

(2018) 04 MP CK 0101

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 319 OF 2002

Nabbo Alias Nawab Khan S/O Mante Khan

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 19-04-2018

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 374
Indian Penal Code, 1860 — Section 148, 149, 302
Indian Evidence Act, 1872 — Section 27

Citation : (2018) 04 MP CK 0101

Hon'ble Judges : SANJAY YADAV, J;ASHOK KUMAR JOSHI, J

Bench : Division Bench

Advocate : A.K. Jain, J. M. Sahni

Final Decision : Dismissed

Judgement

By this appeal filed u/s. 374 of the Cr.P.C,Â appellant Nabbo has challenged impugned judgment dated 24.5. 2002 passed by the Tenth Additional

Sessions Judge (Fast Track Court), Gwalior in Sessions Trial No. 257/1999, whereby appellant andÂ Â accused Ajmer Khan and Muneer Khan

were convicted and sentenced u/s. 148 of the IPC to undergo three years RI and u/s. 149/302 (on three counts) to undergo life imprisonment on each

count. It is also directed that other jail sentence and sentence of life imprisonment of appellant to run concurrently.

2. It would be significant to mention here that trial court acquitted Tampoo alias Pappu Khan from the above mentioned offences and during trial co-

accused Pratap Khan had expired and Hoshiar Khan was absconding. This appeal was originally filed by three appellants, namely (1) Ajmer Khan, (2)

Muneer Khan and present appellant Nabbo alias Nawab Khan. During pendency of this appeal original appellant no. 1Â Ajmer Khan has expired.

Hence the appeal in his respect has abated. Previously this appeal was withdrawn on behalf of original appellant no. 3 Nabbo alias Nawab

Khan (present appellant) on 12. 1. 2016 with liberty to file appropriate proceedings to recall the order of withdrawal of such appeal on arising the

occasion in future, if under scheme and policy of the State Government, the appellant is not released after remission of remaining awarded jail

sentence on the eve of Republic Day i.e. 26. 1. 2016 and thereafter on 7th July, 2017 judgment was delivered in this Criminal Appeal regarding

original appellant no. 2 Muneer Khan and his appeal was dismissed. Thereafter in compliance to an order dated 6.3. 2018 passed by this court in

M.Cr.C. No. 6295/2018 this appeal has been restored in relation to present appellant.

3. Prosecution case in brief is that in the mid night of 2nd-3rd March, 1999 at about 00--30 hours ie. on 3. 3. 1999 in the house situated in agricultural

land of village Siholi, complainant Pancham Singh (PW-1) was sleeping outside the house of his father- in- law with Nathuram (father- in-

law), Jagdeesh and Ramswaroop. Complainant heard at about 12 :30 in the night sound of firing of shot by a gun and on awakening

complainant saw that Jagdeesh, younger brother of his father- in- law has received firearm injury on his buttock and Nathu Singh, father in law of the

complainant was also injured by firearm and lying in the courtyard of his house and blood was oozing out from his chest. Later on, complainant saw

that in the other part of house Ramswaroop was lying injured and on his temple there was a injury caused by firearm. At that time Nathu Singh and

Ramswaroop had expired, but Jagdeesh was seriously injured. Complainant Pancham Singh reached at Police Station Maharajpura in the same mid

night on 3. 3. 1999 at 2 am and lodged FIR (Ex. P-1) against unknown persons, wherein it was mentioned that sound of three shots fired by

miscreants were heard by him and he saw three accused persons each having a 12 bore gun, which could be identified by him later on seeing. FIR

was recorded by Inspector N.K. Upadhyay (PW-10).

4. Investigating Officer N.K. Upadhyaya (PW-10) reached spot on 3.3. 1999 at 9-05 am and prepared spot map (Ex. P-2) and at the same

time he seized separately blood stained soil and separately plain soil from all the three places where each deceased or injured had fallen and 12

bore dots of 12 bore cartridges and 20 ticks of cartridge of 12 bore and an empty cartridge of 12 bore were found at about 20 ft. away from the scene of occurrence and at about 15 ft. away two empty cartridges of 12 bore were also found and all these materials were seized vide seizure memo (Ex. P-3) separately. Merg reports were registered. Inquest memo of two deceased persons were prepared separately and their dead bodies were sent for postmortem. Injured Jagdeesh was sent to J.A. Hospital, Gwalior, where Dr. Surendra Singh Jadon (PW-5) examined injured Jagdeesh and recorded his MLC (Ex. P-6). On 3.3. 1999 in Medical College, Gwalior Dr. Vijay Kumar Deewan (PW-6) at 10:30 am started postmortem of deceased Ramswaroop and recorded his postmortem report (Ex. P-7). On the same day Dr. Vijay Kumar Deewan (PW-6) at 11:15 am started postmortem of deceased Nathuram and recorded his postmortem report (Ex. P/8). Injured Jagdeesh was radio-logically examined in above mentioned hospital on 3.3. 1999. On 5.3. 1999 at about 11:00 am Jagdeesh expired in the hospital. Therefore, inquest memo was prepared and his dead body was also sent for postmortem. On 5.3. 1999 Dr. Pooranlal Gupta (PW-3) at 1:30 p.m. Started postmortem of Jagdish and recorded postmortem report (Ex. P/5).

5. During investigation on 10.3. 1999 accused Ajmer, Muneer Khan and Nabbo alias Nawab Khan were arrested vide arrest memo (Annexure P/11). On disclosure statement given by each of the above mentioned accused, separate memos u/s. 27 of the Evidence Act, Ex. P/12, Ex. P/13 and Ex. P/14 were prepared by investigating officer, but thereafter no weapon could be recovered after search of relating houses. Search memos Exs. P/15, P/16 and P/17 were respectively prepared. Seized material were sent to regional FSL, Gwalior with a letter dated 26. 5. 1999 sent by S.P., Gwalior. After completing investigation and showing co-accused Hoshier as absconding, charge-sheet was filed before court of JMFC, Gwalior who committed criminal case to Sessions Court, who transferred the sessions trial to the above mentioned trial court.

6. Each tried accused denied the framed charges u/s. 148 and 149/302 (on three counts). It was the defence of tried accused persons that they have been falsely implicated as they were having no enmity with deceased persons and actually in dark of the night unknown persons murdered

Nathuram, Jagdeesh and Ramswaroop and at the time of incident alleged eye witnesses Geeta and Meena were not present in village Siholi as they have come to Siholi next day after receiving information about the incident, but being relatives of deceased persons both these ladies have given false evidence against them. No any defence witnesses was examined before the trial court. The trial court after placing reliance on evidence of eye witnesses given by Geeta (PW-2), Meena (PW-4) and Pancham Singh (PW-1) convicted and sentenced above mentioned accused as aforesaid.

7. The learned counsel for the appellant vehemently contended that in the prompt FIR (Ex. P-1) presence of alleged eye witnesses Geeta and Meera in the relating house and their names were not mentioned and FIR was lodged by complainant Pancham Singh (PW1) against unknown persons, though Geeta and Meena deposed that they have identified accused persons at the time of incident itself. It is also argued that during investigation nothing could be recovered from appellant despite his alleged disclosure statement. It was argued that contrary to his FIR (Ex. P-1) complainant deposed before trial court that at the time of incident he had identified accused Nawab Khan, Ajmer Khan and Muneer Khan and there were material contradiction and inconsistencies between evidence given by these alleged eye witnesses and their police statements recorded during police investigation. It is also argued that the learned trial court erred in believing on infirm, unnatural and contradictory evidence of these eye witnesses and in convicting and sentencing relating accused. Hence, it is prayed that present appeal be allowed and he be acquitted from the above mentioned offences.

8. Per contra, learned public prosecutor appearing on behalf of respondent/ State supporting the impugned judgment contends that trial court has properly and legally appreciated and analyzed the entire evidence available on record and had not erred in convicting and sentencing appellant.

Therefore, dismissal of appeal is prayed. 9. It is clear from the evidence of Doctor Vijay Kumar Deewan (PW-6) and his postmortem report (Ex.

P/7) that in medical college Gwalior on 3. 3. 1999, in the morning, on starting postmortem of deceased Nathuram aged about 55 years, he found

following injuries:-

1. An entrance wound caused by firearm on left side of chest, about 3 ½ cm below from the joint of sternum and clavicle, size 1x1 cm.

2. A exit wound caused by firearm on back, below the left shoulder, size 2x2 cm and from this exit wound the membrane of intestine was coming out.

3. Multiple wounds caused by firearm on upper side of left thigh and lower region of abdomen in area 22x14 cm and each wound was of size of pin head and all were superficial.

10. Dr. Deewan on dissection of dead body of deceased Nathusingh found that in left side of thoracic cavity blood was clotted and 3rd rib of left

side was broken and blood was filled in membrane of lungs and left lung and heart were lacerated and just below exit wound, the 7th and 8th

ribs were broken and stomach and spleen were ruptured and blood was filled in abdominal cavity. Dr. Deewan opined that deceased

Nathusingh had died due to injuries caused by firearm within 6 to 24 hours from starting of his postmortem and the mode of his death was

homicidal.

11. It is also clear from the evidence of Dr. Vijay Kumar Deewan (PW6) and his postmortem report (Ex. P/7) that on the same day in the morning

at the time of starting postmortem of dead body of Ramswaroop, he found that on the right side of his face, there was entrance wound caused by

firearm near the ear due to which ear was totally lacerated and hanging and this wound was of size 7x 3 cm.

12. Dr. Deewan in dissection of dead body of Ramswaroop found that opening of cranial fossa of skull was broken and blood was clotted in the

brain and fifth Cervical Vertebra was also broken and blood was clotted at this place and on right side of the neck and the relating blood

arteries were ruptured and he took out seven pellets and a cork piece from neck and sealed them in a packet and sent them to relating police

station. In opinion of Shri Deewan (PW-6), the injuries of Ramswaroop were ante-mortem and were sufficient to cause death in ordinary course of

nature and the track of projectile in the body was towards downward and backward and deceased had died within 6 to 24 hours from starting of

his postmortem and nature of death was homicidal. It is established from aforesaid medical evidence that deceased Nathuram and Ramswaroop

met with homicidal death.

13. It is clear from the evidence of Dr. Surendra Singh Jadon (PW-5) and his MLC (Ex. P/6) that on 3rd March, 1999 in J.A. Hospital, Gwalior he

examined injured Jagdeesh and found following injuries on his body:-

1. A gun shot wound situated on left buttock, size 2x2 cm and 3 cm deep and blood was oozing out from that wound and there was some blackening

all around the entry wound.

2. Gun shot wound on right buttock, size 1x1x7 cm but blood was not oozing out from this wound and he found no any exit wound on the body of

injured Jagdeesh and for ascertaining the position of the pellets or bullet he had advised for radio-logical examination of both buttocks of Jagdeesh.

3. One penetrating wound on left arm .

4. Abrasion on left side of chest size 2x2 cm.

14. In opinion of Dr. S.S. Jadon above mentioned injuries nos. 1 and 2 were caused to Jagdeesh by firearm and he referred Jagdeesh for treatment to

Surgical Specialist. It is clear from the evidence of Dr. Vijay Kumar Verma (PW-12) and his x-ray report (P-19) that on 3.3. 1999, in x-ray

examination of left forearm and gluteal region, radioopaque shadows of metallic density (pelets) were visible.

15. It is clear from evidence of Dr. Pawan Lal Gupta (PW-3) and his P.M. report (Ex. P/5) that on 5. 3. 1999 in JAH hospital, Gwalior at the time of

starting postmortem of dead body of deceased Jagdeesh (PW3), he found stitches wound just over the navel about 21 c.m long and also found in total

10 small entry wounds on left side of chest caused by pellets with blackening and also found lacerated wound appearing to be entrance wound of size

2x1 cm on right buttock and corresponding to these entry wounds on right hip, at 92 c.m. away on left hip, four wounds of exit of firearm each of

size 3x3 c.m. were found on left hip and on dissection of dead body Sacral bone was found broken in two pieces and in his opinion Jagdeesh

had died due to injuries caused by firearm within 24 hours from starting of his postmortem and mode of death was homicidal.

16. The deaths of all the three deceased persons Nathuram, Ramswaroop and Jagdeesh were caused by firearms and the nature of their deaths

as homicidal has not been disputed by the appellants.

17. Before trial court complainant Pancham Singh (PW-1) and Geeta (PW-2) and Meena (PW-3) deposed against all the three original appellants of

this appeal Ajmer Khan, Muneer Khan and Nabbo alias Nawab Khan. Pancham Singh (PW-1) also proved his prompt FIR (Ex. P-1) lodged against

unknown accused persons, though he deposed before the trial court that at the time of incident he has identified all the three original appellants of this

Criminal Appeal, but names of these three appellants are missing in his report and police statement. Much emphasis has been given by learned

counsel for the appellant that names of eye witnesses Geeta (PW-2) and Meena (PW-3) and their presence at the time of incident is also not

mentioned in the FIR, hence it is argued that their presence is totally doubtful. Man Singh (PW-7) deposed that in the night of day of incident 2.3.

1999 he was in his agricultural land and his field is situated at some distance from the agricultural land of deceased Nathuram and in the mid-night at

about 12-1 on hearing the sound of firing of shots by gun he got awakened and that night was moon lit night and after hearing the sound of

firing, he saw that Ajmer Khan, Muneer Khan and Nabbo alias Nawab Khan with two to three other persons were going from the way mutually

talking that they have killed and now certainty is assured. Mansingh also deposed that thereafter he visited the well situated in the agricultural land

of Nathuram, then he saw that Nathuram was lying on earth injured by pellets and Jagdeesh was lying on hard bed and Ramswaroop was lying on a

cot and all these three persons were injured by firearms and at that time Nathuram and Ramswaroop were dead but Jagdeesh was alive. He

also deposed that in the mid-night at 3 or 3:30 a.m. inspector Kushwaha reached on spot and in next morning, Station Officer N.K. Upadhyay (PW-

10) also reached on spot.

18. Complainant Pancham Singh (PW/1) deposed that deceased Nathuram, resident of village Siholi was his father-in-law and Ramswaroop was

son of his maternal father-in-law and Jagdeesh was his cousin father-in-law and complainant was married with Prerna Bai, daughter of deceased

Nathuram. Complainant deposed that due to invitation, he had gone to his in-law's house and in the night of date of incident he, Nathuram and

Jagdeesh were sleeping in front of Nathuram's house on different cots and Ramswaroop was sleeping in a separately constructed hut (Madhia)

adjacent to Nathuram's house and he got awakened in the mid-night about 12-30 hours after hearing the sound of firing and after

awakening Nathuram stood-up from his cot, then Nathuram received fire arm injuries on his chest and at the same time Jagdeesh tried to stood-up

from his cot, then Jagdeesh received injuries caused by firearm on his buttock. Complainant deposed that thereafter he went to see Ramswaroop then

he found that Ramswaroop had received fire arm injuries on his temple of skull and he was lying dead on his cot. Complainant clearly deposed that

three persons have fired in that night who were identified by him. One accused was having 12 bore double barrel gun and, another was having 12 bore

single barrel gun and 3rd was having smaller gun. Complainant deposed that in the mid-night he lodged FIR (Ex. P/1) at Police Station Maharajpura,

but he did not know that why accused persons have killed above mentioned three persons. He also deposed that at the time of incident, in Nathuram's

house, his wife Dhanti Bai (his mother-in-law) and her daughters Meena and Geeta were present, who came on the scene of occurrence. In

cross-examination, complainant deposed that house of above mentioned three accused persons were at about one furlong distance from the house of

Nathuram.

19. Pancham Singh (PW-1) clearly deposed in cross-examination (para 17 and 18) that he had mentioned the name of above mentioned three original

appellants at the time of lodging FIR (Ex. P1) and after arrest of these accused persons, police conducted Test Identification Parade of these

accused persons by him in jail about 25 days after the incident. But, the names of above mentioned three accused persons are missing in FIR and

actually no Test Identification Parade was conducted during investigation, hence his evidence has been highly criticized by the appellant's counsel.

In mid-night at 00-30 hours incident had occurred and at about 2:00 am in the midnight Pancham Singh had lodged FIR at Police Station

Maharajpura which is also proved by its scribe N.K. Upadhyay (PW/10). Hence, the presence of complainant Pancham Singh (PW-1) at the

relevant time could not be questioned.

20. Eye-witnesses Geeta (PW/2) and Meena (PW/4) deposed that deceased Nathuram was her father, Jagdeesh was her uncle and Ramswaroop

was son of their maternal uncle (mama) and complainant Pancham Singh is

their brother-in-law. Both these ladies deposed that incident occurred in the night of festival of Holi and being daughter of deceased they came to their father's house at village Siholi in accordance with the custom.

They deposed that Nathu Singh, Jagdeesh and Ramswaroop were sleeping out of the house and Ramswaroop was sleeping in his hut (Madhia), but they were sleeping inside their house with their mother and that room wherein they were sleeping was having a door, but that door was not having panel (palla) and in the mid night after hearing sound of firing by gun, on awakening and standing, they saw on spot Ajmer Khan was having single bore gun present appellant Nabbo was having double barrel gun and Muneer with small gun were present. Geeta deposed that despite these original appellants, with them two unknown persons were also present and these three persons fired shot from their guns and murdered their father.

Nathu Singh and Ramswaroop and injured uncle Jagdeesh and after firing accused persons ran away. Meena deposed that she heard sound of five shots fired from gun. Meena deposed that after incident injured Jagdeesh was taken to Police Station through a tractor and matter was reported by her brother-in-law Pancham Singh.

21. Much emphasis has been given by the learned counsel for the appellant that Pancham Singh (PW-1), Geeta (PW-2), Meena (PW-4) and Man Singh (PW-7), who have deposed against the appellant and other co-accused persons are relatives of the deceased and there were material contradictions and inconsistencies among their evidence and between deposition of each witness and his police statement. As names of Geeta (PW-1) and Meena (PW-4) have not been mentioned in the prompt FIR, it is argued that at the time of incident they were at their in-laws house but later on planted as eyewitnesses, as I.O. N.K. Upadhyay (PW/10) clearly deposed that he recorded police statements of both sisters for the first time on 7th March, 1999. FIR was lodged against only three unknown persons, but complainant Pancham Singh (PW-1) and Man Singh (PW-7) deposed that some other persons also accompanied with the above mentioned three accused persons who fired on above mentioned three deceased persons.

22. It is well established that evidence of relative witnesses to the deceased persons should be carefully scrutinized. It is also well settled that it is not necessary that FIR should be an encyclopedia, containing each and every fact

regarding the incident. It is common experience that after Holi, Bhaiduj is celebrated by sisters with brothers and generally married daughters visit their parent's house at the time of Holi. Hence, the presence of daughters Geeta (PW-2) and Meena (PW-1) of Nathuram could not be doubted. Pancham Singh (PW-1) clearly deposed in his cross-examination (Para-21) that before lodging FIR, at his father-in-law's house he met with his mother-in-law (wife of the deceased Nathuram) and both sisters-in-law Meena and Geeta, but at that time no talking between them happened and all these three ladies did not accompany him for lodging report. The mental condition just after the incident of these ladies could be presumed whose husband or father and other near relative were murdered and Jagdeesh was seriously injured. Geeta (PW-2) clearly deposed in para 10 that after seeing the dead bodies, she became unconscious, hence she could not say that after incident which neighbours have visited their house. The presence of Nathuram's wife also could not be doubted.

Investigating Officer N.K Upadhyay has offered explanation (para-18) in his cross-examination that after the incident, the family members of the deceased were in a state of shock and mourn, hence he recorded the police statement of Geeta (PW-2) and Meena (PW-4) on 7.3. 1999. In such situation, it could not be said that there is no explanation of late recording of police statements of above mentioned daughters of deceased Nathuram.

23. Much emphasis has been given on alleged contradictions and omissions between evidence and relating police statement of Geeta (PW-2), Meena (PW-4), Pancham Singh (PW-1) and Man Singh (PW-7) and similarly contradictions and omissions of FIR with evidence of complainant Pancham Singh (PW-1). Though the names of three accused persons who fired were not disclosed in prompt FIR (Ex. P-1) but it was clearly mentioned in FIR that complainant heard the sound of three fires made by guns and he had seen three miscreants with guns, and he could identify them in future after seeing them. The explanation for not conducting Test Identification Parade during investigation has come in the cross-examination of investigating officer N.K. Upadhyay (PW-10), who has clearly deposed that as names of three accused persons, who fired on deceased persons came in the police statements of Geeta and Meena and also in the police statement of Man Singh and all these witnesses and accused persons

were originally resident of same village Siholi and neighbours, hence there was no necessity for conducting TIP. It is observed by the Apex

Court in the cases of *State of Punjab v. Gurmeet Singh* reported in AIR 1996 SC 1393 that the complainant/victim has no control over

investigating officer, hence due to negligence or any default of investigating officer, the evidence of otherwise truthful witnesses could not be discarded.

24. It appears that complainant Pancham Singh (PW-1) has made some improvements in his deposition on the point that he had identified the

convicted three accused persons at the time of incident, but in Indian legal system, if the evidence of any witness on any point appears to be

false, then his total evidence could not be discarded. On this point the citation of *State of U.P. vs. Anil Singh* reported in AIR 1988 SC 199 is

referable, wherein it is held that if there is a ring of truth in the main, total evidence of such witness should not be rejected due to

exaggerations and it is the duty of the court to cull out the nuggets of truth from the evidence unless there is reason to believe that the inconsistencies

of falsehood are so glaring as utterly to destroy the confidence in the witnesses. Pancham Singh (PW-1) within few hours after the incident

reached police station Maharajpura and lodged FIR (Ex. P-1), hence only due to above mentioned omissions or improvement his total evidence could

not be discarded, which is materially corroborated by evidence of other prosecution witnesses. The relating alleged contradictions or omissions among

depositions of above mentioned witnesses and their police statements are not on material points.

25. Geeta (PW-2) deposed in para 15 that from the room where she was with her mother and sister in the light of electric bulb and in the moon lit

night she saw incident and identified convicted three accused persons. Even complainant has mentioned in FIR that he had seen all the three

miscreants who fired by three guns and could identify them in future. There are some contradictions regarding total numbers of fired shots from guns,

which do not appear material. Even it was not suggested to the complainant Pancham Singh (PW-1) in his cross-examination that at the scene of

occurrence there was total dark, hence assailants could not be seen and identified. At the time of Holy or just thereafter moon lit nights occurred,

hence in the night in such light identification of relating accused persons by family members of deceased, who were present at the scene of

occurrence or at some distance like Mansingh do not appear to be impossible.

26. Much emphasis has been given by the learned counsel for the appellant that during investigation no any gun could be recovered from any

accused and relating disclosure statements given by accused persons are useless and immaterial. It is clear from the evidence of investigating

officer N.K. Upadhyay (PW-10) that during investigation, no any gun could be recovered from any arrested accused, hence the relating evidence

regarding alleged disclosure statements of relating accused and relating search memos appear to be immaterial. It is well established that

evidence of eye-witnesses could not be discarded only because of non-seizure of weapons used in causing murder.

27. It is also well established that where eye witnesses account of murder by eye witnesses is available, then motive is not having much

important but in present case there is evidence on record regarding alleged motive of murders in evidence given by Geeta (PW-2), Meena (PW-

4) and Mansingh (PW-7) supported by some other prosecution witnesses resident of other villages, namely Ramroop Singh (PW-8), Raghuveer

(PW-9) and Sunita (PW-11). It is clear from evidence of all these witnesses on this point that some years prior to the incident Sunita (PW-11),

married daughter of Raghuveer (PW-9) resident of village Suroor was abducted from her in law's house by Pratap Khan, Hoshiyar Khan and Tampoo

Khan on the pretext that her father is ill and thereafter Suneeta was brought by Hosihar Khan and Pratap Khan firstly to Murar, Gwalior and

thereafter to village Siholi at the house of Mante Khan close relative of convicted accused persons and later on information was sent by

deceased Jagdeesh and his brother Nathuram to Raghuveer that his abducted married daughter is brought to their village and thereafter police has

recovered Suneeta from Mante Khan's house. Suneeta (PW-11) clearly deposed that he was kept for a period of about 9 month at Mante Khan's

house at village Siholi. Suneeta deposed in her cross-examination that regarding her abduction a criminal case was pending against Hoshiyar Khan

and Pratap Khan in Bhind Court, wherein she also gave her evidence. Ramroop Singh (PW-8) resident of village Suroor deposed that Lal

Khan and his three sons are resident of his village and Lal Khan's three sons have abducted married daughter of his village and in recovery

of that girl deceased Nathuram helped and later on he heard that Nathuram has been murdered. He also deposed that sarpanch Chintaman of his

village was shot dead by Hoshiyar Khan and Pratap Khan and their companion.

28. Geeta has clearly deposed that abducted girl was kept in their village at the house of accused persons, then his uncle Jagdeesh (deceased) had

sent intimation that abducted girl is kept at accused persons' house and that girl was later on recovered by police from the house of accused persons

and only due to this reason his father Nathuram, uncle Jagdeesh and his cousin Ramswaroop were murdered by the convicted accused persons by

the trial court. There is no reason to disbelieve the evidence given by above mentioned witnesses Suneeta (PW-11), her father Raghuveer (PW-9)

and Ramroop Singh (PW-8) all resident of distant village. Therefore evidence of Geeta (PW-2), Meena (PW-4) and Mansingh (PW-7) is

corroborated by above mentioned witnesses of other village at relevant point.

29. we are of the considered opinion that the trial court has properly and legally appreciated and analyzed the entire evidence available on record

in the light of referred citations in impugned judgment and trial court did not commit any error in convicting the present appellant for the above

mentioned offences. The appeal filed by the present appellant Nabbo alias Nawab Khan appears to be devoid of any substance.

30. In the result the appeal filed by appellant Nabbo alias Nawab Khan is dismissed and his above mentioned conviction and sentence as recorded by

the trial court is affirmed. It is stated that one coaccused Hoshiyar Khan is still absconding as trial court has not passed any order regarding disposal

of seized material. The appellant Nabbo alias Nawab Khan be intimated with result of his appeal through relating jail superintendent.