
(2014) 12 SHI CK 0017
In the High Court Of Himachal Pradesh
Case No : Criminal Appeal No. 392 of 2010

Tarsem Lal

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 10-12-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 157, 161, 162, 162(1)
Evidence Act, 1872 — Section 134, 60
Penal Code, 1860 (IPC) — Section 302, 307, 452

Citation : (2014) 12 SHI CK 0017

Hon'ble Judges : Sanjay Karol, J;Piar Singh Rana, J

Bench : Division Bench

Advocate : Shivank Singh Panta, Advocate for the Appellant; Ashok Chaudhary, Additional Advocate General, Vikram Thakur, Puneet Rajta, Deputy Advocates General and J.S. Guleria, Assistant Advocate General, Advocate for the Respondent

Judgement

Sanjay Karol, J.—Appellant-convict Tarsem Lal, hereinafter referred to as the accused, has assailed the judgment dated 29.6.2010/7.6.2010, passed by Additional Sessions Judge, Fast Track Court, Una, District Una, Himachal Pradesh, in Sessions Trial No. 16/2009, titled as State v. Tarsem Lal, whereby he stands convicted of the offence punishable under the provisions of Sections 302 and 452 of the Indian Penal Code and sentenced to undergo imprisonment for life, in relation to an offence punishable under the provisions of Section 302 of the Indian Penal Code; imprisonment for a period of one year, in relation to offence punishable under the provisions of Section 452 of the Indian Penal Code; and pay fine of Rs. 5,000/- and Rs. 1,000/-, and in default thereof to further undergo simple imprisonment for a period of three months and one month, respectively.

2. It is the case of prosecution that Smt. Jiwana Kumari (PW-1), daughter-in-law of Krishna Devi (deceased), was teaching her son Master Shubham (PW-2) in the verandah of her house. On 7.7.2009 at 7 p.m., accused came with a dagger and after entering the house of the deceased gave a fist blow on the stomach of

Shubham. Jiwana Kumari tried to save her son. When Krishan Devi, who was closeby, tried to intervene, accused stabbed her with a dagger on vital part of her body, i.e. stomach. Jiwana Kumari, on telephone, informed her brother-in-law. Close relatives of Krishna Devi immediately rushed to the spot and took her to the Community Health Centre, Amb, where she was referred to the Zonal Hospital, Una, for treatment vide MLC (Ex.PW-12/A). However, she was taken to the hospital at Hoshiarpur (Punjab: A bordering State), where she was declared as having been brought dead. On receipt of information about the incident, ASI Mohinder Singh (PW-16), after making entry in the Daily Diary (Ex.PW-13/A), proceeded to the hospital alongwith Dev Raj. Narinder Kumar (PW-4), son of Krishan Devi, got recorded his statement (Ex. PW-4/A), under the provisions of Section 154 of the Code of Criminal Procedure, on the basis of which FIR No. 89, dated 7.7.2009 (Ex. PW-11/A), under the provisions of Section 307/ 452 of the Indian Penal Code, was registered at Police Station, Amb, District Una, Himachal Pradesh. Necessary investigation was conducted on the spot. Later on inquest report (Ex. PW-8/B & 8/C) was prepared and postmortem got conducted through Dr. O.P. Ram Dev (PW-8) and report (Ex.PW8/F) taken on record. Police took into possession blood stained bed sheet and clothes of the deceased vide Memo (Ex.PW-4/A). Also, weapon of offence, i.e. dagger (Ex. P-1) was recovered vide Memo (Ex. PW-1/A), on the basis of disclosure statement (Ex. PW-7/A), made by the accused, so recorded in the presence of Kamal Kishore (PW-7) and Dev Raj (not examined). Photographs of the spot were taken. Reports of the Forensic Science Laboratory (Ex.PW-8/D and 8/E), pertaining to the articles so recovered by the police, were taken on record. With the completion of investigation, which prima facie revealed complicity of the accused in the alleged crime, challan was presented in the Court for trial.

3. Accused was charged for having committed an offence punishable under the provisions of Sections 452 and 302 of the Indian Penal Code, to which he did not plead guilty and claimed trial.

4. In order to establish its case, prosecution examined as many as 19 witnesses and statement of the accused under the provisions of Section 313 of the Code of Criminal Procedure was also recorded, in which he took up the following defence:

"I am innocent. Complainant party intended to install public tap in front of my cowshed to which I objected. On this, the complainant quarreled with me, abused me & Jiwana Kumari, who was possessing a knife accidentally hit Krishna Devi, although she want to stab me. Krishna Devi had pushed me, I fell down & knife accidentally hit Krishna Kumari."

No evidence was led in defence.

5. Finding the testimony of prosecution witnesses to be fully inspiring in confidence, more specifically spot witnesses, trial Court convicted the accused of the charged offence and sentenced him as aforesaid. Hence, the present appeal by the accused.

6. Assailing the judgment, Mr. Shivank Singh Panta, learned counsel for the accused, made the following submissions: (i) Master Shubham (PW-2) being a tutored witness, his testimony cannot be relied upon; (ii) testimony of Jiwana Kumari (PW-1) inspires no confidence, for immediately after the incident, she never raised any hue and cry; (iii) Manju Bala (PW-3) contradicts the version so narrated by Jiwana Kumari, thus rendering her version to be uninspiring in confidence and the witness to be unreliable; (iv) non-examination of all the witnesses to the seizure memo renders the prosecution case to be fatal; (v) in view of law laid down by Hon'ble the Supreme Court of India in Pratap Singh and Another Vs. State of Madhya Pradesh, , investigation being faulty, for the spot map did not depict exact location of eye-witnesses, accused merits acquittal; and (vi) even by way of link evidence, no case, beyond reasonable doubt, stands established to link the accused with the crime. It is urged that blood found on the weapon of offence could not be linked to the crime. In support, reliance is also sought on following decisions; (i) Krishan and Another Vs. State of Haryana, ; (ii) State of H.P. Vs. Parkash Chand and Others, ; and (iii) Sakal Deep Vs. U.P. State, .

7. Mr. J.S. Guleria, learned Assistant Advocate General, supports the judgment based on testimonies of the witnesses, fully inspiring in confidence.

8. Having heard Mr. Shivank Singh Panta, learned counsel for the appellant-accused, as also Mr. Ashok Chaudhary, learned Additional Advocate General and Mr. J.S. Guleria, Assistant Advocate General, on behalf of the State, and minutely examined the testimonies of the witnesses and other documentary evidence so placed on record by the prosecution, we are of the considered view that no case for interference is made out at all. We find that the judgment rendered by the trial Court is based on complete, correct and proper appreciation of evidence (documentary and ocular) so placed on record. There is neither any illegality/infirmity nor any perversity with the same, resulting into miscarriage of justice.

9. The incident in question, as per the prosecution, is witnessed by Jiwana Kumari (PW-1), her son Master Shubham (PW-2) and her sister-in-law (Devrani) Manju Bala (PW-3).

10. The fact that the aforesaid witnesses come from the same family and that relations between them and the accused were not cordial, cannot be disputed.

11. The Apex Court in Baitullah and another Vs. State of U.P., , has succinctly dealt with the issue of appreciation of testimony of a victim as also an interested witness. It stands clarified that an interested witness would only be such who has some direct interest in having the accused somehow or the other convicted for some animus or for some other reason. The Court clarified that merely because a witness has interest, by itself, cannot be a ground to discard his testimony.

12. Apex Court also clarified the difference between an "interested witness" and a "natural witness" in Chittar Lal Vs. State of Rajasthan, ; Namdeo Vs. State of Maharashtra, ; State of Maharashtra Vs. Tulshiram Bhanudas Kamble and

Others, ; Takdir Samsuddin Sheikh Vs. State of Gujarat and Another, ; Rakesh and another v. State of Madhya Pradesh, (2011) 9 SCC 698; Thoti Manohar Vs. State of Andhra Pradesh, ; and Kanhaiya Lal and Others Vs. State of Rajasthan, .

13. We find the testimonies of both PW-1 and PW-2 to be that of natural witnesses and not interested witnesses in the sense that they would ensure conviction at all cost and under any circumstances, even if they have to depose falsely.

14. Significantly, they are eye witnesses to the occurrence of the incident.

15. Jiwana Kumari states that on 7.7.2009 at about 7 p.m., she was in the verandah of her house, where her son Shubham, was studying. Accused came carrying a knife in his hand and threatened to kill all. He gave a fist blow in the abdomen of Shubham. When she tried to save him, accused caught her. At that time, her mother-in-law Krishna Devi (deceased) intervened and pushed the accused. Though the witness was rescued, but accused stabbed her mother-in-law with a knife in her stomach. Soon wife of the accused came and took him away. Then the witness went to the STD Booth and telephonically informed the incident to her husband and brother-in-law. On their arrival, Krishna Devi was taken to the Community Health Centre, Amb, where she was referred to the Zonal Hospital, Una, but was taken to the hospital at Hoshiarpur. Unfortunately, on the way, Krishna Devi died. In cross-examination, she has explained that since mobile phone was not available at home, she went to the STD Booth to make the call. She specifically denies that she was the assailant or that when deceased pushed the accused, knife blow landed on the stomach of the deceased. She denies not having raised any hue and cry. That deceased died on account of lack of proper treatment also stands denied by her. To us witness appears to be truthful. Her testimony is clear, honest, unshaky and fully inspiring in confidence. Her testimony is free from blemish or doubt.

16. To our mind, version of this witness stands corroborated by Shubham, aged 9 years. To us, witness, who appears to be intelligent, has deposed in a truthful manner. He categorically states that accused stabbed his grandmother, at a time when both he and his mother were present. At that time, he was studying. In no unequivocal terms he states that accused gave him a fist blow. When his mother tried to save him, accused caught her from the arm. Then deceased came and pushed the accused and enquired from him as to why he was giving beatings. At that accused stabbed the deceased in the stomach. No doubt, in cross-examination, witness states that he was told by his parents to depose as such in the Court, but then on a question put by the Court, he clarifies that "I had seen the occurrence and had stated before this Court on the basis of same. My parents told me to depose the truth". Thus, this witness cannot be said to be tutored. His version is natural, truthful and free from blemish. He is categorical about the spot of crime and the events which led to the stabbing of the deceased.

17. Manju Bala states that hearing cries of Jiwana Kumari, she rushed to the spot

and saw her mother-in-law lying in the verandah, bleeding profusely. Also accused, who was holding a dagger, was saying that he would kill all of them. However, In the meantime, his wife came and took him away.

18. We find testimonies of these witnesses to be absolutely inspiring in confidence. Defence taken by the accused cannot be said to have been probablized at all. Dagger (Ex. P-1) is not a kitchen knife. Accused entered the house of the deceased armed with a dagger and gave blow to the deceased without any provocation or sufficient cause. His intent was evidently clear. Occurrence is not sudden, but premeditated. No male member of the family of the victims was present in the house at that time. Finding such opportunity, accused came armed with a deadly weapon, only to cause bodily injury and kill the child and the ladies. First, he hit the child in the abdomen and then stabbed the deceased, a lady, on the vital part of her body. Testimonies of witnesses fully inspire in confidence. We do not find any contradiction therein. In one voice, they have narrated the incident, without any contradiction, variation or discrepancy. Witnesses are trustworthy and absolutely reliable.

19. We further find that Narinder Kumar (PW-4), son of the deceased, has corroborated the version of spot witnesses. It appears that decision to take the deceased to Hoshiarpur was taken by the family, after due consultation. Noticeably, Hoshiarpur is a big town, not far off from the place of incident, having all modern medical facilities.

20. Ocular version stands corroborated by way of link evidence. Weapon of offence was recovered from nearby fields, in the presence of Up Pradhan Lekh Raj (PW-5) and Prakash Chand.

21. Lekh Raj has categorically deposed that weapon of offence, identified by Jiwana Kumari, was recovered from the fields. He associated himself on the asking of police. It was the accused who got the weapon recovered vide seizure memo (Ex.PW-1/A). This version stands materially corroborated by Jiwana Devi, who further states that the accused led the police party towards the fields, where maize was sown, wherefrom dagger was recovered.

22. Investigating Officer Mohammed Arshad (PW-15) has further deposed that the accused, who was arrested on 8.7.2009, made disclosure statement (Ex. PW-7/A) in the presence of Kamal Kishore and Dev Raj, pursuant to which recovery was effected from the fields. It stands established on record, through the testimonies of these witnesses, that it was sealed with seal impression "T". Sample of seal stands proved on record as Ex. PW-14/D. Dagger was kept in safe custody and sent for chemical analysis to the Forensic Science Laboratory, which fact also stands proved through the testimony of these witnesses as also MHC Jagtar Singh (PW-10).

23. Also, clothes of the deceased and the accused, i.e. bed sheet (Ex.P-2), Salwar (Ex.P-3) and shirt (Ex. P-5) were taken into possession by the police, which fact stands established by the Investigating Officer. Report of FSL, Junga,

does not establish cut marks on such clothes of the deceased to be caused by a sharp edged weapon.

24. In *Vadivelu Thevar Vs. The State of Madras*, , the apex Court held as under:

"11. In view of these considerations, we have no hesitation in holding that the contention that in a murder case, the court should insist upon plurality of witnesses, is much too broadly stated. Section 134 of the Indian Evidence Act, has categorically laid it down that "no particular number of witnesses shall, in any case, be required for the proof of any fact." The legislature determined, as long ago as 1872, presumably after the consideration of the pros and cons, that it shall not be necessary for proof or disproof of a fact, to call any particular number of witnesses. In England both before and after the passing of the Indian Evidence Act 1872, there have been a number of statutes as set out in Sarkar's "Law of Evidence" - 9th Edition, at pages 1100 and 1101, forbidding convictions on the testimony of a single witness. The Indian Legislature has not insisted on laying down any such exceptions to the general rule recognized on S. 134 quoted above. The section enshrines the well recognized maxim that "Evidence has to be weighed and not counted." Our Legislature has given statutory recognition to the fact that administration of justice may be hampered if a particular number of witnesses were to be insisted upon. It is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of uncommon occurrence where determination of guilt depends entirely on circumstantial evidence. If the Legislature were to insist upon plurality of witnesses, cases where the testimony of a single witness only could be available in proof of the crime, would go unpunished. It is here that the discretion of the presiding judge comes into play. The matter thus must depend upon the circumstances of each case and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. Even as the guilt of an accused person may be proved by the testimony of a single witness, the innocence of an accused person may be established on the testimony of a single witness, even though a considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution. Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:

- (1) Wholly reliable.
- (2) Wholly unreliable.
- (3) Neither wholly reliable nor wholly unreliable.

12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way - it may convict or may acquit on the testimony of a

single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. There is another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses. Situations may arise and do arise where only a single person is available to give evidence in support of a disputed fact. The court naturally has to weigh carefully such a testimony and if it is satisfied that the evidence is reliable and free from all taints which tend to render oral testimony open to suspicion, it becomes its duty to act upon such testimony. The law reports contain many precedents where the court had to depend and act upon the testimony of a single witness in support of the prosecution. There are exceptions to this rule, for example, in cases of sexual offences or of the testimony of an approver; both these are cases in which the oral testimony is, by its very nature, suspect, being that of a participator in crime. But, where there are no such exceptional reasons operating, it becomes the duty of the court to convict, if it is satisfied that the testimony of a single witness is entirely reliable. We have therefore, no reasons to refuse to act upon the testimony of the first witness, which is the only reliable evidence in support of the prosecution."

[See also: Gulam Sarbar Vs. State of Bihar (Now Jharkhand), ; Veer Singh and Others Vs. State of U.P., ; R. Shaji Vs. State of Kerala, ; Kusti Mallaiah Vs. The State of Andhra Pradesh, ; Jagdish Prasad and others v. State of M.P., (1995) SCC (Cr.) 160; Sohrabkhan v. State of Madhya Pradesh, 1992 Supp (2) SCC 173; and Vahula Bhushan alias Vahuna Krishnan Vs. State of Tamil Nadu,].

25. The apex Court in Govindaraju @ Govinda Vs. State by Srirampuram P.S. and Another, , held as under:

"25. Equally well settled is the proposition of law that where there is a sole witness to the incident, his evidence has to be accepted with caution and after testing it on the touchstone of evidence tendered by other witnesses or evidence otherwise recorded. The evidence of a sole witness should be cogent, reliable and must essentially fit into the chain of events that have been stated by the prosecution. When the prosecution relies upon the testimony of a sole eye-witness, then such evidence has to be wholly reliable and trustworthy. Presence of such witness at the occurrence should not be doubtful. If the evidence of the sole witness is in conflict with the other witnesses, it may not be safe to make such a statement as a foundation of the conviction of the accused. These are the few principles which the Court has stated consistently and with certainty.

26. Reference in this regard can be made to the cases of Joseph Vs. State of Kerala, and Tika Ram v. State of Madhya Pradesh (2007) 15 SCC 760. Even in the case of Jhapsa Kabari and Others etc. Vs. State of Bihar, , this Court took the

view that if the presence of a witness is doubtful, it becomes a case of conviction based on the testimony of a solitary witness. There is, however, no bar in basing the conviction on the testimony of a solitary witness so long as the said witness is reliable and trustworthy.

27. In the case of Jhapsa Kabari (supra), this Court noted the fact that simply because one of the witnesses (a 14 years old boy) did not name the wife of the deceased in the fardbayan, it would not in any way affect the testimony of the eye-witness i.e. the wife of the deceased, who had given graphic account of the attack on her husband and her brother-in-law by the accused persons. Where the statement of an eye-witness is found to be reliable, trustworthy and consistent with the course of events, the conviction can be based on her sole testimony. There is no bar in basing the conviction of an accused on the testimony of a solitary witness as long as the said witness is reliable and trustworthy."

26. In the instant case testimony of the prosecution witnesses is found to be wholly reliable. Hence there was no need for the prosecution to have examined the other independent witness. Quality and not quantity of evidence matters. In the event of credible evidence already on record there was no need for the prosecution to have multiplied the number of witnesses. We are taking this view by relying upon the ratio of law laid down by the Apex Court in *Gurminej Singh and others Vs. State of Punjab*, .

27. In *State of Rajasthan Vs. Om Prakash*, , the Apex Court held as under:-

"14. In *State of H.P. v Gian Chand* [2000 (1) SCC 71] Justice Lahoti speaking for the Bench observed that the Court has first to assess the trustworthy intention of the evidence adduced and available on record. If the court finds the evidence adduced worthy of being relied on then the testimony has to be accepted and acted on though there may be other witnesses available who could have been examined but were not examined."

28. It is true that blood found on the dagger was insufficient for further examination, but then this fact would have no bearing on the outcome of the decision. The fact that deceased died as a result of stab injury cannot be disputed. In any event, such fact stands established on record through the testimony of Dr. O.P. Ram Dev (PW-8), who conducted postmortem of the dead body. According to him, deceased died as a result of hemorrhagic shock due to "hemoperitoneum and peritonitis due to injury to small intestine and omentric and mesenteric vessels leading to haemorrhage due to stab wound by sharp weapon which led to hemorrhagic shock and cardio respiratory failure". Doctor found following injuries on the body:

Incised wound 1.75 inch in size. Peritoneal cavity was full of blood and approximately it contained 4-5 liters of blood. On opening the abdomen peritoneum showed cut 1.75 inches mesenteric arteries were found to be cut through and through.

Small intestine (ileum) showed cut would 3.4 inch in circumference. Mucosa and serosa and muscle layer cut margins were found to be sharp and regular.

29. Dr. Praveen Kumar (PW-17), who first examined the deceased, has also deposed that there was incised wound measuring 4 cm in length, which was dangerous to life. He issued report (Ex.PW-17/A).

30. In Pratap Singh (supra), the Hon''ble Supreme Court of India, had an occasion to deal with a case where the High Court had held that any statement made in respect of a map alleged to have been prepared on the information supplied by other persons, is inadmissible in evidence being hearsay. All the statements recorded in the map are the statements of police and are not admissible in evidence under Section 162 of the Code of Criminal Procedure. The Court did not reverse such findings, but however only observed that if during investigation, it comes to notice of the Investigating Officer that some of the witnesses neither cited nor examined, who had witnessed the occurrence, the Officer was duty bound to disclose the spot from where the witnesses had seen the occurrence. The spot map had to be prepared accordingly, apart from recording their statements, under the provisions of Section 161 of the Code of Criminal Procedure. Significantly, the Court did not hold that mere failure on the part of the Investigating Officer to do so, would ipso facto render the prosecution case to be fatal.

31. Site plan has no probative value, other than statement made by a witness, to the Police Officer, during the course of investigation. The apex Court, while dealing with the issue in hand, in Jagdish Narain and another Vs. State of U.P., , has held as under:

"9. In responding to the next criticism of the trial Court regarding the failure of the Investigating Officer to indicate in the site plan prepared by him the spot wherefrom the shots were allegedly fired by the appellants and its resultant effect upon the investigation itself, the High Court observed that such failure did not detract from the truthfulness of the eye-witnesses and only amounted to an omission on the part of Investigating Officer. In our opinion neither the criticism of the trial Court nor the reason ascribed by the High Court in its rebuttal can be legally sustained. While preparing a site plan an Investigating Police Officer can certainly record what he sees and observes, for that will be direct and substantive evidence being based on his personal knowledge; but as, he was not obviously present when the incident took place, he has to derive knowledge as to when, where and how it happened from persons who had seen the incident. When a witness testifies about what he heard from somebody else it is ordinarily not admissible in evidence being hearsay, but if the person for whom he heard is examined to give direct evidence within the meaning of Section 60 of the Evidence Act, the former's evidence would be admissible to corroborate the latter in accordance with Section 157, Cr.P.C. However such a statement made to a Police Officer, when he is investigating into an offence in accordance with Chapter XII of the Code of Criminal Procedure cannot be used to even

corroborate the maker thereof in view of the embargo in Section 162(1), Cr.P.C. appearing in that chapter and can be used only to contradict him (the maker) in accordance with the proviso thereof, except in those cases where sub-section (2) of the Section applies. That necessarily means that if in the site plan P.W. 6 had even the place from which the shots were allegedly fired after ascertaining the same from the eye-witnesses it could not have been admitted in evidence being hit by Section 162, Cr.P.C. The law on this subject has been succinctly laid down by a three Judge Bench of this Court in *Tori Singh Vs. The State of Uttar Pradesh*, . In that case it was contended on behalf of the appellant therein that if one looked at the sketch map, on which the place where the deceased was said to have been hit was marked, and compared it with the statements of the prosecution witnesses and the medical evidence, it would be extremely improbable for the injury which was received by the deceased to have been caused on that part of the body where it had been actually caused if the deceased was at the place marked on the map. In repelling the above contention this Court observed, *inter alia*, (at p. 141 of AIR):-

".....the mark on the sketch-map was put by the Sub-Inspector who was obviously not an eye-witness to the incident. He could only have put it there after taking the statements of the eye-witnesses. The marking of the spot on the sketch-map is really bringing on record the conclusion of the Sub-Inspector on the basis of the statements made by the witnesses to him. This in our opinion would not be admissible in view of the provisions of S. 162 of the Code of Criminal Procedure, for it is in effect nothing more than the statement of the Sub-Inspector that the eyewitnesses told him that the deceased was at such and such place at the time when he was hit. The sketch-map would be admissible so far as it indicates all that the Sub-Inspector saw himself at the spot; but any mark put on the sketch-map based on the statements made by the witnesses to the Sub-Inspector would be inadmissible in view of the clear provisions of S. 162 of the Code of Criminal Procedure as it will be no more than a statement made to the police during investigation."

10. While on this point, it will be pertinent to mention that if in a given case the site plan is prepared by a draftsman - and not by the Investigating Officer - entries therein regarding the place from where shots were fired or other details derived from other witnesses would be admissible as corroborative evidence as has been observed by this Court in *Tori Singh Vs. The State of Uttar Pradesh*, in the following passage (at p. 401 of AIR):-

"This Court had occasion to consider the admissibility of a plan drawn to scale by a draftsman in which after ascertaining from the witnesses where exactly the assailants and the victims stood at the time of the commission of offence, the draftsman put down the place in the map, in *Santa Singh Vs. State of Punjab*, . It was held that such a plan drawn to scale was admissible if the witnesses corroborated the statements of the draftsman that they showed him the places and would not be hit by S. 162 of the Code of Criminal Procedure.""

[Also see: State of Rajasthan Vs. Bhawani and Another, ; and Girish Yadav and Others Vs. State of Madhya Pradesh,

32. Decision rendered by a Division Bench of High Court of Punjab and Haryana, in Krishan (supra), is based on the fact situation and is in fact inapplicable to the present case.

33. Decisions rendered in Parkash Chand (supra) and Sakal Deep (supra) were based on the fact situation, where testimony of the prosecution witnesses was found not to be inspiring in confidence. It is in this backdrop that mere recovery of weapon of offence was held not to have been proved by the prosecution, beyond reasonable doubt.

34. Hence, in our considered view, prosecution has been able to establish the guilt of the accused, in relation to the charged offence, beyond reasonable doubt, by leading clear, cogent, convincing and reliable piece of evidence, not only ocular but also corroborative in the shape of recovery of weapon of offence.

35. For all the aforesaid reasons, we find no reason to interfere with the well reasoned judgment passed by the trial Court. The Court has fully appreciated the evidence placed on record by the parties. There is no illegality, irregularity, perversity in correct and/or in complete appreciation of the material so placed on record by the parties. Hence, the appeal is dismissed.

Appeal stands disposed of, so also pending application(s), if any.