

manner as they were arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present revision are that the police filed a charge sheet before the JJB against the JCL for the commission of offences punishable under Sections 302 and 201 of the IPC. It was asserted that the informant, Ashok Kumar (PW2), was married to Raj Kumari. Two children were born to them. The informant was serving at New Delhi in Thapar Farm House. He received a call from his wife on 16.10.2008 that their son Manish, alias Mithu, was missing, and he could not be found despite an extensive search. The informant rushed to his home. His wife told him that a missing person report was lodged at the Police Station; however, Manish could not be found anywhere. Tara Chand, the informant's brother, revealed that a call was received on his mobile number xxx708 asking for ₹5.00 lacs. The matter was reported to the police. The police recorded Ashok Kumar's statement (Ex.PW2/A) and registered the FIR (Ex.PW15/A). Jugal Kishore prepared the site plan (Ex.PW17/A), and seized the details of the mobile number xxx214 vide memo (Ex.PW7/A). Surender Sharma (PW17) further investigated the matter. Tara

Chand (PW3) produced one cycle tyre (Ex. P1), which was seized vide memo (Ex.PW2/D). One stick (Ex. P2) was seized vide memo (Ex.PW3/C). One letter (Ex.PW3/A) was produced by Tara Chand, which was seized vide memo (Ex.PW3/B). One application (Ex.PW9/A) having a letter (Ex.PW3/A) concealed in it was produced by Tara Chand, which was seized by the police. The JCL made a statement under Section 27 of the Indian Evidence Act (Ex.PW2/B) that he had concealed the dead body of Manish in the bushes, which could be got recovered by him. JCL led the police and got recovered the dead body. The informant identified the dead body as that of Manish. The dead body was seized vide memo (Ex.PW2/C). Site plans (Ex.PW17/C and Ex.PW17/D) were prepared. An inquest on the dead body was conducted, and the report (Ex.PW17/E1) was prepared. An application (Ex.PW17/E3) was filed in Zonal Hospital, Una, for conducting the postmortem examination of the deceased. Dr Vipin Sharma (PW14) conducted the postmortem examination and found that the cause of death was a head injury sustained as a result of a fall on a pucca surface with sufficient force. Report (Ex.PW14/B1) was issued. The photographs of the dead body (Ex. PW8/A) were taken by Parvinder Kumar (PW8), whose negatives are

Ex.PW8/B. One gunny sack was produced by the accused, which was put in a cloth parcel, and the parcel was sealed with seal 'D'. Seal impression (Ex.PW17/F) was taken on a separate piece of cloth. A copy (Ex.PB) containing admitted handwriting of the accused was seized. Specimen signatures (Ex.S1 to Ex. S12) were taken and sent to RFSL, Dharamshala. Report (Ex.PW17/J-2) was issued stating that the specimen, the admitted, and the questioned handwriting were written by the same person. The birth certificate (Ex.AW1/A) and school certificate (Ex.PW17/K) of the JCL were seized. The result of the analysis (Ex.PW17/J-1) was issued, mentioning that blood was not found on the wooden bamboo trees. Statements of witnesses were recorded as per their version, and after the completion of the investigation, a challan was prepared and presented before the learned JJB.

3. The learned JJB put the notice of accusation to the JCL for the commission of offences punishable under Sections 364, 302 and 201 of the IPC, to which the JCL pleaded not guilty and claimed to be tried.

4. The prosecution examined 18 witnesses to prove its case. Raj Kumari (PW1) is the mother of the deceased. Ashok

Kumar (PW2) is the informant and father of the deceased. Tara Chand (PW3) is the informant's brother who had received the ransom call. Kesar Chand (PW4), ASI Arjun Dev (PW7), Bhola Ram (PW9), Mohinder Singh (PW11), and Satnam Singh (PW13) witnessed various recoveries. Prem Chand (PW5), Yog Raj (PW6) and Rajinder Prasad (PW12) did not support the prosecution's case. Parvinder Kumar (PW8) took the photographs. Deepak Agnihotri (PW10) met the JCL near the place of the incident. Dr. Vipin Sharma (PW14) conducted the postmortem examination of the deceased. Kusha Dutt (PW15) was working as an MHC with whom the case property was deposited. HC Puran Bhagat (PW16) carried the documents to RFSL. Surender Sharma (PW17) investigated the matter. Kesar Ram (PW18) was posted as Tehsildar, in whose presence the specimen signatures were obtained.

5. The JCL, in his statement recorded under Section 313 of Cr.P.C., denied the prosecution's case in its entirety. He stated that he did not know what had happened in the present case. A false case was made against him because of the enmity. No defence was produced by the JCL.

6. Learned JJB held that the prosecution's evidence was not sufficient to prove the involvement of the JCL. The JCL could not have carried the deceased without being noticed by any person. The conduct of Tara Chand (PW3) was abnormal, which made it difficult to rely upon his version. The material from the spot was not seized to link it with the commission of crime. It was improbable that the JCL would have killed the deceased before the ransom was paid to him. The circumstances created a reasonable doubt regarding the JCL's involvement. Hence, the learned JJB acquitted the JCL.

7. Being aggrieved by the order passed by the learned JJB, the State has filed the present revision asserting that the prosecution had established the chain of circumstances unerringly pointing towards the guilt of JCL. The deceased was found missing on 16.10.2008. The JCL made a ransom call on 17.10.2008. He also sent a letter (Ex.PW3/A) demanding the ransom. The report of the handwriting analysis proved that the letter was written by the JCL. JCL got recovered the dead body. JCL had also confessed to the commission of crime to Raj Kumari (PW1) and Ashok Kumar (PW2). JCL had an altercation with the deceased on 16.10.2008, and he killed the deceased to

take revenge. Therefore, it was prayed that the present revision be allowed and the order passed by the learned JJB be set aside.

8. I have heard Mr Prashant Sen, learned Deputy Advocate General for the petitioner-State and Mr Dheeraj K. Vashisht, learned counsel, for the respondent/JCL.

9. Mr Prashant Sen, learned Deputy Advocate General, for the petitioner-State, submitted that the learned JJB ignored many circumstances proved by the prosecution. The JCL was last seen with the deceased, and the burden would shift upon JCL to explain the circumstances leading to the death of Manish. JCL had called Tara Chand (PW3) and handed over the ransom letter to him, which shows that the motive for the kidnapping was a ransom demand. He made a disclosure statement leading to the discovery of the dead body. All these circumstances established that the JCL had kidnapped and murdered the deceased. Learned JJB had taken a view which could not be taken by any reasonable person. Therefore, he prayed that the present revision be allowed and the judgment passed by JJB be set-aside.

10. Mr Dheeraj K. Vashisht, learned counsel for the respondent/JCL, submitted that Section 52 of the Juvenile Justice

(Care and Protection) Act, 2000, bars an appeal against an acquittal. A revision is permissible under Section 53 of the Act; however, the jurisdiction of the Revisional Court is restricted. It cannot convert the acquittal into a conviction and will interfere if there is a jurisdictional error. The mere possibility of a different view will not amount to jurisdictional error. In the present case, no jurisdictional error was shown. Therefore, he prayed that the present petition be dismissed.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. The present revision has been filed against an order of acquitting the JCL. It was laid down by the Gauhati High Court in *Subhas Das v. State of Assam, 2016 SCC OnLine Gau 749*, that the High Court can hear a revision against an order of acquittal; however, it cannot convert an acquittal into a conviction. It was observed: -

26. That being the position, it is no surprise that though section 52 of the Juvenile Justice Act provides for filing of appeal against any order made by a competent authority as contemplated under section 15 thereof, there is a specific bar of filing appeal against any order of acquittal made by the Juvenile Justice Board in respect of a juvenile alleged to have committed an offence. That leaves the provisions relating to revision as provided under section

“53. Though this Section is quite broadly worded, inasmuch as, the High Court has been vested with the power to call for the record of any proceeding, in which, any competent authority or Court of Session has passed an order, either on its own motion or on an application filed, to satisfy itself as to the legality or propriety of any such order, and, thereafter to pass such an order as it thinks fit, the only limitation being that such order shall not be passed prejudicial to any person without giving him a reasonable opportunity of being heard, can such a power be extended to examine an order of acquittal. Section 54 provides a clue, inasmuch as it says that the procedure to be followed in hearing appeals or revision proceedings under *the Juvenile Justice Act* shall be, as far as practicable, in accordance with the provisions of the Code of Criminal Procedure, 1973.

27. While section 397 of the Code of Criminal Procedure, 1973, generally provides for the powers of revision vested in the High Court or a Court of Session; Section 401 specifically deals with the High Court's power of revision. Sub-section (3) of section 401 mentions that nothing under section 401 shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction. Thus, there is a bar on the High Court while exercising the power of revision from converting a finding of acquittal into one of conviction. When the aforesaid provision is extrapolated into the provisions contained in section 53 of the Juvenile Justice Act, it becomes evidently clear that the power of revision vested in the High Court cannot be extended to convert a finding of acquittal into one of conviction. This is perfectly in sync with the overall object of the Juvenile Justice Act.”

13. The prosecution relied upon the report (Ex.PW17/J2) to connect the JCL to the ransom letter; however, the prosecution did not examine Visheshwar Sharma, Assistant

Director, Document and Photo Division, RFSL, Dharamshala, who had issued the report. It was submitted on behalf of the State that the report is *per se* admissible under Section 293 of the Cr.PC. This submission is not correct. It was laid down by this Court in *State of Himachal Pradesh versus Anoop Kumar 2008 (1) ShimLC 71* that the opinion of a handwriting expert is required to be proved in accordance with the law. It was observed:-

“The allegations against Anoop Kumar are that he forged G.R. Ext.PW-18/A. In support of forgery allegedly committed by Anoop Kumar, the prosecution has relied on a handwriting expert report, Ext. PW-19/A. This report was produced by P.W.-19 Garib Dass, a Retired Inspector. The prosecution did not examine handwriting experts to prove Ext.PW-19/A. Section 293, Cr.P.C., permits the use of some reports in evidence, but the report of a handwriting expert is not included in Section 293, Cr.P.C. In other words, handwriting expert opinion is required to be proved in accordance with the law. In the present case, the handwriting expert report has not been proved as per law; therefore, the handwriting expert report Ext.P.W.-19/A cannot be read in evidence. In the absence of a handwriting expert report, there is nothing on record to show that Anoop Kumar has forged Ext. P.W.-18/A/A. The learned Sessions Judge has rightly acquitted Anoop Kumar under Section 468, I.P.C.”

14. Thus, no reliance was placed upon the report of the handwriting expert.

15. Tara Chand (PW3) stated that he had received a call on his mobile number xxx708 from mobile number xxx214

asking him to arrange ₹5.00 lacs to trace the missing boy. A call was made to this number, but nobody picked it up. The number from which the call was received belonged to the Public Call Office (PCO), Dhussara. The JCL handed over one letter (Ex.PW3/A) regarding the demand of ₹5.00 lacs. JCL had also told him not to tell any person about the letter. He admitted in his cross-examination that he was not on good terms with the family of JCL. He denied that he was making a false statement because of the enmity.

16. The testimony of this witness is highly improbable. He admitted that he had a strained relationship with the family of JCL. It is difficult to believe that JCL would have handed over the ransom letter to Tara Chand, with whom he had no cordial relations, and he would not have reported this fact to anyone. It is also not believable that the JCL would not make any attempt to conceal his identity and would hand over the letter to Tara Chand making him a prime suspect. The letter does not mention the name of any person which means that the author did not want to reveal his identity to any person. Hence, the conduct of handing over the ransom letter in person to an enemy is highly unnatural and was rightly rejected by the learned JJB.

17. The police traced the call made to the public call office at Dhusara and seized the record vide memo (Ex.PW7/A). ASI Arjun Dev (PW7) stated that Yog Raj, owner, had produced the details of the call made from the number xx214. One call was made to the mobile number xxx708 at 4.29 PM. SI Mohinder (PW11) also made a similar statement. This evidence does not identify the caller, and the call cannot be connected to JCL.

18. The police arrested the JCL, and he made a disclosure statement (Ex.PW2/B) that he had concealed the dead body at Garawala Choe, which could be got recovered by him. It was laid down by the Hon'ble Supreme Court in *Manoj Kumar Soni v. State of M.P., 2023 SCC OnLine SC 984*, that the conviction cannot be based on the disclosure statement alone. It was observed:

“22. A doubt looms: can disclosure statements, *per se*, unaccompanied by any supporting evidence, be deemed adequate to secure a conviction? We find it implausible. Although disclosure statements hold significance as a contributing factor in unriddling a case, *in our opinion, they are not so strong a piece of evidence, sufficient on their own and without anything more to bring home the charges beyond a reasonable doubt.*” (Emphasis supplied)

19. This position was reiterated in *Ramanand v. State of U.P., (2023) 16 SCC 510*, wherein it was observed: -

70. What emerges from the evidence in the form of a panchnama is that the appellant stated before the panch witnesses to the effect that “I will show you the weapon used in the commission of the offence”. This is the exact statement which we could read from the discovery panchnama, and the investigating officer also could not have deposed as regards the exact statement other than what has been recorded in the panchnama. This statement does not suggest that the appellant indicated anything about his involvement in the concealment of the weapon. Mere discovery cannot be interpreted as sufficient to infer authorship of concealment by the person who discovered the weapon. He could have derived knowledge of the existence of that weapon at the place through some other source. He may have even seen somebody concealing the weapon, and, therefore, it cannot be presumed or inferred that, because a person discovered a weapon, he was the person who concealed it; at least it can be presumed that he used it. Therefore, even if discovery by the appellant is accepted, what emerges from the panchnama of the discovery of the weapon and the evidence in this regard is that he disclosed that he would show the weapon used in the commission of the offence. In the same manner, we have also perused the panchnama, Ext. 32 wherein the statement said to have been made by the accused before the panchas in exact words is “the accused resident of Roghada Village on his own free will informs to take out cash and other valuables”.

71. What emerges from the evidence of the investigating officer is that the appellant-accused stated before him while he was in custody, “*I may get discovered the murder weapon used in the incident*”. This statement does not indicate or suggest that the appellant-accused indicated anything about his involvement in the concealment of the weapon. It is a vague statement. Mere discovery cannot be interpreted as sufficient to infer authorship of concealment by the person who discovered the weapon.

He could have derived knowledge of the existence of that weapon at the place through some other source also. He might have even seen somebody concealing the weapon, and, therefore, it cannot be presumed or inferred that, because a person discovered the weapon, he was the person who had concealed it; at least it can be presumed that he used it. Therefore, even if discovery by the appellant is accepted, what emerges from the substantive evidence as regards the discovery of the weapon is that the appellant disclosed that he would show the weapon used in the commission of the offence.

72. In *Dudh Nath Pandey v. State of U.P.* [*Dudh Nath Pandey v. State of U.P.*, (1981) 2 SCC 166: 1981 SCC (Cri) 379: AIR 1981 SC 911], this Court observed that the evidence of discovery of pistol at the instance of the appellant cannot, by itself, prove that he who pointed out the weapon wielded it in the offence. The statement accompanying the discovery was found to be vague in identifying the authorship of concealment, and it was held that pointing out the weapon may, at best, prove the appellant's knowledge as to where the weapon was kept.

73. Thus, in the absence of exact words, attributed to an accused person, as statement made by him being deposed by the investigating officer in his evidence, and also without proving the contents of the panchnama (Ext. 5), the trial court as well as the High Court was not justified in placing reliance upon the circumstance of discovery of weapon.

20. Therefore, this circumstance, even if established, would not prove the involvement of the JCL in the commission of the crime.

21. The disclosure statement was made in the presence of Kesar Chand (PW4) and Ashok Kumar (PW2). Ashok Kumar (PW2) stated that the police brought JCL with them, and JCL told the police that he had carried Manish in a gunny sack to Garawala Nalla (Choe), which could be got recovered by him. He led the police to Garawala Choe and got recovered the dead body.

22. Kesar Chand (PW4) stated that the police had brought JCL with them to the house of Tara Chand. He was called to the house of Tara Chand. Search was made for Mithu in the vicinity, but he could not be found. The police interrogated the JCL, who told the police that he had killed Mithu and kept him in Garawala Choe. They went to Garawala Choe and found that Mithu was lying on his stomach. The police brought him up. He and Ashok put their signatures on the memo. He stated in his cross-examination that the police had taken the juvenile to Garawala Choe. The house of JCL is located at a distance of 40 mtrs. from the house of Ashok.

23. The statements of these witnesses do not corroborate each other on material particulars. Ashok Kumar (PW2) stated that JCL told the police that he had carried the dead body in a

gunny sack. Kesar Chand (PW4) did not state any such fact. No gunny sack was recovered with the dead body, and as per the prosecution, the gunny sack was produced by JCL subsequently. Kesar Chand deposed about the presence of Tara Chand, but never stated that Ashok Kumar was also present. Kesar Chand stated that the dead body was lying on its stomach in Garawala Choe. He has not stated that it was concealed anywhere. The site plan (Ex.PW17/D) shows the place of recovery (Mark-C) as the bushes on the side of the Choe. The photographs show the dead body lying in the bushes and not in the open. Surender Sharma (PW17) stated in his cross-examination that the dead body was not buried, but was concealed in the bushes.

24. Thus, the learned JJB was justified in discarding the recovery.

25. The police also recovered the gunny sack at the instance of the JCL, which is stated to have been used for carrying the dead body to the spot; however, there is no evidence to connect the gunny sack to the dead body. No forensic analysis of the gunny sack was conducted to determine whether the dead body contained the blood or the DNA of the

deceased. It was laid down by the Judicial Committee of the Privy Council in *Narayan Swami Versus Emperor, AIR 1939 PC 47*, that the article recovered has to be linked with the commission of the crime independently, and the prosecution cannot rely upon the statement under Section 27 of the Evidence Act to prove its connection with the commission of crime. Hon'ble Supreme Court held in *Babbu Versus State of M.P., AIR 1979 S.C. 1042*, that the prosecution has to prove independently that the object recovered was connected with the commission of an offence. It was observed:

“13. The learned Additional Sessions Judge has also referred to the recovery of Katarnas on the information given by accused Nos. 1, 3 and 5. These recoveries hardly have any probative value in the facts and circumstances of this case. If there is no substantive evidence worth the name, the recovery of Katarnas would hardly advance the prosecution's case against the accused. Katarnas appear to have been stained with human blood. However, it is revealing to refer to the recovery memos. Katarna has recovered from the accused No. 1 under the seizure memorandum Ex. P-8 in which it is recited that accused No. 1 made the statement that he would show the Katarna with which he assaulted Diwan Singh on 21-9-73 at night. The first part in the seizure memo would be inadmissible because the fact that accused No. 1 assaulted Diwan Singh was not discovered in pursuance of the information given by accused No. 1. It would be a confessional statement to a police officer, hit by section 25 of the Evidence Act. The same infirmities were to be found in regard to the recovery memos in respect of accused Nos. 3 and 5. In this

background, we are not disposed to attach any importance to the recovery of blood-stained Katarnas on the information given by accused Nos. 1, 3 and 5.”

26. This position was reiterated in *Musheer Khan v. State of M.P.*, (2010) 2 SCC 748: (2010) 2 SCC (Cri) 1100: 2010 SCC OnLine SC 229, wherein it was observed at page 762:

“57. The limited nature of the admissibility of the facts discovered pursuant to the statement of the accused under Section 27 can be illustrated by the following example:

Suppose a person accused of murder deposes to the police officer the fact result of which the weapon with which the crime is committed is discovered, but as a result of such discovery, no inference can be drawn against the accused, if there is no evidence connecting the knife with the crime alleged to have been committed by the accused.”

27. Therefore, the prosecution cannot take any advantage from the recovery of the gunny sack.

28. Dr Vipin Sharma (PW14) conducted the postmortem examination of Manish. He found that the deceased had died due to a head injury sustained as a result of a fall on a pucca surface with sufficient force. He admitted in his cross-examination that the injury is possible if a person is running and falls into a deep gorge. Thus, the medical evidence does not rule out death due to an accidental fall.

29. The site plan (Ex.PW17/C) shows the place 'A' where JCL had slapped the deceased, who fell on the road and died. Even if this version is accepted as correct, the JCL cannot be held liable for the commission of an offence punishable under Section 302 of the IPC. In *Jani Gulab Shaikh v. State of Maharashtra, 1970 SCC (Cri) 532*, the accused abused the deceased, who was intoxicated. The deceased fell with his face towards the sky. He became unconscious and subsequently died. It was laid down by the Hon'ble Supreme Court that the accused cannot be posted with the knowledge that death was likely to result in the circumstances, because it is very rare that a person falling on the road dies. It was observed at page 535:

“6. We are unable to agree with the High Court that the accused must be posted with the knowledge that death was likely to result in the circumstances in which the injuries were caused by him to the deceased. It is very rare that if a man is pushed and he falls on the road, the occipital bone gets fractured. Here, it is perhaps due to the drunken condition of the deceased that while falling, he could not avoid his skull falling on the road. At any rate, in our opinion, it is difficult to impute knowledge to the accused that death was likely to result from the push he is alleged to have given.

7. If he is not guilty under Section 304, Part II, he cannot be convicted under Section 325, because no grievous injury has been inflicted by the accused. There is no evidence to show that Injury (iii) in Column 19 was grievous.”

30. Therefore, the recital in the site plan will make out only the case of simple hurt and not the murder.

31. In any case, it was laid down by the Hon'ble Supreme Court in *Jagdish Narain v. State of U.P.*, (1996) 8 SCC 199: 1996 SCC (Cri) 565 that the site plan is admissible only to prove what was observed by the Investigating Officer and not to prove what was told by the witnesses. It was observed: -

“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 eyewitnesses and only amounted to an omission on the part of the 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 from whom he heard is examined to give direct evidence within the meaning of Section 60 of the Evidence Act, 1872 the former's evidence would be admissible to corroborate the latter in accordance with Section 157 CrPC (sic Evidence Act). 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) CrPC 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, PW 6 had even shown the place from which the shots were allegedly fired after ascertaining the same from the eyewitnesses, it could not have been admitted in evidence, being hit by Section 162 CrPC. The law on this subject has been succinctly laid down by a three-judge Bench of this Court in *Tori Singh v. State of U.P.* [AIR 1962 SC 399 : (1962) 1 Cri LJ 469 : (1962) 3 SCR 580] 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:

“...the mark on the sketch map was put by the Sub-Inspector, who was obviously not an eyewitness to the incident. He could only have put it there after taking the statements of the eyewitnesses. 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 Section 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 Section 162 of the Code of Criminal Procedure as it will be no more than a statement made to the police during the investigation.*” (emphasis supplied)

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 case* [AIR 1962 SC 399 : (1962) 1 Cri LJ 469 : (1962) 3 SCR 580] in the following passage:

“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 the offence, the draftsman put down the places in the map, in *Santa Singh v. State of Punjab* [AIR 1956 SC 526: 1956 Cri LJ 930]. *It was held that such a plan drawn to scale was admissible if the witnesses corroborated the statement of the draftsman that they showed him the places and would not be hit by Section 162 of the Code of Criminal Procedure.*” (emphasis supplied)

32. In the present case, no witness deposed about the JCL slapping the deceased. No material was picked up from the spot

to prove that the deceased had died after a fall. Thus, learned JJB had rightly rejected this version.

33. Learned JJB had rightly pointed out that the prosecution's case was inherently improbable because JCL could not have taken the deceased on his shoulder without being noticed by any person.

34. No other point was urged.

35. Thus, there is no perversity in the judgment of acquittal recorded by the learned JJB requiring any interference in the exercise of revisional jurisdiction. Consequently, the present petition fails, and it is dismissed.

36. In view of the provisions of Section 437-A of the Code of Criminal Procedure [Section 481 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)], the respondent/JCL is directed to furnish personal bond in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/learned Trial Court, within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the respondent/JCL, on

receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

37. A copy of this judgment, along with the records of the learned Court below, be sent back forthwith.

38. Pending applications, if any, also stand disposed of.

(Rakesh Kainthla)
Judge

1st January, 2026
(Chander)