

Satish Alias Pintu Vs State

Court: Delhi High Court

Date of Decision: Jan. 29, 2020

Acts Referred: Indian Penal Code, 1860 " Section 34, 120B, 302
Arms Act, 1959 " Section 25, 27, 57, 59

Hon'ble Judges: Manmohan, J; Sangita Dhingra Sehgal, J

Bench: Division Bench

Advocate: Sulaiman Mohd. Khan, Taiba Khan, Mohit Rastogi, Vyakhya Pandey, Aashaa Tiwari

Final Decision: Dismissed

Judgement

”

Manmohan, J",,,

1. Present appeal has been filed on behalf of appellant-convict challenging the judgment dated 17th January, 2018 and the order on sentence dated",,,

20th January, 2018 passed by the Additional Sessions Judge-03, East District, Karkardooma Courts, Delhi in Sessions Case No. 979/2016 arising out",,,

of FIR No. 212/2013 registered with Police Station Kalyanpuri, whereby the appellant-convict has been convicted under Section 302 IPC and Section",,,

27 of Arms Act and sentenced to undergo imprisonment for life with fine of Rs.10,000/- under Section 302 IPC and rigorous imprisonment for five",,,

years with fine of Rs. 10,000/- under Section 27 of Arms Act.",,,

BRIEF FACTS OF THE CASE,,

2. The facts of the present case, as noted by the Trial Court, are reproduced hereinbelow:-",,,

“1. Succinctly, filtered prosecution case, is that DD No. 64-A dated 27.03.2013 was recorded at Police Station Kalyanpuri to the effect",,,

that Rahul S/o Mange Ram has been brought to LBS Hospital through his brother, Bharat, vide MLC No. 4639 on which said Rahul was",,,

declared “brought dead”. On receipt of the said DD, SI Raj Kumar reached LBS Hospital and dead body was got preserved. Statement",,,

of Mange Ram was recorded in which he inter alia alleged that on 27.03.2013, on the day of Holi festival, at about 1 p.m. Satish along with",,,

his friends were dancing on the beats of drums on which Rahul @ Harbir @ Chaua objected to the same to which Satish infuriated and hot,,

words were exchanged between them. Matter was intervened and Rahul was bolted inside the house. At about 3 p.m., again Satish along",,

with his friends Babloo and Sonu @ Bhada came to his house. At that time, Satish and Sonu @ Bhanda were having arms i.e. country made",,

pistols (kattas) in their hands while Babloo was having sword at that time. All three abused and threatened that Rahul would be killed today,,

itself. To it Mange Ram tried to settle the matter but Satish left the spot at that time with dire consequences. Around 4.30 p.m. Rahul left the,,

house for park and Mange Ram also followed him. At that time Satish, Sonu @ Bhanda and Babloo with one more associate were present in",,

the park and at that time Satish and Sonu were having kattas in their hands. Babloo was having sword while fourth associate was having,,

knife. On seeing Rahul, Satish exhorted his associates to kill him on which all four chased Rahul. Mange Ram also followed all of them and",,

noticed that Satish and Sonu @ Bhanda along with his associates shot at Rahul. Rahul fell down on the ground and all accused persons,,

took their heels. Mange Ram got frightened and with the help of Bharat rushed Rahul to Hospital where he was declared brought dead. On,,

the basis of said statement, present FIR bearing no. 212/2013 PS Kalyanpuri under Secs. 302/34/120-B IPC was registered.",,

xxxx xxxx xxxx xxxx,,

8. Vide order dated 06.08.2013 passed by Id. Predecessor, charge under Section 120-B IPC and 302 IPC read with Section 120-B IPC was",,

framed against all the accused persons. Vide said order, separate charge under Section 27 Arms Act were also framed against accused",,

persons Satish @ Pintu and Sonu @ Bhenda @ Sohan @ Pola. Vide said order, separate charges under Section 25 Arms Act were also",,

framed against accused persons Babloo @ Rajnish and Shamsher @ Dilshad. To the said charges, all accused persons pleaded not guilty",,

and claimed trial.Ã¢â€â€,,

FINDING OF THE TRIAL COURT,,

3. The Trial Court convicted the appellant-convict under Section 302 IPC and Section 27 Arms Act. The conclusion of the Trial Court is reproduced,,

hereinbelow:-,,

Ã¢â€â€33. All the members of family of deceased in one line stated that all the accused persons came to their house before murder of deceased,,

and threatened Ã¢â€â€" Hum ise maaf nahin karenge aur aaj ise jaan se maar denge. Both eye-witnesses of the case in clear terms stated that,,

accused Satish fired at deceased.,,

xxx xxx xxx,,

43. Perusal of the record shows that there is no cross-examination on PW-6 Mange Ram regarding recovery point effected from Babloo @,,

Rajnish. It is also clear from the record that PW-17 Constable Manoj Kumar was not cross-examined at all and his testimony remains,,

unrebutted. Qua on the recovery point testimony of PW-21 SI Raj Kumar is also corroborated. Except for accused Shamsheer @ Dilshad,",,

there is no cross-examination on the recovery point. There is simple suggestion that nothing has been recovered from the accused and,,

proceedings are false. It is also crystal clear from the record that PW-22 Inspt. C.M. Meena is other witness regarding recovery got effected,,

from accused persons Babloo @ Rajnish; Satish @ Piontu and Shamsheer @ Dilshad. Perusal of the record also shows that there is no,,

effective cross-examination regarding recovery issue.,,

xxx xxx xxx,,

46. As such, besides the above, prosecution has proved its case beyond all reasonable doubts against accused Satish @ Pintu for the",,,

offence punishable under Sec. 27/54/59 Arms Act and as such, he is held guilty for said offence. Prosecution has also been able to prove its",,,

case beyond all reasonable doubts against accused Babloo @ Rajnish for the offence punishable under Sec. 25/54/59 Arms Act and as,,

such, he is held guilty for said offence. Same is of the view qua accused Shamsheer and as such, he is also held guilty for the offence",,,

punishable under Sec. 25/54/59 Arms Act.Ã¢â€â€,,

ARGUMENTS ON BEHALF OF THE APPELLANT-CONVICT,,

4. Mr. Sulaiman Mohd. Khan, learned counsel for the appellant-convict contended that the appellant-convict had been falsely implicated in the present",,,

case on account of prior enmity between him and the uncle of deceasedÃ¢â€â€s wife with regard to an incident of obstruction on the road.,,

5. He stated that the ballistics report (Ex. PW-24/B) had not mentioned that the bullet recovered from the deceasedÃ¢â€â€s body was hard-core steel or,,

it had a bullet case. He contended that in the absence of recovery of the back portion of the cartridge, the ballistics report cannot be regarded as",,,

conclusive.,,

6. Learned counsel for the appellant-convict contended that as per the testimony of Mange Ram (PW-6), the sword and katta had been recovered",,,

from the drain/naala in his presence and his signature had been obtained on the recovery memo. However, learned counsel for the appellant-convict",,,

pointed out that the seizure memo produced by the prosecution did not bear the signature of Mange Ram (PW-6) or any other public witness and,,

therefore, the recovery was doubtful.",,

7. Learned counsel for the appellant-convict also contended that there were material contradictions in the statements of Santosh (PW-3), Bharat",,,

(PW-4), Mange Ram (PW-6), Santa (PW-7) and Master Hemant (PW-11) as to how the deceased had reached the park (place of incident). He laid",,,

emphasis on the fact that no blood stains were found at the crime scene by Constable Manoj (PW-13),,,

8. Mr. Sulaiman Mohd. Khan contended that the Trial Court failed to appreciate that the aunt of the appellant-convict, Atar Kali (DW-1) had deposed",,,

that there was no bed in her room and she had denied that any katta had been recovered from beneath her bed at the instance of appellant-convict. In,,

view of the aforesaid, he stated that the prosecution had failed to prove its case beyond reasonable doubt and he prayed that appellant-convict be",,,

given benefit of doubt.,,

ARGUMENTS ON BEHALF OF THE STATE,,

9. Per contra, Ms. Aashaa Tiwari, learned APP for the State contended that the deceased Rahul had sustained bullet injury and he was rushed to the",,,

hospital where he was declared brought dead. She stated that Mange Ram/Complainant (PW-6) and Master Hemant (PW-11) were eye witnesses of,,

the incident and their versions were supported by the testimonies of wife and mother of the deceased i.e. Santosh (PW-3) and Santa (PW-7),,,

respectively.,,

10. She submitted that the testimonies of the witnesses, who were relatives of the deceased, cannot be disbelieved merely on the ground that they",,,

were related. In support of her submission, she relied upon the judgment of the Supreme Court in Yogesh Singh vs. Mahabeer Singh AIR 2016 SC",,,

5160.,,

11. Learned APP for the State contended that it was a natural phenomenon that a person may narrate the same incident in different manner at,,

different times and there might be variations but the same would not affect the case of the prosecution, if the crux of the matter remained intact. She",,,

stated that the eyewitnesses to the present case had remained consistent on material points and therefore, the prosecution was able to prove its case",,,

against the appellant-convict.,,

12. Learned APP for the State also stated that the appellant-convict had been arrested vide arrest memo Ex. PW-17/I and in pursuance to his,,

disclosure statement (Ex. PW-17/L), a country made pistol/katta had been recovered vide seizure memo Ex. PW-17/Q.",,,

13. She stated that no question regarding the recovery of country made pistol/katta had been put to Mange Ram (PW-6), Constable Manoj Kumar",,,

(PW-17), SI Raj Kumar (PW-21) or Inspector C.M. Meena (PW-22). Consequently, according to her, no argument with regard to recovery could be",,,

raised at this stage.,,

14. According to her, the absence of bloodstains at the crime scene was due to large amount of blood collected in the abdominal cavity of the",,,

deceased as mentioned in the post mortem report.,,

COURT'S REASONING,,

THIS COURT IS OF THE VIEW THAT THE TESTIMONIES OF EYEWITNESSES " MANGE RAM (PW-6) AND MASTER HEMANT (PW-11),,,

HAVE A RING OF TRUTH, ARE CLEAR, COGENT, CONSISTENT, CREDIBLE, TRUSTWORTHY AND CORROBORATED BY EVIDENCE ON",,,

RECORD,,

15. Having heard the learned counsel for the parties and having perused the evidence on record, this Court is of the opinion that all the family",,,

members of deceased Rahul had stated, in unison, that the appellant-convict along with other accused persons had come to their house before the",,,

murder of deceased Rahul and threatened him. Mange Ram (PW-6) had also deposed in unequivocal terms that appellant-convict had fired at the",,,

back of the deceased Rahul. The relevant portion of the testimony of Mange Ram (PW-6) is reproduced hereinbelow:-,,

"All the four accused persons at 4 p.m. again came to our house. Accused Satish and Sonu @ Bhandra were holding kattas. Accused,,

Sonu @ Bhandra was hold sword in his other hand. Accused Bablu was holding the dagger in his hand. All the accused persons inquired,,

from me about my son Rahul and told me that they have come to kill my son. My son Rahul jumped from the jhuggi to the park behind our,,

house. All the accused persons followed him and accused Satish and Sonu @ Bhandra fired at Rahul. The bullet hit on the back side of the,,

neck of Rahul. Thereafter all the accused persons ran away from there.",,,

(emphasis supplied),,,

16. The testimony of Master Hemant (PW-11) corroborates the abovementioned testimony, as he had specifically deposed that after firing at the",,,

deceased, appellant-convict had hit the deceased on the head with the "butt of the katta". The relevant portion of the testimony of Master",,,

Hemant (PW-11) is reproduced hereinbelow:-,,

"Last year on the day of Holi, I had gone to play Holi at the house of my sister Santosh at 21 Block, Kalyan Puri, Delhi. I was playing",,,

Holi with Jija namely Rahul @ Chauhan in the park. Accused Satish, Bablu and Shamsher present in court today correctly identified",,,

(accused shown to the witness through video conferencing) came there. Accused Satish was armed with a katta of .315 bore. Accused Bablu,,

was armed with a sword and accused Shamsher was also armed with a katta of .315 bore. Accused Satish fired at my Jija. One bullet hit on,,

his right leg above the knee. Second bullet fired by accused Satish hit on the danda of Jhanda put at Mandir nearby and third bullet hit my,,

jija on his back. Accused Satish also hit on the right side of head of my Jija with the butt of the Katta. Thereafter all three accused ran away,,

from there.....

(emphasis supplied),,

17. The testimony of Master Hemant (PW-11) finds corroboration in the post mortem report (Ex. PW-5/A) wherein it is mentioned that the deceased,,

had a lacerated wound over the back of his head. No question or suggestion was put to Dr. Vinay Kumar Singh (PW-5) with respect to the lacerated,,

wound.,,

18. It is settled law that there is bound to be some discrepancies between the versions narrated by different witnesses regarding the specific details.,,

However, if the discrepancies are minor and do not materially affect the case of the prosecution; the same cannot be a ground to reject the",,,

prosecution's entire case. Trivial variations cannot render the entire evidence unbelievable. The Supreme Court in Yogesh Singh Vs. Mahabeer,,

Singh and Ors., AIR 2016 SC 516 has held as under:-",,,

"Discrepancies in evidence,,

29. It is well settled in law that the minor discrepancies are not to be given undue emphasis and the evidence is to be considered from the,,

point of view of trustworthiness. The test is whether the same inspires confidence in the mind of the court. If the evidence is incredible and,,

cannot be accepted by the test of prudence, then it may create a dent in the prosecution version. If an omission or discrepancy goes to the",,,

root of the matter and ushers in incongruities, the defence can take advantage of such inconsistencies. It needs no special emphasis to state",,,

that every omission cannot take place of a material omission and, therefore, minor contradictions, inconsistencies or insignificant",,,

embellishments do not affect the core of the prosecution case and should not be taken to be a ground to reject the prosecution evidence. The,,

omission should create a serious doubt about the truthfulness or creditworthiness of a witness. It is only the serious contradictions and,,

omissions which materially affect the case of the prosecution but not every contradiction or omission.

(emphasis supplied),,

19. Consequently, minor variations in the testimonies of prosecution witnesses with regards to how the deceased had reached the place of incident is",,,

immaterial and does not affect the case of the prosecution inasmuch as both the abovementioned eye witnesses of the present case had stated in clear,,

terms that the appellant-convict had fired at the deceased from a Katta.,,

20. Further, this Court is in agreement with the submission of the learned APP that the testimony of a witness cannot be discarded on the sole ground",,

that he was related to the deceased. Every related witness is not necessarily an interested witness and the Court has to carefully examine the,,

testimonies of related witnesses to determine if they are independent. The Supreme Court in Ganapathi & Anr. Vs. State of Tamil Nadu, (2018) 5",,

SCC 549, while discussing how the testimony of a related witness has to be examined, has held as under:-",,

“13. The evidence of ocular witnesses, PWs 1 and 2, father and brother of the deceased, clearly exhibits the way in which the accused",,

took away the life of deceased Murugan. Their evidence narrates the guilt of the accused beyond reasonable doubt and corroborates with,,

that of the medical evidence. Dr Danraj (PW 12) who conducted the post-mortem on the body of deceased Murugan, had pointed out as",,

many as 10 cut injuries out of which Injuries 1, 2, 5, 6, 7, 8, 9 and 10 are fatal which were possible by sickle and capable of causing death",,

whereas Injuries 7 and 9 were possible by knife. It appears that there were two independent witnesses (PWs 5 and 6) projected by the,,

prosecution, but they have turned hostile. In several cases, only the family members are present at the time of incident, then the case of the",,

prosecution will be based only on their evidence. When their evidence is the only evidence available, the courts should be cautious and",,

meticulously evaluate the evidence in the process of trial and we are not able to appreciate the contention on behalf of the accused that the,,

non-examination of independent witnesses and conviction based on the evidence of family members is fatal to the case of the prosecution.,,

14. “Related” is not equivalent to “interested”. A witness may be called “interested” only when he or she derives some benefit,,

from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is",,

the only possible eyewitness in the circumstances of a case cannot be said to be “interested”.

15. Merely because the eyewitnesses are family members their evidence cannot per se be discarded. When there is allegation of,,

interestedness, the same has to be established. Mere statement that being relatives of the deceased they are likely to falsely implicate the",,

accused cannot be a ground to discard the evidence which is otherwise cogent and credible. Relationship is not a factor to affect credibility,,

of a witness. It is more often than not that a relation would not conceal actual culprit and make allegations against an innocent person.,,

Foundation has to be laid if plea of false implication is made.,,

(emphasis supplied),,

21. Consequently, this Court is of the view that the aforesaid testimonies of eyewitnesses "Mange Ram (PW-6) and Master Hemant (PW-11)",,

have a ring of truth, are clear, cogent, consistent, credible, trustworthy and corroborated by evidence on record.",,

THE POST MORTEM REPORT (EX. PW-5/A) AND THE DEPOSITION OF DR. VINAY KUMAR SINGH (PW-5) ARE CORROBORATED BY,,

THE RECOVERY OF A SINGLE BULLET (EB1) FROM THE BODY OF THE DECEASED RAHUL. FURTHER, THE COUNTRY MADE",,

PISTOL/KATTA (F1) RECOVERED AT THE INSTANCE OF THE APPELLANT-CONVICT WAS SENT FOR FSL EXAMINATION AND IT WAS,,

OPINED IN THE BALLISTICS REPORT (EX.PW-24/B) THAT THE BULLET RECOVERED FROM THE BODY OF THE DECEASED (EB1),,

HAD BEEN SHOT FROM THE COUNTRY MADE PISTOL/KATTA (F1). IN FACT, NO QUESTION REGARDING THE LEGITIMACY OF THE",,

BALLISTICS REPORTS HAD BEEN PUT TO DR. N.P. WAGHMARE (PW-24),,

22. Further, the Post Mortem Report (Ex. PW-5/A), proves that the deceased Rahul had two external injuries "one fire arm entry wound and one",,

lacerated wound over the back of his head. Dr. Vinay Kumar Singh (PW-5) who had conducted the post mortem had specifically deposed that only,,

one fire arm injury was found on the body of the deceased and the same was sufficient to cause death in ordinary course of nature. The deposition of,,

Dr. Vinay Kumar Singh (PW-5) is corroborated by the recovery of a single bullet (EB1) from the body of the deceased Rahul. The relevant portion of,,

the post mortem report is reproduced hereinbelow:-,,

"GOVT. OF NCT OF DELHI,,

LAL BAHADUR SHASTRI HOSPITAL, KHICHRIPUR, DELHI-91 DEPARTMENT OF FORENSIC MEDICINE",,

Post Mortem Examination Report,,

POST MORTEM NO. 134/13 CONDUCTED BY DR. VINAY KR. SINGH,,

DATED: 28/3/13,,

TIME: 2.15 PM,,

I. Case Particulars:,,

FIR/DD No.212/13 Dated 23/3/13 P.S. Kalyan Puri,,

Name: Rahul @ Harbir @ Chaua S/o Mange Ram, R/o 21/243, Kalyan Puri, Delhi.",,

Probable Age 22 yrs, Sex: Male Height 158 cm. Weight - Kg.",,

II. Investigating Officer: Insp. C.M. Meena P/S Kalyan Puri.,,

III. Identified by/Identification Marks:,,

1. Mange Ram.,,

2. Amit.,,

IV. HOSPITAL RECORDS:,,

Date & Time of Receipt of Inquest papers 28/3/13, 2.00 PM",,,

Date & Time of Death/Spot Death/Brought Dead 27/3/13, 5.00 PM Casualty/C.R. No. 46469, MLC-4639/13",,,

Arrival of Body at Mortuary and time 27/3/13, 5.10 PM",,,

V. BRIEF HISTORY AS PER I/O:,,

Alleged H/o receiving of fire arm injury and brought dead to Emergency L.B.S. Hospital,,

VI. EXTERNAL GENERAL APPEARANCE:,,

Built: Average,,

Condition of eye: closed clear,,

Natural orifices: Free from any discharge.,,

Others:,,

VII. POST-MORTEM CHANGES,,

Hypostasis: Present over back,,

Rigor Mortis: Present all over the body,,

Decomposition Changes: Nil.,,

VIII. TIME SINCE DEATH: 14-22 HRS.,,

IX. EXTERNAL EXAMINATION (Injuries etc.),,

1. Fire arm entry wound of 1 x .5 cms present over the left side back, 116 cms above heels and 16 cms away from midline, 4 cms below",,,

posterior axillary fold margin inwards, Abrasion collar .3 cms around, no singeing burning and tattooing seen, cavity deep.",,,

2. Lacerated wound 1 x .5 cms over back of head on occipital protuberance.,,

X. INTERNAL EXAMINATION:,,

xxx xxx xxx xxx,,

(C)Abdomen 2 lt of blood in cavity NAD.,,

Pentoneum, Pentoneal Cavity",,,

OPINION: The cause of death in this case is to the best of my knowledge and belief is kept pending till chemical analysis report. Preserved,,

viscera is made available.Ã¢â€â€â€,,

(emphasis supplied),,

23. Perusal of the paper book reveals that a country made pistol/katta (F1) along with a live cartridge (A1) had been recovered at the instance of the,,

appellant-convict vide seizure memo Ex.PW-17/Q in the presence of Constable Manoj Kumar (PW-17) and SI Raj Kumar (PW-21). The recovered,,

country made pistol/katta (F1) and the cartridge (A1) were sent for FSL examination and it was opined in the ballistics report (Ex.PW-24/B) that the,,

bullet recovered from the body of the deceased (EB1) had been shot from the country made pistol/katta (F1) recovered at the instance of the,,

appellant-convict. The relevant portions of the ballistics reports (Ex.PW-24/A & Ex.PW-24/B) are reproduced hereinbelow:-,,

A. Ballistics Report (Ex.PW-24/A),,

“BALLISTICS DIVISION,,

Examination Report,,

REPORT No.FSL 2013/F-3057 Dated 14/11/13,,

xxx xxx xxx,,

2. DESCRIPTION OF ARTICLES CONTAINED IN THE PARCEL(S)/EXHIBIT(S),,

Parcel No.,No. & Seal Impression,"Description of Exhibit(s) contained in
parcel(s)

1,06 CMM,One sealed cloth parcel contained one

country made pistol of 8mm/.315 bore

marked as exhibit “F1” and one

8mm/.315 cartridge marked as exhibits

“A1” in the laboratory

(emphasis supplied),,

24. It is pertinent to note that no question regarding the legitimacy of the aforesaid ballistics reports had been put to Dr. N.P. Waghmare (PW-24),,

Even the witnesses to the recovery of the country made pistol/katta (used by the appellant-convict) had not been cross-examined as to whether,,

Mange Ram (PW-6) was present at the time of recovery. Consequently, the challenge to ballistic reports or the recovery memo cannot be raised at",,

this stage, as the Supreme Court in Mahavir Singh Vs. State of Haryana, (2014) 6 SCC 716 has held as under:-",,

“16. It is a settled legal proposition that in case the question is not put to the witness in cross-examination who could furnish explanation,,

on a particular issue, the correctness or legality of the said fact/issue could not be raised. (Vide Atluri Brahmanandam v. Anne Sai Bapuji",,

and Laxmibai v. Bhagwantbuva (dead) Thr. L.Rs. & Ors., AIR 2013 SC 1204).
(emphasis supplied),,

25. The contention of the appellant-convict that the recovery memo of the country made pistol/katta was illegal as it had not been signed by any public,,

witness is untenable in law. The Supreme Court in a catena of judgments has held that recovery of evidence does not become doubtful merely on,,

account of non-joining of public witnesses. The Supreme Court in State, Govt. of NCT of Delhi Vs. Sunil and Another, (2001) 1 SCC 65 2has held",,,

that, in absence of any evidence to the contrary, testimony of police witnesses ought to be believed. The relevant portion of the said judgment is",,,

reproduced hereinbelow:-,,

“21. We feel that it is an archaic notion that actions of the police officer should be approached with initial distrust. We are aware that,,

such a notion was lavishly entertained during the British period and policemen also knew about it. Its hangover persisted during post-,,

independent years but it is time now to start placing at least initial trust on the actions and the documents made by the police. At any rate",,,

the court cannot start with the presumption that the police records are untrustworthy. As a proposition of law the presumption should be the,,

other way around. That official acts of the police have been regularly performed is a wise principle of presumption and recognised even by,,

the legislature. Hence when a police officer gives evidence in court that a certain article was recovered by him on the strength of the,,

statement made by the accused it is open to the court to believe the version to be correct if it is not otherwise shown to be unreliable. It is for,,

the accused, through cross-examination of witnesses or through any other materials, to show that the evidence of the police officer is either",,,

unreliable or at least unsafe to be acted upon in a particular case. If the court has any good reason to suspect the truthfulness of such,,

records of the police the court could certainly take into account the fact that no other independent person was present at the time of,,

recovery. But it is not a legally approvable procedure to presume the police action as unreliable to start with, nor to jettison such action",,,

merely for the reason that police did not collect signatures of independent persons in the documents made contemporaneous with such,,

actions.
(emphasis supplied),,

THE CONTENTION OF THE APPELLANT-CONVICT THAT ATAR KALI (DW-1) HAD DENIED THE RECOVERY OF COUNTRY MADE,,

PISTOL/KATTA IS CONTRARY TO FACTS.,,

26. The appellant-convict had also placed reliance on the testimony of his aunt "Atar Kali (DW-1), who had denied the factum of recovery of a",,

country made pistol/katta from her room. It is relevant to point out that this witness had merely denied the presence of a bed in her room. She had,,

deposed that she was unaware about the fact of the recovery of a pistol. The relevant portion of her testimony is reproduced hereinbelow:-,,

"...I do not know if accused Satish got recovered a country made pistol hidden on the Tand. However, it is wrong to suggest that accused",,

Satish also got recovered one country made katta from beneath the bed. (Vol. There is no bed in my room. There is only a cot on which I,,

was lying at that time....",,

(emphasis supplied),,

27. Consequently, the contention of the appellant-convict that Atar Kali (DW-1) had denied the recovery of country made pistol/katta is contrary to",,

facts.,,

ABSENCE OF BLOOD STAINS AT THE CRIME SPOT CAN BE ATTRIBUTED TO THE FACT THAT NEARLY TWO LITRES OF BLOOD WAS,,

FOUND COLLECTED IN THE ABDOMINAL CAVITY OF THE DECEASED.,,

28. This Court is in agreement with the contention of the learned APP that the absence of blood stains at the crime spot can be attributed to the fact,,

that nearly two litres of blood was found collected in the abdominal cavity of the deceased. It seems that the deceased had bled internally.,,

29. This Court finds no merit in the contention that the appellant-convict had been falsely implicated in the present case as there is no evidence on,,

record to prove or substantiate the said contention. Even the uncle of deceased's wife had not been cited as a defence witness.,,

CONCLUSION,,

30. In view of the aforesaid, this Court is in agreement with the findings of the Trial Court. Consequently, the impugned judgment and order on",,

sentence passed by the Trial Court are affirmed and the present appeal, being bereft of merit, is dismissed. A copy of the judgment be supplied to the",,

appellant-convict through the concerned Jail Superintendent.,,