that on 6.11.91 C.B.Singh (PW.16), Station House Officer has reached the spot and inspected the spot, police force was posted to preserve the spot, inquest (P/5) was prepared and body was sent for

autopsy. Spot map was prepared by Patwari Barelal Sen (PW.9), Phulsingh had taken the body for autopsy to the hospital, Chhotelal (PW.15) had brought the clothes from the hospital of the deceased as per memo (P/15). He has also stated blood stained and control soil were seized as per memo (P/6), seizure of lathi and a pair of Chappals as per seizure memos (P/7 and P/8) has also been proved by him. Beside the seizure of motorcycle from accused as per memo (P/8), 12 bore mouzer rifle from accused Manmohan and two live cartridges as per seizure memo (P/28), registration of motorcycle and licence of gun from Krishan Pratap Singh as per seizure memo (P/29) and knife at the instance of Pappu alias Ramnaresh. The chemical examination report (P/36) has also been produced beside serological report. On the aforementioned articles, except on control soil, presence of human blood was found, however, blood grouping could be done only of the few articles due to disintegration of blood.

13. The defence has examined Amarjeet Singh (DW.2) so as to prove that Manmohan Singh had gone to Chitrakoot has been rightly discarded in view of reliable ocular evidence on record and the statement of Amarjeet Singh does not inspire confidence.

14. We do not find any merit in the submission that signs of throttling on the neck were not found, it was not possible after so many wounds by penetrating weapons were caused to find signs of catching hold of the neck, after several incised wounds were inflicted, Manmohan was still not satisfied, he wanted to ensure that Santsingh had died and asked two of the accused again to inflict injuries, thereafter mercilessly several injuries were caused on the neck of deceased, thus, marks could not have been found in the circumstances on the neck and death was not due to throttling. Other serious injuries were found. By no stretch of imagination, case would fall u/s 304 IPC, hence we reject the submission made in that regard.

15. We find that conviction of appellants is rightly recorded by the trial Court. The sentence imposed calls for no interference in this appeal.

16. Resultantly, the appeal being devoid of merit is hereby dismissed. Conviction and sentence of appellants are hereby confirmed. We affirm the order of trial Court with respect to disposal of property.