

AFR
Reserved.
Chief Justice's Court

Case :- CRIMINAL APPEAL No. - 3022 of 1984

Appellant :- Mishrilal And Others

Respondent :- State Of U.P.

Counsel for Appellant :- V.K. Shukla, Bhuwan Raj, Gaurav Singh, Gaurav Singh, Gavrav Singh, Kamlesh Shukla, Utkarsh Tripathi, Vinay Saran

Counsel for Respondent :- D.G.A.

Hon'ble Govind Mathur, Chief Justice
Hon'ble Vivek Varma, J.

(Per: Hon. Vivek Varma, J.)

1. This appeal arises out of the judgment of conviction and order of sentence dated 30.10.1984 passed by the VII Additional Sessions Judge, Allahabad in S.T. No. 36 of 1982 convicting the appellants Chhabboo Lal, Modi and Mishrilal under Section 302/34 and 201 of IPC and sentencing them to undergo imprisonment for life and to undergo rigorous imprisonment for three years under Section 201 IPC.

2. The prosecution case states that Sri Chandrama Singh (P.W.-9) submitted a written report (Ex-Ka-6) at P.S. Ghoorpur on 5.9.1981 with assertion that his cousin brother Sheo Sagar Singh @ Matar Singh (deceased), resident of village Neebi, P.S. Ghoorpur, District Allahabad on 3.9.1981 left his home in the afternoon for Sear, but did not return. It came to his knowledge that on the same day at about 3 p.m., deceased was seen with Mishrilal at his house along with accused Chhabbu Lal and Modi. He suspected that Sheo Sagar Singh @ Matar Singh has been killed by the accused appellants and thereafter the dead body has been removed. As per the details given the deceased was wearing a white *sando vest* and a white *pyjama*.

3. The First Information Report (Ex-ka-9) was lodged on

5.9.1981 at about 21.45 P.M. at Police Station Ghoorpur, District Allahabad. After investigation, the police submitted a charge sheet (Ex-Ka 22) on 21.10.1981 against the accused/appellants under sections 302, 201, 120 B IPC. The trial court framed the charges and charged the appellants Chhabboo Lal and Modi with the commission of offences under Section 302, 201 IPC while the appellant Mishrilal was charged under section 302 read with Section 34 IPC and 201 IPC. On denial of charges by the accused trial commenced.

4. In support of its case, the prosecution produced 15 witnesses and exhibited 22 documents. The accused-appellants were examined under Section 313 Cr.P.C. and they were confronted with the incriminating evidence adduced against them during the course of trial, which they denied and pleaded innocence and false implication.

5. The trial Court after examining the evidence available on record found that the circumstantial evidence available on record makes a chain of events that indicate definite involvement of the accused appellants in the crime in question and by the impugned judgment convicted and sentenced the appellants Chhabboo Lal, Mishrilal and Modi. Hence this appeal at the behest of convicted accused persons.

6. It is contended by learned counsel for the appellants that there is no eyewitness account of the incident and the conviction rests on circumstantial evidence but none of the circumstances from which inference of guilt can be drawn has been proved beyond reasonable doubt. The alleged confession made by the appellant Chhabboo before P.W.-4 Gajraj Singh is not corroborated by other cogent and reliable evidence and the recovery of dead body and seizure of various articles were not

in accordance with law.

7. On the other hand, learned AGA opposing the submission of the appellants and supporting the impugned judgment submitted that chain of circumstances established on basis of adequate evidence clearly indicates involvement of the accused appellant in committing the crime in question. It is pointed out that the accused appellants committed the murder of Sheo Sagar Singh and threw his body. The dead body and several articles were discovered at the pointing out of the accused appellants. All these circumstances have adequately been established by the prosecution evidence which is sufficient to prove involvement of the accused appellants in the crime in question.

8. Heard learned counsels for the appellants, learned AGA and scanned the entire record and considered the arguments advanced.

9. The case of the prosecution consisted of following circumstances:-

- (i) evidence of last seen of the deceased Shiv Sagar Singh in the company of the appellants,
- (ii) extra judicial confession of the appellant Chhabboo Lal, and
- (iii) discovery of incriminating articles relating to the offence at the instance of the appellants, while in police custody.

**EVIDENCE OF LAST SEEN OF THE DECEASED IN
THE COMPANY OF APPELLANTS**

10. The original story as set up in the FIR is at variance with the story set up by the prosecution at the trial. In the FIR only this much had been stated by the informant that on 3.9.1981 at

about 3 p.m. deceased was seen sitting at the door of appellant Mishrilal along with other two appellants. This part of the FIR is extracted below:-

“उसी दिन शिव सागर लगभग तीन बजे दिन मिश्री लाल पुत्र बिहारी केवट ग्राम नीबी के साथ उसी के दरवाजे पर छबबू लाल पुत्र राम लाल यादव व मोदी पुत्र राम केवल केवट ग्राम नीबी के **साथ बैठे देखे गये थे** मुझे संदेह है कि इन्हीं तीनों व्यक्तियों ने मिलकर शिव सागर की हत्या करके लाश को कहीं छिपा दिया है जिस समय घर से शिवसागर घर से निकले थे ”

11. From the aforequoted version, it is clearly evident that the informant Chandrama Singh (P.W.-9) had himself not seen the deceased sitting alongwith the appellants at the house of appellant Mishrilal. Therefore from the said contents of the FIR, it is evident that the FIR version is based on some one else's information and the informant is not the witness of that fact. Before the trial court in his examination-in-chief, the informant (P.W-9) stated that he had seen the deceased at the house of appellant Mishrilal in the company of the appellants. However, under cross examination as to why did he not mention this fact in the FIR, what he is deposing in the court, he stated that what has been deposed by him in the Court had been written as such in the FIR. He infact admitted that he knew the said fact. When asked as to why did he not mention that fact in the FIR, he gave a strange answer that he did not write that fact because he did not want to raise a storm (तूफान) in the report. This was an absurd answer given by the said witness, therefore, on being further cross examined in that regard, he gave a different reason stating that in his understanding the said fact an important fact but he did not write that fact in the FIR as he could not recollect it when he wrote the FIR. He further stated that he did not tell this fact to the Investigating Officer during investigation, i.e. in his statement recorded under Section 161 Cr.P.C.

12. Smt Panchraje (P.W.-8), is the mother of the deceased, claims to have last seen the deceased before his murder. She deposed that the accused Modi came to her house. Sheo Sagar Singh and Modi both left for *Sewar* and thereafter Sheo Sagar Singh did not return. In the cross-examination this witness stated that she had told this fact to the informant (P.W.-9) in the evening at about 6-7 p.m. on that day itself, i.e. on 3.9.1981. The FIR was lodged after two days on 5.9.1981 at 9.45 p.m. If at all, it were a fact that P.W.-8 had told P.W.-9 that her deceased son had gone for *Sewar* alongwith the appellant Modi there is no reason why the informant P.W.-9 (who is none else than her own nephew) would neither have lodged the FIR nor mention that fact in the FIR nor stated that fact to the Investigating Officer during investigation. It is highly improbable that such an important fact of the case (i.e. the deceased was taken by the accused from the latter's house) would not be revealed by the informant in the FIR as well as during the investigation of the case.

13. Since this story of the prosecution that the mother of the deceased, P.W.-8 had seen appellant Modi at her house and the deceased had gone alongwith him for *Sewar* that she had told this fact to the informant before lodging of the FIR was coming for the first time in the trial, therefore, when the informant (P.W.-9) appeared in the witness box he was questioned about this fact in the cross-examination. It was quite probable that the prosecution had introduced P.W.-8 in the case as no other person of the village was coming forward to state that he had seen the deceased in the company of the appellants before the death of the deceased. It is doubtful that the P.W.-8 had last seen the deceased Sheo Sagar Singh in the company of appellant-Modi.

14. The statement of P.W.-9 in the court contradicts the version of the FIR. This appears to be a case where the witness was trying to improve upon the story as had been set up originally in the FIR and as such the deposition of P.W.-9 in the court, regarding his having seen the deceased the last in the company of appellants does not appear to be trustworthy and thus he is not a reliable witness. His credit as a witness thus stood impeached.

15. However, even if it is accepted that P.W.-8 had last seen the deceased in the company of appellant Modi, that fact, itself is not sufficient to prove the charge of murder against Modi. Further, that evidence is not against the other two accused. Even otherwise it is a settled position of law that accused cannot be convicted unless there is some other corroborative pieces of evidence. The Supreme Court in the matter of **State of Goa Vs Sanjay Thakran, 2007) 3 SCC 755, Brahm Swaroop Vs State of UP, 6 SCC 288 and Anjan Kumar Sharma and others Vs State of Assam, (2017) SCC online 622** has held as under:-

“In the absence of proof of other circumstances, the only circumstance of last seen together and absence of satisfactory explanation cannot be made the basis of conviction.”

EXTRA JUDICIAL CONFESSION OF APPELLANT CHHABBOO LAL

16. The prosecution witness Gajraj Singh (P.W.-4) has been examined to prove extra-judicial confession alleged to have been made to him by the appellant Chhabboo Lal. This witness had deposed that in the night of 5.9.1981 at about 1/1.30 while he was sleeping, the appellant Chhabboo Lal came to him and woke him up and told him that he and other two appellants, on

the asking of Satyawar, had murdered the deceased Sheo Sagar Singh in the house of appellant Mishrilal and requested him to save him from the police as the police was camping in the village and it had already arrested the other two appellants. He has further deposed in the examination in chief that after hearing the confessional statement of appellant Chhabboo Lal he was perturbed and he had asked the appellant to go away from him and he would not help him. Having said so he again slept. Later on in the morning the police arrested Chhabboo Lal at the door of his house. In the cross-examination, this witness has categorically stated that he had no friendship with the police and he could not have helped the accused Chhabboo Lal. He has also stated that his house is nearly 1 km away from the house of Chhabboo Lal. There is no other corroborative evidence about this extra judicial confession.

17. The testimony of witness P.W.-4 does not inspire confidence. Firstly, because, there is no evidence that this witness is such a man, whom one would approach for help. The statement and the evidence do not suggest that any one would fall upon him in the hours of need or when placed in a difficult situation. Secondly, there is no evidence on record to even feebly suggest that he is a close associate of appellant Chhabboo Lal and that he used to help him or had even helped this appellant in the past. On the contrary, as already noted above, this witness had himself admitted in the cross-examination that he could not have helped the appellant Chhabboo Lal as he had no friendship with the police. In this set of facts it is highly improbable that the appellant Chhabboo Lal would make any confession whatsoever before such a person.

18. Law on extra judicial confession is well settled by the Apex Court. In **State of Punjab Vs Bhajan Singh, AIR 1975 SC 258**, it has been held that extra-judicial confession by itself is a very weak evidence which requires corroboration which would inspire utmost confidence. Thus, it would not at all safe to rely upon it. As regards extra-judicial confession, relevant paragraph of the Apex Court judgment in **Makhan Singh Vs State of Punjab, 1988 (Supp) SCC 526** is as under:-

“ On 10 August, 1985 F.I.R. was lodged by Nihal Singh (PW-2)¹ and on 13.8.85 the appellant went to Amrik Singh (PW-3) to make an extra judicial confession. Amrik Singh says that the appellant told him that as the Police was after him he had come and confessed the fact so that he might not be unnecessarily harassed. There is nothing to indicate that this Amrik Singh was a person having some influence with the Police or a person of some status to protect the appellant from harassment. In his cross- examination he admits that he is neither the Lumbardar or Sarpanch nor a person who is frequently visiting the Police Station. He further admits that when he produced the appellant there was a crowd of 10 to 12 persons. There is no other corroborative evidence about the extra judicial confession. As rightly conceded by the learned counsel for the State that extra judicial confession is a very weak piece of evidence and is hardly of any consequence.”

19. In **Balwinder Singh Vs State of Punjab, 1996 SCC (Cri) 59**, while considering the evidentiary value of extra-judicial confession, the Supreme Court has held as under.

"10.An extrajudicial confession by its very nature is rather a weak type of evidence and requires appreciation with a great deal of care and caution. Where an extrajudicial confession is surrounded by suspicious circumstances, its credibility becomes doubtful and it loses its importance. The courts generally look for independent reliable corroboration before placing any reliance upon an extra judicial confession."

20. Thus, the extra-judicial confession made by appellant Chhabboo before P.W-4, is tested on the touchstone of aforesaid judicial pronouncements, it is rendered unworthy of credence, and being so does not inspire confidence of this

court.

EVIDENCE OF DISCOVERY OF INCRIMINATING ARTICLES AT THE INSTANCE OF APPELLANTS.

21. Before appreciating the testimony of the prosecution witnesses of recovery we may record an important fact relating to recovery of the body of the deceased. The dead body was recovered from the paddy field of one Sumer of the village Neebi, i.e the village where deceased lived. From the site plan Ex-ka-20, it is evident that adjacent to the field of Sumer, on the three sides, there are fields of other persons, wherein paddy had been sown. These paddy fields lay at a distance of only one and half furlongs from the Abadi of village Neebi. It is thus clear that the field wherefrom dead body of deceased Sheo Sagar Singh was recovered was an open field accessible to all and sundry and visible from all sides and was quite close to the village Abadi. The Investigating Officer (P.W-12) had himself stated in the cross-examination that the field where the dead body was lying is open from three sides. He had further stated that when he went towards the paddy field where the dead body was lying it was visible from 10-12 steps from where he was standing. Thus, it cannot be said that the dead body of the deceased was discovered at the pointing out of the appellants Mishrilal and Modi.

22. The other incriminating articles which were alleged to have been recovered at the pointing of the appellants were *gandasa*, ashes of half burnt pieces of *baniyan*, pieces of pyjama of the deceased, *bamboo sticks*, *gamacha*, *dhoti* and rope by which the body was allegedly tied.

23. The offence of murder is alleged to have been committed in village Neebi and the incriminating articles are alleged to

have been recovered from this village.

24. The prosecution has produced Manik Chand Singh, P.W.-5, Genda Singh P.W.-6 and Investigating officer P.W.-12 to prove discovery of dead body of deceased and other incriminating articles, mentioned above, at the instance of pointing out of the appellants.

25. So far as the prosecution witnesses P.W-5 and P.W.-6 are concerned they do not belong to Village Neebi. They belong to another village- Baramar. P.W.-6 has deposed that he and P.W.-5 belong to the same village. P.W.-5 has deposed in his examination in chief that his village is 4-5 furlongs away from village Neebi.

26. The testimony of these two witnesses are to the effect that it was in their presence that the appellants Modi and Mishrilal, being in police custody, had allegedly confessed before the police that they had killed Sheo Sagar Singh and they may show the places where they had kept his dead body and other incriminating articles relating to the offence. These two witnesses have also stated that appellant Chhabboo Lal was arrested on 6.9.1981 and being in police custody he had got the recoveries made of the *pyjama, gamacha, dhoti* and *rope*.

27. P.W-5 has deposed that he was sitting in his village at the tea shop of Mahangoo where 3-4 persons came from the side of village Neebi for taking *paan and biri* at the shop. They were talking that lot of police had come in the village Neebi. On hearing this he guessed that as Shiv Sagar Singh was missing the police might have come to the village in that connection. He then set out for village Neebi along with Rajendra and Lal Singh. When he reached village Neebi he saw that police

personnel, appellants Modi and Mishrilal were sitting along with villagers. Investigating Officer was interrogating the appellants Modi and Mishrilal about the murder of the deceased Sheo Sagar Singh. The said two appellants had told the police before him that they had killed the deceased and that they can get dead body and other incriminating article recovered from the places where they are lying.

28. It is an admitted case of the prosecution that after lodging of the FIR on 5.9.1981 at about 9.45 p.m. the Investigating Officer (P.W.-12) reached village Neebi at about 11.15 p.m on the same date and he reached the house of appellants Modi and Mishrilal and any time after 12 in the mid night and started interrogating them. P.W-5 had stated in the cross-examination that he had reached village Neebi about 12 or 12.15 in the night.

29. We may at the very outset state that it is highly improbable that P.W.-5 in the mid night, would take the trouble to go from his village Baramar to another village Neebi, that too just to see why the police is camping there. This witness has stated in his cross-examination that when he was taking tea in his village shop, few person came there from the side of village Neebi and it was from their conversation that he learnt that in village Neebi lot of police has come and then he set out for village Neebi. It would be significant to mention here that this witness had admitted in the cross-examination that he had not told the Investigating Officer during the investigation about the fact that he was taking tea in his village and that few persons from the side of Village Neebi had come and from them he learnt that police had come to village Neebi. This would mean that it is an afterthought of the prosecution and surely a

deliberate attempt to improve the prosecution case in the trial to explain and justify the presence of this witness in village Neebi for being a witness of the case. We may, therefore, hold that it is unbelievable that P.W.-5 was taking tea at the tea shop of his village at about 11 or 12 in the night. The reason is that it is common knowledge that even these days tea shops in the villages are not open at such a dead hours of night, what to say of the times of 38 years back in the year 1981, when the present incident had taken place. We, therefore, hold that P.W.-5 is a got up witness of police and the prosecution has chosen him witness as no witness of village Neebi was coming forward to support the prosecution case. The suggestion given to this witness by the defence that he is a stooge of police and has made deposition under the influence of police appears to be correct. The incriminating articles were definitely not recovered in his presence. For all these reasons we hold that P.W.-5 is not at all a reliable witness.

30. Another witness P.W-6 is also of the village of P.W.-5. His presence in village Neebi at the time of recovery is also unbelievable. This witness, for his presence in village Neebi, had given explanation in the trial that the millstone of his grist mill was not working so he had gone to village Neebi in the night at about 9 p.m. to call a mechanic named, Ganga Teli, who lived in village Neebi. He also stated that he went to the house of mechanic Ganga Teli who met him and thereafter he stayed whole night at the house of the said mechanic. He did so because the said mechanic asked him to stay at his home and in the morning he would accompany him to the place where the flour-mill of PW-6 was situated. He further stated that during his stay at the house of mechanic, the appellants had come to the village and at 12 to 12-30 in the night he reached

at the house of the appellants. The appellant Modi was also present there and both the appellants told the SHO that they can show the place where they have hidden the dead body of the deceased. Thereafter PW-6 stated that he alongwith appellants and police went to the place where the dead body was lying. He had seen the dead body at the place where the appellants had indicated. This witness is also a witness of recovery of half burnt piece of *baniyan* of the deceased. He is also a witness of recovery of *Gandasa* and *bamboo sticks* from the house of the appellant Mishrilal. He is also a witness of recovery of pieces of *pyjama*, *Dhoti*, *Gamcha* etc. at the pointing out of appellant Chabhu Lal. These recoveries were made on 06.09.1981.

31. The statement of this witness does not inspire confidence particularly to the explanation that he had shown his presence in village Neebi. The deposition that this witness had gone to village Neebi to call mechanic Ganga Teli and he stayed at the house of the said mechanic is not believable. It is highly improbable that a person whose gristmill was not working, chose in the night by 9.00 P.M. to go to the village to call a mechanic of his choice for repairs. More so, when the repair could not have been undertaken in the night, there is no evidence of the fact that alleged repair work of the system was very urgent. To the contrary, the evidence is that there was no such urgency, otherwise this witness would not have stayed there whole night at the house of the said mechanic. It is also not comprehensible that a person who has gone to call the mechanic, has stayed in the night and would not return to his own village, which is only at a distance of a furlong from his village Neebi. The most significant fact that needs to be pointed out is that whatever explanation or reason that PW-6 has given

about his presence is coming for the first time in the court and not during investigation. This is enough to suggest that said explanation of PW-6 about his presence in village Neebi is nothing but an after-thought of the prosecution. Therefore, we hold that PW-6 is a wholly unreliable witness. Therefore, the prosecution has failed to prove the discovery of incriminating articles at the instance of the appellant from the evidence of P.Ws.-5 and 6.

32. Now remains the evidence of PW-12, the Investigating Officer of the case.

33. The testimony of investigating officer PW-12 shows that he has not stated the actual words spoken by the appellants leading to the discovery of dead body of the deceased and other incriminating articles of the case. It would be worthwhile to extract the examination in chief of this witness with regard to the discovery of incriminating articles at the instance of the appellants. He has deposed in his examination in chief as follows:-

“दिनांक 5.9.81 को मैं एस.ओ. धूरपुर तैयानात था यह मुकदमा मेरे मौजूदगी में कायम हुआ, तफतीश मैंने खुद ली उसी समय उसी दिन मैंने वादी मुकदमा चन्दरमा सिंह का बयान लिया उसके बाद मय फोर्स व सरकारी जीप के मौके पर ग्राम नीवी गया वहा मृतक की मां श्रीमती पंचराजा का बयान लिया दिनांक 6.9.81 को लगातार रात में ही 12 बजे के बाद संदिग्ध अभियुक्त मिश्री लाल व मोदी से पूछताछ करने के गरज से उनके निवास स्थान पर गया तो यह लोग पुलिस को देखकर भागे कि पुलिस ने घेर मारकर पकड़ लिया और उनसे पूछताछ की गई दोनों आदमियों ने अलग अलग पूछताछ पर जुर्म से एकवाल करके मितुक शिव सागर सिंह के लाश की बरामदगी कराने को कहा कि उनके निसान देही पर हमराह गवाहान जिनके सामने इकवाल किया था, गवाहान मानिक चन्द, गेंदा सिंह व मुकीम के साथ अन्तरगत धारा 27 **evidence Act** बाजाफता लास की बरामदगी की गई।”

34. From the deposition of Investigating Officer (P.W.-12), it is clear that leave alone the material particulars of the place where the dead body was resting, even the substance of the whereabouts of the dead body and other recovered materials were not provided by the accused appellants. This deficiency in

the evidence tendered by the Investigating Officer is itself fatal to the case of the prosecution. Moreover, the ingredients of a recovery which would incriminate the appellants under Section 27 of the Indian Evidence Act are not made out. The most essential ingredients of Section 27 of the Evidence Act is that accused had given the information to the police and it was upon that information something incriminating articles has been discovered. The prosecution has, thus, failed to prove that dead body and other incriminating articles were recovered at the pointing out of the appellants. From the aforesaid quotation, it is clear that this witness has not stated the actual words spoken by the appellants leading to discovery of dead body and other articles what he had stated is that he had made the alleged recovery according to Section 27 of Evidence Act.

35. In the case in hand, admittedly no motive has been established by the prosecution and further from the facts and circumstances of the case, it comes out that other circumstances are not constituting a chain of circumstance to record conviction of the appellants.

36. It may also be noted that the Apex Court recently in the case of **Devi Lal Vs State of Rajasthan (Criminal Appeal No. 148 of 2010 decided on 8.1.2019)** while dealing with circumstantial evidence, observed as under:-

“14. The classic enunciation of law pertaining to circumstantial evidence, its relevance and decisiveness, as a proof of charge of a criminal offence, is amongst others traceable decision of the court in **Sharad Birdhichand Sarda Vs State of Maharashtra, 1984 (4) SCC 116**. The relevant excerpts from para 153 of the decision is assuredly apposite:-

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in **Shivaji Sahabrao Bobade and Another Vs State of Maharashtra (1973) 2 CC 793** where the observations were made:

“Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and must be' is long and divides vague conjectures from sure conclusions.”

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;

(3) the circumstances should be of a conclusive nature and tendency;

(4) they should exclude every possible hypothesis except the one to be proved; and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

15. It has further been considered by this Court in **Sujit Biswas Vs State of Assam, 2013(12) SCC 406** and **Raja Alias Rajinder Vs State of Haryana, 2015 (11) SCC 43**. It has been propounded that while scrutinizing the circumstantial evidence, a court has to evaluate it to ensure the chain of events is established clearly and completely to rule out any reasonable likelihood of innocence of the accused. The underlying principle is whether the chain is complete or not, indeed it would depend on the facts of each case emanating from the evidence and there cannot be a straight jacket formula which can be laid down for the purpose. But the circumstances adduced when considered collectively, it must lead only to the conclusion that there cannot be a person other than the accused who alone is the perpetrator of the crime alleged and the circumstances must establish the conclusive nature consistent only with the hypothesis of the guilt of the accused.

37. In view of the settled legal position as well from the facts

as stated above, we are of the considered opinion that this appeal deserves acceptance. Hence, the same is allowed. The judgment of conviction and order of sentence dated 30.10.1984 passed by the VII Additional Sessions Judge, Allahabad in S.T. No. 36 of 1982 is set aside. The accused appellants be acquitted from the charges under which they were found guilty. As per record, appellants Chhabboo Lal and Mishrilal are on bail, therefore, their bail bonds and sureties stand discharged. Appellant Modi who had been taken into custody pursuant to Non Bailable Warrant dated 21.2.2018, is directed to be set at liberty forthwith, if not wanted in any other case.

The record of the court below be returned forthwith.

Order Date :- 6.9.2019

RavindraKSingh

(Vivek Varma, J.) (Govind Mathur, C.J.)