



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 28th November, 2025

IN THE MATTER OF:

+ CRL.A. 173/2003

RAM SINGAR SINGHAppellant
Through: Ms. Gunjan Sinha Jain, Advocate.

versus

STATERespondent
Through: Mr. Aashneet Singh, APP for
State.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. Psychological studies have shown that feelings of revenge is a powerful, often recurring desire to punish someone who has wronged you, driven by emotions like anger, hurt and a sense of injustice. While revenge can provide a temporary rush of satisfaction by resorting to a perceived “moral balance”, it often perpetuates pain, prolong negative feelings and can lead to a destructive cycle of retaliation instead of resolution. Feelings of taking revenge is a response from our old, un-evolved reptilian brain and is completely at odds with civilization. Acting with vengeance triggers the reward circuitry in the brain, releases feel-good chemicals dopamine and endogenous opioids, adds Dr. David Chester, Associate Professor of



Social Psychology at Virginia Commonwealth University.

2. Feelings of anger is the motivation for the revenge, and the spark of pleasure is the hedonic reward for inflicting hurt on someone who hurts you. Such feelings of anger are relevant under Section 8 of the Evidence Act, 1872 (hereinafter referred to as the Act), since it provides motive to the offender to commit crime. As facts of the controversy reveal, the Appellant was beaten by Lance Naik Kanhaiya Lal on 26.08.1996, when they were on duty at Guard Room, created for the security of Lalit Makin at premises No. L-105-106, Kirti Nagar, Delhi. Feelings of vengeance gave motive to him, who allegedly fired fatal shots from his rifle on Lance Naik Kanhaiya Lal at about 3:30 a.m. on night intervening 27th and 28th of June 1996, while the latter was sleeping. A case for an offence punishable under Section 302 of the Indian Penal Code was registered and investigation was taken up. On conclusion of the investigation, charge sheet was filed against the Appellant, who was tried of the said offence read with Section 27 of the Arms Act, 1959 (hereinafter referred to as the Arms Act). He was convicted *vide* judgement dated 28.01.2003 and sentenced to undergo imprisonment for life and to pay fine of Rs. 10,000/- for offence of murder. In default of payment of fine he was to further undergo simple imprisonment for one year. He was also sentenced to rigorous imprisonment for a period of three years and to pay a fine of Rs. 5,000/- for offence punishable under Section 27 of the Arms Act. In default of the payment of the said fine he was to undergo simple imprisonment for one month. Substantive sentences



were ordered to run concurrently vide order of sentence dated 31.01.2003. The said conviction and order on sentence have been assailed by the Appellant in the appeal, under consideration.

3. While assailing conviction and sentence, Ms. Gunjan Sinha Jain, Advocate, contended that the witnesses, namely, Const. Devinder Pal Singh (PW-3) and HC Rajesh Singh have not supported the prosecution case, on the count as to whether the Appellant fired any gunshot on the victim. She went on to argue that in the absence any direct evidence on that count, the case of the prosecution becomes one, based on circumstantial evidence. She further argued that the Trial Court has dealt it to be a case of circumstantial evidence, but failed to consider that the evidence, so adduced, was not inconsistent with the innocence of the Appellant. She also argued that there is a complete vacuum of evidence to the effect that the victim suffered the fatal injuries with the rifle of the Appellant. Autopsy report nowhere points out conclusive facts, to establish it to be a case of murder. According to her, proof of motive alone will not enable the prosecution to discharge onus resting on it.

4. She went on to submit that there was complete darkness in the room in which incident had taken place. The other security personnel were also having firearms in their possession. There is no cogent evidence against the Appellant to hold him responsible for the charge. The deceased was found lying dead in his cot, whereas the Appellant was on sentry duty and not present there in the room, where the security personnel used to take rest or sleep.



5. She vehemently asserts that the Appellant has been falsely implicated. There is no evidence to show that it was his weapon through which the shots were fired on the victim. No fingerprints have been taken to establish this fact. There are material contradictions and inconsistencies in the deposition of the witnesses, which made the prosecution story highly improbable. In view of different versions coming on record, the case of the prosecution has become vulnerable to doubts and distortions. While concluding her submissions, she claims that no independent witness was joined, during the course of investigation despite their availability. Under these circumstances, the case becomes one based on circumstantial evidence, which lacks strength to show complicity of the Appellant. Therefore, the Appellant may be acquitted by setting aside the impugned judgment and sentence awarded, claims Ms. Jain.

6. To support her contentions, she placed reliance on the precedents in ***Sharad Birdhi Chand Sarda vs. State of Maharashtra, AIR 1984 SC 1622, State of U.P. vs Krishna Master, 2010 (12) SCC 324, Braham Swaroop vs State of U.P., 2011 (6) SCC 288*** and ***Baldev Singh vs State of Punjab, 1991 Supp (1) SCC 341***.

7. Learned Prosecutor stood by the case and came up with the plea that there cannot be any other inference except that of the involvement of the Appellant in the incident. Presence of the Appellant with a rifle in his hand near the cot where the deceased was sleeping reflects nothing else but his involvement. Constable Devinder Pal Singh (PW-3) had seen the Appellant with his rifle



almost immediately after the first gunshot was fired. He found the Appellant in an agitated state of mind. He caught hold of the barrel of the gun, and in the meantime joined by HC Rajesh Singh Chauhan, who also got up on hearing gunshot sound. The Appellant had even threatened Constable Devinder Pal Singh (PW-3) of dire consequences, but he did not let him go. He claims that the prosecution has been successful in establishing the guilt of the Appellant to the hilt and sentence awarded to him is in consonance with law.

8. To assess weight of submissions, so made, we have scanned the evidence, adduced by the prosecution. Though the Trial Court found it to be a case based on circumstantial evidence, yet we are of the opinion that the prosecution has led direct evidence to establish its case against the Appellant, to the hilt.

9. Section 60 of the Act enacts that oral evidence must be direct. The expression “direct evidence” used in the said section refers to “original” evidence as distinguished from “hearsay” evidence. Circumstantial evidence is the circumstances, proved in the case, are consistent either with the innocence of the accused or with his guilt. It is necessary to distinguish between the facts which may be called primary or basic on the one hand and inference of the fact to be drawn from them on the other. In order to make proof of basic or primary fact, the Court has to judge the evidence in the ordinary way, as enacted by Section 60 of the Act. In considering the circumstantial evidence, the Court must first see whether the circumstances put



forward are satisfactorily proved and whether the proved circumstances are sufficient to bring home satisfactorily the guilt to the Accused. The established circumstances must not only be consistent with the guilt of the accused but at the same time they must be inconsistent with his innocence.

10. Since we are going to alter the findings from the case based on circumstantial evidence to one based on direct evidence, hence are constrained to reappreciate the entire evidence adduced in the matter. As the facts, proved on record, Const. Devinder Pal Singh (PW-3) unfolds that a quarrel took place between Lance Naik Kanhaiya Lal and the Appellant on 26.06.1996 on pretext of cleaning bathroom. A report in that regard was made to the Company Commander. Facts so testified by Const. Devinder Pal Singh (PW-3) were re-affirmed by H.C. Rajesh Singh Chauhan. He informed the Company Commander about the said altercation vide application Ex. PW8/B. Inspector Mohd. Umar received application Ex. PW8/B, which was given by him to the Investigating Officer and seized by the latter vide memo Ex. PW8/A. Inspector Surjit Malik gives confirmation to the facts regarding seizure of Ex. PW8/B vide memo Ex. PW8/A. The facts, as detailed above, bring to the light of the day that on 26.06.1996 an altercation took place between the Appellant and the victim, which incident was reported to the higher authorities, *vide* application Ex. PW8/B. On scrutiny, Ex. PW8/B bring over record that the Appellant was beaten by the victim over a petty matter. The incident of beating made the Appellant to belabour under the feeling of humiliation and



insult.

11. Above facts were not at all questioned by and on behalf of the Appellant either through the ordeal of cross-examination of these witnesses or by way of production of evidence in defence. It is worth mentioning that the Appellant opted not to adduce any evidence in his defence. The incident of assault by the victim on the Appellant, a day before the incident, was not questioned at all during the course of trial. The evidence, referred above, is credible and proves the conduct of the Appellant, soon before the event.

12. Inspector Mohd. Umar details the other sequence of the events, when he deposed that in June 1996 one of his guards was posted at Kothi No. L-105-106, Kirti Nagar, owned by Shri Lalit Makan. Ram Shingar, Lance Naik Kanhaiya Lal, Rajesh Singh Chauhan and Const. Devinder Pal Singh (PW-3) were posted on duty, round the clock, at the aforesaid kothi. Const. Devinder Pal Singh (PW-3) announces that on the night of 27.06.1996 he was on duty from 7:00 p.m. to 10:00 p.m., while Lance Naik Kanhaiya Lal from 10:00 p.m. to 1:00 a.m. in the night. Ram Shingar was on duty from 1:00 a.m. to 4:00 a.m. that night. H.C. Rajesh Singh Chauhan (PW-17) deposed that he along with Lance Naik Kanhaiya Lal, Const. Devinder Pal Singh (PW-3) and the Appellant used to remain on round the clock duty at Kothi No. L-105-106, Kirti Nagar. Thus, out of the depositions of the witnesses, referred above, it came over the record that on the night intervening 27th and 28th June 1996 the Appellant and the victim were on duty at the place of incident. The victim performed his duty from



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10:00 p.m. to 1:00 a.m., while the Appellant was on duty from 1:00 a.m. to 4:00 a.m. that night. No eyebrows were raised by the Appellant, on the facts so testified.

13. H.C. Rajesh Singh Chauhan announced that every official on duty at Kothi No. L-105-106, Kirti Nagar, was provided with one rifle and 50 cartridges each. Const. Devinder Pal Singh (PW-3) also deposes the facts on the same line. He went on to depose that the security personnel used to load 5 cartridges in their respective rifles and remaining 45 were kept in bandolier belt, tied with their body. As to issuance of a rifle along with 50 cartridges to the Appellant and loading of five cartridges in the magazine, while 45 cartridges kept in bandolier belt, there had been no whisper of fact from his side. These facts remained un-assailed and proved over the record beyond a reasonable doubt.

14. Const. Devinder Pal Singh (PW-3) went to bed at 10:30 p.m. on the night intervening 27th and 28th June 1996 and woke up at 3:30 a.m. on hearing sound of gun fire. H.C. Rajesh Singh Chauhan also woke up at 3:30 a.m., on hearing sound of gun fire. When these witnesses faced ordeal of cross-examination, the Appellant opted not to question their depositions on that count. The evidence so adduced remained above board and un-assailed.

15. Const. Devinder Pal Singh (PW-3) saw the Appellant carrying his rifle in one of his hands. By the time he could understand the situation, the Appellant fired another shot from his rifle at Lance Naik Kanhaiya Lal, who was sleeping over a cot. He died there and then.



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He caught hold of the barrel of the rifle, in possession of the Appellant and raised an alarm. H.C. Rajesh Singh Chauhan reached there, who saw the Appellant having rifle in one of his hands and blood oozing out from the body of Kanhaiya Lal. H.C. Rajesh Singh Chauhan concludes that after some time Kanhaiya Lal expired. He with the help of Const. Devinder Pal Singh (PW-3) caught hold of the Appellant and took rifle out of his possession.

16. Ms. Jain tried to have accolades out of the spin taken by Const. Devinder Pal Singh (PW-3) in cross-examination, wherein he deposed the Appellant was doing sentry duty, outside the room, where they were sleeping. Sentry post was 15 yards away from the room. Appellant was caught hold of, while he was performing sentry duty. Examination in chief of Const. Devinder Pal Singh (PW-3) was recorded on 28.10.1998, wherein he spoke facts foisting accountability on the Appellant. His cross-examination was deferred that day. He entered the witness box on 26.04.2001 to face the cross-examination. At that juncture he took a somersault and narrated the facts, as referred above. However, he nowhere explains as to why the Appellant was overpowered by them and handed over to the police. These circumstances are suggestive that by passage of time this witness moulded facts to suit the case of the Appellant. It is a settled proposition of law that the court has to sift the evidence to have grains out of chaff. Doctrine of *falsus in uno falsus in omnibus* does not apply in this country. The false facts, testified by a witness, are to be separated and nuggets of the truth are to be accepted, while deciding



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accountability of an offender. Law to this effect has been laid by the Hon'ble Apex Court in *Ugar Ahir vs State of Bihar*, AIR 1965 SC 277, *Mohan Singh vs State of M.P.*, 1999 (2) SCC 428, *Triloki Nath vs State of U.P.*, 2005 (13) SCC 323 and *State of Uttar Pradesh vs Krishna Master*, 2010 (12) SCC 324.

17. Discarding the facts, testified by Const. Devinder Pal Singh (PW-3), wherein he speaks that the Appellant was doing sentry duty at sentry post, 15 yards away from the scene of crime, we are of the opinion that other facts testified by him get support from the deposition of HC Rajesh Singh Chauhan. Inconsistency, in the deposition of Const. Devinder Pal Singh (PW-3), as referred above, no where make him unworthy of credit altogether. His presence at the spot, at the time of incident, has not come under scanner. His testimony, other than the facts of projecting presence of the Appellant at a distance of 15 yards away from the scene of crime, is accepted since it gets confirmation from other ocular facts testified by Const. Devinder Pal Singh (PW-3).

18. Const. Devinder Pal Singh (PW-3) testified that apart from him Lance Naik Kanhaiya Lal was sleeping in the room. He woke up on hearing gunshot fire. He put on the light in the room. He found Lance Naik Kanhaiya Lal lying dead at that time. He caught hold of the barrel of rifle of the Appellant and raised an alarm. The Appellant dragged him outside the room. He asked him to leave his rifle, as he would open a fire on him also. From these facts, Const. Devinder Pal Singh (PW-3) makes it apparent that the Appellant had fired the



gunshot, sound of which make him to awake. When the Appellant could not succeed in getting himself released from the grip of the witness, he extended threats of opening a fire on him also, in case the latter would not release him. The above facts get support from the deposition of HC Rajesh Singh Chauhan, who woke up at about 3:30 a.m. on 28.06.1996, on hearing the sound of gunshot fire. He saw the Appellant present there along with the rifle in his hand. He noticed blood oozing out of the body of Kanhaiya Lal, who expired after sometime. The Appellant was overpowered with the help of Const. Devinder Pal Singh (PW-3), declares the witness. The facts, so testified, were not questioned by the Appellant, to tilt the scale in his favour. The witnesses stood the litmus test of ordinary human behaviour and natural course of events, when they were grilled during the course of cross-examination. Substratum of their evidence remained intact and un-assailed. Thus, out of the facts testified by these two witnesses, it emerged that the Appellant left the sentry post, came inside the room where the deceased and the other two witnesses were sleeping and fired a shot at the victim, sound of which shot made the witnesses to woke up. They found the Appellant having rifle in his hand. Understanding the entire situation, they overpowered him. The Appellant tried to get himself released from the grip of Const. Devinder Pal Singh (PW-3). When he could not succeed in his endeavour, he extended threat of firing shot at him also.

19. Another sequence of events, occurred after over powering the Appellant, has been unfolded by Const. Devinder Pal Singh (PW-3).



He declares that both of them (he himself and HC Rajesh Singh Chauhan) took rifle from the possession of the Appellant. This fact was re-affirmed by HC Rajesh Singh Chauhan, in his deposition before the Court. The Appellant climbed the wall of the main gate but was caught hold off by his legs, narrates Const. Devinder Pal Singh (PW-3). The Appellant was made to sit in the room, by tying his hands. The events, so unfolded, never came under scanner, when the witnesses were deposing in the witness box.

20. Const. Naresh Kumar, who joined the investigation along with the I.O., portrays the picture of scene of crime, noticed by him. He details that the dead body of the victim was lying in a pool of blood on a cot on northern side of the room. Entry wound of fire on right side of jaw and upper portion of stomach of the dead body were noticed by him. Corresponding hole on vest of the deceased was also noticed. Two empty cartridges were lying near the cot, on which dead body was lying. I.O. prepared two sealed parcels of lead and empty cartridges, sealed the same to the seal of SKM and took into possession vide seizure memo Ex. PW12/A. Rifle and bandolier belt of the accused were checked and three and forty-five live cartridges, respectively, were found therein, which were taken into possession vide seizure memo Ex. PW12/B. Rifle Ex. P-1, cartridges and broken bullet pieces, Ex. P-2 (collectively) and bandolier belt Ex. P-3 were identified by the witness to be the same, as seized from the scene of crime. He also testified that the Appellant was in the custody of Const. Devinder Pal Singh (PW-3) and HC Rajesh Singh Chauhan,



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when they reached there. Mahender Singh S.I. and Inspector Surjit Malik (I.O.) gave confirmation to the facts testified by this witness. Though the defence counsel makes submissions, during the course of arguments, the same are not getting any support from the facts brought over the record. Her submissions are found to be quibbles of advocacy, hence discarded.

21. Inspector Surjit Malik details that at the spot, he recorded statement of the complainant, recorded endorsement Ex. PW19/A and sent the same for registration of the case. He seized duty register, produced before him by HC Rajesh Singh, vide memo Ex. PW12/B. Const. Rattan Singh, who joined the investigation on 28.06.1996, took the dead body of the victim to mortuary Sabzi Mandi in intact condition. After post mortem examination dead body was handed over to Gobind Singh SI, Platoon Commander.

22. Arrest of the Appellant from the scene of the crime has been proved by Const. Devinder Pal Singh (PW-3) who deposed that the former was handed over to the police along with rifle and bandolier belt by him. The said fact has been corroborated by Const. Naresh Kumar and SI Mahender Singh. HC Rajesh Singh Chauhan has also spoken on the same lines. The I.O. had also narrated the facts on the same line, regarding apprehension of the Appellant from the spot.

23. Deposition of parcels, prepared by the I.O. after seizing of spent cartridges, lead, rifle and bandolier belt, in the malkhana in intact condition had not come under dispute. Transmission of those parcels to the laboratory in intact condition has also been proved by



the prosecution.

24. Dr. L.T. Ramani conducted autopsy on the dead body of Kanhaiya Lal. He found an oval punctured wound on right sub-mandibular region/angle of mandibula, an entry wound and the other entry wound on right front lower part of chest/coastal margin, besides the exit wounds of the dead body. The above two wounds were having blackening and heat effect around it. He opined the injuries to be anti-mortem and caused by fire arm fired from near/close range. Fire arm injuries were sufficient to cause death in the ordinary course of nature. He proved his post mortem report as Ex. PW13/A.

25. Claim made by Ms. Jain, to the effect that medical evidence is inconclusive, stood brushed aside by the facts testified by Dr. Ramani. He detailed the entry wounds (of gunshots) as well as exit wounds, with their depths and dimensions. Besides that, he points out that the shots were fired at the victim from a very close range. His report Ex. PW13/A went on to conclude that the injuries caused to the victim were sufficient in the ordinary course of nature to cause his death.

26. Perusal of post mortem report Ex. PW13/A bring it to the light of the day that clothes worn by the deceased and his blood sample were converted into parcels and handed over to the IO who seized the same vide memo Ex. PW12/F. The same were deposited in malkhana in intact condition from where it was transmitted and deposited in CFSL by Const. Mahavir Singh.

27. Report Ex. PX was obtained by the I.O. from CFSL and



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tendered in evidence. It was opined in Ex. PX that rifle Ex. P-1 was a fire arm, within the meaning of Arms Act and was found in working order. Cartridges and broken bullet pieces Ex. P-2 were fired through the rifle Ex. P-1, as opined in the said report.

28. Correctness of rough site plan Ex. 19/B, prepared by the I.O., and the scaled site plan Ex. PW2/A, prepared by Insp. Devinder Singh (PW-2) at the instance of the I.O., have not come under dispute. These two documents project that the Appellant was apprehended at a distance of about 1 metre away from the cot of deceased by HC Rajesh Singh Chauhan and Const. Devinder Pal Singh (PW-3). He got himself released from the grip of Const. Devinder Pal Singh (PW-3) and tried to run away by scaling the iron gate. He was over-powered there at the iron gate, which was at a distance of about 13-15 metre from the scene of crime. The room, where the ghastly crime was committed, was not the place of sentry duty. Admittedly the said duty was being performed at the iron gate of the said house. The Appellant left the place of his duty, came at the scene of crime, where he was apprehended by the witnesses, having rifle Ex. P-1 in his hand. At that juncture Lance Naik Kanhaiya Lal was bleeding profusely from the fire wounds on his body.

29. Though Const. Devinder Pal Singh (PW-3) unfolds that while extending threats to him, the Appellant uttered that he would fire a shot on him also, in case he (the witness) would not leave him. These facts make it clear that through those utterances the Appellant made an extra judicial confession before Const. Devinder Pal Singh (PW-3)



that he had fired shots at the victim. This extra judicial confession, made by the Appellant, soon after commission of the crime fills in the gap, which remained in the evidence, referred above.

30. Devender Singh Constable (PW-5), photographer, was called at the spot, who took 12 photographs of the dead body and seen of crime. He proved negatives as Ex. PW5/A-1 to A-12, besides the positive of the photographs as Ex. PW5/B-1 to B-10. He explains that two photographs could not be printed, as the same were washed away. When positives of the photographs are scanned by us, it was found to be corroborating the contents of the report Ex. PW13/A as well as the facts testified by Const. Naresh Kumar, S.I. Mahinder Singh and the I.O.

31. Ms. Jain made a claim that absence of lifting of finger prints from rifle Ex. P-1 made the case vulnerable to doubts. Her contention in that regard is unfounded, since the evidence brought over the record clinches as to who fired a shot from rifle Ex. P-1. Evidence of finger prints would have been a corroborative piece of evidence, absence of which cannot take away the weight of the evidence brought over the record.

32. Though she attempted to claim it to be a case of circumstantial evidence and sought to rely on the precedent handed down by the Apex Court in that regard. Since it's a case, not resting on circumstantial evidence the said precedent doesn't help the defence. The other precedents, relating to inconsistency in the depositions, effect of contradictions and recovery being doubtful, are of no use to



the defence, as the case rests on direct evidence, without any material contradictions in the deposition of the witnesses. There cannot be any doubt as to the recovery of rifle Ex. P-1 from the possession of the Appellant. Resultantly the precedents, relied by Ms. Jain, provide no accolade to the Appellant.

33. The sequence of events, brought over the record through the witnesses, persuades us to draw a presumption on the count as to who fired shots on Lance Naik Kanhaiya Lal, when he was sleeping on his cot at the place, which turned out to be scene of crime. Presumption is a rule of law and the courts shall or may draw a particular inference from a particular fact or from particular evidence, unless and until the truth of such inference is disproved. These are “inferences which the mind naturally and logically draws from given facts not by virtue of any rule of law but by the spontaneous operations of the reasoning faculty.” All that law does for them is to recognize the propriety of there being so drawn if the judge thinks fit. When infringe the existence of a fact from another, Courts do nothing more than apply a process of reasoning which the mind of any intelligent being would, under similar circumstances, apply for itself and the force of which rests altogether on experience and the course of nature, the constitution of the human mind, the springs of human actions and usages and habits of society. These presumptions, therefore, fall more properly within the province of logic and do not constitute a branch of Jurisprudence.

34. The presumptions are always permissive, in the sense that the



court has the discretion to draw them, as indicated in the Act by the expression “may presume” and mentioned in Sections 86 to 88, 90 and 114. Section 114 of the Act deals with presumptions of facts, drawn by the judges using their common sense and experience in judging the effect of particular facts. Provisions contained in the said section do not contravene the provisions of Article 21 of the Constitution and are not ultra vires.

35. As noted above, feelings of revenge often keep wound “green” and the offender at the centre of one’s thoughts. This rumination perpetuates anger and distress rather than resolving it. “Magnitude gap” activated by the feelings of revenge, makes the offender to perceive the retaliation to be more satisfying than not acting to the situation. Such feelings are powerful, instinctual and momentarily rewarding emotional response that rarely translates into genuine, lasting peace or well-being.

36. Evidence adduced by the prosecution highlights that the offender was beaten by the victim a day before. On the date of incident, at about 3:30 a.m. gunshot sound is being heard by Const. Devinder Pal Singh (PW-3) and HC Rajesh Singh Chauhan, which made them awake from the sleep. They found the offender having his rifle in his hands and body of Lance Naik Kanhaiya Lal bleeding profusely. Appellant was over powered, who attempts to get himself released from the grip of Const. Devinder Pal Singh (PW-3). When failed to succeed, the Appellant extends threats uttering that he would fire a gunshot on the constable too, in case he would not release him.



All these sequences of events lead us to draw a presumption that it was the Appellant and none else who fired gunshots on the victim, which proved to be fatal.

37. The first clause of Section 300 of the Indian Penal Code, 1860, says that culpable homicide is murder if the act by which death is caused is done with the intention of causing death. Intention can, of course, be rarely proved by direct evidence. Such evidence may, however, be sometimes available. Such intention may be proved or it would be presumed or inferred, out of the facts and circumstances brought over the record. A man's intention can only be gathered from his acts as every man is presumed to intend the natural consequences of his act. In deciding the question of intention, therefore, the nature of the weapon used, the part of the body on which the blow is given, the force of the blow and its number are some of the factors which assume importance.

38. Gunshot wounds were caused on right sub-mandibular region/angle of mandibula and on right front lower part of chest/coastal margin of the body of Lance Naik Kanhaiya Lal, from close range. These wounds were found to be sufficient in the ordinary course of nature to cause death. Considering the facts that a rifle was used and two shots on vital part of the body of Kanhaiya Lal were fired make us to conclude that the said shots were fired with the intention to cause his death. All ingredients for an offence of murder have been proved to the hilt against the Appellant.

39. Section 7 of the Arms Act sanctions restriction against the user



of any prohibited arms or ammunition, unless so specially authorised by the Central Government in that behalf which has been made punishable under Section 27 of the Arms Act. The Appellant used rifle Ex. P-1 in commission of the crime in violation of the provisions of Section 7 of the Arms Act and made himself liable to be punished under Section 27 of the Arms Act.

40. With the findings, so recorded, we are constrained to hold that the prosecution has proved its case for offence of murder, punishable under Section 302 of the Indian Penal Code and Section 27 of the Arms Act against the Appellant to the hilt. Therefore, his conviction for those offences is, hereby, maintained.

41. Sentence awarded to the Appellant is in consonance with law. The same is, accordingly, maintained. The appeal fails and the same is hereby dismissed.

42. Let the copy of this judgment to be transmitted to the concerned Trial Court for necessary action.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

NOVEMBER 28, 2025

ps/NY