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HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2718 of 2008

Dharmendra Singh

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : Amul Kumar Tyagi,
G.S.hajela, Zafeer Ahmad
Counsel for : Govt.advocate
Respondent(s)

Along with :

1. **Criminal Appeal No. 2075 of 2008:**

Charan Singh

Versus

State of U.P.

Court No. - 43

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

(Delivered by Hon'ble Vinai Kumar Dwivedi, J.)

1. Heard Shri Ashok Kumar Mishra and Shri Krishna Kant Tiwari, learned counsel for the appellants, and Shri G.N. Kanaujia, learned A.G.A.-Ist for the respondent-State and perused the record.

2. Both these criminal appeals, bearing Criminal Appeal No. 2718 of 2008 and Criminal Appeal No. 2075 of 2008, have been filed by appellants Dharmendra Singh and Charan Singh, respectively, against the judgment and order of conviction and sentence dated 27.03.2008 passed by the learned Additional Sessions Judge, Court No. 9, Moradabad in Sessions Trial No. 1037 of 1996 (State vs. Dharmendra Singh and others), arising out of Case Crime No. 612 of 1995 (Case Crime No. 911 of 1995) under Sections 302/34, 394 & 411 IPC, P.S. Kotwali, District- Moradabad. Further, Criminal Appeal No. 2718 of 2008 (Dharmendra Singh vs. State of U.P.) has also been filed against the judgment and order of conviction and sentence dated 27.03.2008 passed by the learned Additional Sessions Judge, Court No. 9, Moradabad in Sessions Trial No.1038 of 1996 (State vs. Dharmendra) arising out of Case Crime No. 613 of 1996, under Section 25 of the Arms Act, Police Station Kotwali, District Moradabad.

3. Brief facts of the case as revealed in the written report (Exhibit Ka-1), which has been lodged by informant Suresh Kumar Khanna (PW-2) are that Pappu @ Raj Kishore Prasad, a resident of Mohalla Chhata Bazar, Police Station Town, Muzaffarpur (Bihar), sells raw materials, to collect payment for which he frequently visits Moradabad, and had currently come to Moradabad for the same purpose. On dated 22.12.1995, after collecting approximately Rs.1,25,000/- from the traders of Moradabad, such as, Sachin, Mohd. Nasir, Rajesh Metal, Ishwar and Ibrahim, Pappu was heading back to his home. Due to huge amount and sympathy, informant

Suresh Kumar Khanna (PW-2), Surendra Kumar S/o Harkishan, a resident of Jigar Colony near Damdama Kothi, P.S. Civil Lines, District Moradabad, were going to drop Pappu at the Moradabad Railway Station on a rickshaw. They left the rickshaw on the main road near the eastern gate of the Moradabad Railway Station. Right there on the road, at around 3:45 P.M., Dharmendra Singh, Sher Singh and Charan Singh started snatching the suitcase (*attache*) from Pappu's hands. While scuffling over the suitcase (*attache*), they moved near the railway boundary wall. When they raised an alarm and resisted, Sher Singh shot Pappu in the chest. Dharmendra Singh immediately snatched the suitcase (*attache*) from the hands of Pappu and fled with the snatched suitcase. Upon hearing the commotion, Rajesh Kumar and several other people arrived, and with their help, Dharmendra Singh was caught red handed along with the looted suitcase, while Sher Singh and Charan Singh escaped through the railway tracks. Pappu fell down in front of the ticket counter passenger hall and died. Dharmendra Singh is in police custody along with the looted suitcase, and the police are conducting the necessary legal paperwork.

4. On the basis of the written report (Exhibit Ka-1), a First Information Report (Exhibit Ka-23) was registered against Dharmendra Singh, Sher Singh and Charan Singh as Case Crime No. 612 of 1995, under Sections 302, 394 and 411 I.P.C. at Police Station G.R.P. Moradabad, District Moradabad, on 22.12.1995, at about 16:30 hours, by Yashpal Singh (PW-14). S.H.O. Hemant Kumar Mishra (PW-1), P.S. G.R.P., District Moradabad, who was on duty

in a routine checking, on hearing hue and cry, rushed towards the direction from where the noise of people was coming and caught appellant Dharmendra Singh red-handed with a suitcase (*attache*), before he could climb and cross the railway bridge going towards Ramtalaiya at about 4:00 P.M. S.H.O. Hemant Kumar Mishra (PW-1), recovered a 12-bore *desi tamancha* from the left pocket of the *pant* of appellant Dharmendra Singh, and from the pocket of the *kurta*, three live cartridges of 12-bore were also recovered.

5. The case was handed over to S.I. Laxmichandra Upadhyay (PW-7), for investigation. Investigating Officer Laxmichandra Upadhyay (PW-7), prepared *panchayatnama* of the deceased, Pappu @ Raj Kishore Prasad as (Exhibit Ka-22). He also prepared other necessary police papers relating to *panchayatnama* such as letter to R.I. (Exhibit Ka-6), letter to C.M.O. (Exhibit Ka-7), the report to Medical Officer (Exhibit Ka-8), *photolash* (Exhibit Ka-9), sample of seal (Exhibit Ka-10), the report to R.I. (Exhibit Ka-11), and *challanlash* (Exhibit Ka-12). After preparing the above necessary police papers, the dead body of the deceased, Pappu @ Raj Kishore Prasad, was sent for postmortem examination. The Investigating Officer recorded the statement of Yashpal Singh (PW-14) and informant Suresh Kumar Khanna (PW-2). In the presence of witnesses Om Prakash and Shyam Mohan, Investigating Officer collected simple soil and blood-stained soil from the place of occurrence and prepared recovery memo as Exhibit Ka-13. He also inspected the place of occurrence and prepared site plan as Exhibit Ka-14. He inspected the

place of occurrence on the pointing out of informant Suresh Kumar Khanna (PW-2), and recorded statements of witnesses relating to the arrest of appellant Dharmendra Singh. After that, the case was handed over to Inspector D.K. Jain for investigation. However, after the transfer of Inspector D.K. Jain, the case was handed over to S.I. Suresh Chandra Sharma (PW-8). Suresh Chandra Sharma (PW-8), completed the investigation of the case and submitted a charge sheet, Exhibit Ka-15, against accused appellants Dharmendra Singh, Charan Singh, and Sher Singh under Sections 302, 394, and 411 I.P.C. in the Court of the concerned Magistrate having jurisdiction.

6. On the basis of recovery of an illegal *tamancha* along with three cartridges of 12-bore by S.I. Hemant Kumar Mishra (PW-1) from the possession of appellant Dharmendra Singh, another case was registered as Case Crime No. 613 of 1995, under Section 25 of the Arms Act against the appellant Dharmendra Singh by Yashpal Singh (PW-14), as *chik* First Information Report (Exhibit Ka-16). After registration of the First Information Report under Section 25 of the Arms Act against appellant Dharmendra Singh, investigation of that case was handed over to S.I. Kailash Chandra Verma (PW-9).

7. S.I. Kailash Chandra Verma (PW-9), identified and proved the *chik* First Information Report as Exhibit Ka-16 and carbon copy of the G.D. as Exhibit Ka-17 in the handwriting and signatures of Head Moharrir Yashpal Singh, (PW-14). S.I. Kailash Chandra Verma (PW-9), also obtained permission from the District Magistrate,

Moradabad for the prosecution under Section 25 of the Arms Act against appellant Dharmendra Singh as Exhibit Ka-20. S.I. Kailash Chandra Verma (PW-9), also prepared site plan as Exhibit Ka-18 and, after completing all the necessary formalities of the investigation, filed a charge sheet (Exhibit Ka-19) against appellant Dharmendra Singh under Section 25 of the Arms Act.

8. S.I. Hemant Kumar Mishra (PW-1), prepared recovery memo of the suitcase (*attache*) along with the other articles/objects, which were found inside the suitcase, recovered from the possession of the appellant Dharmendra Singh as Material Exhibit-4 to Material Exhibit-58. PW-1 also prepared recovery memo of *tamancha* along with three cartridges of 12-bore, recovered from the possession of the appellant Dharmendra Singh before recovery witnesses on 22.12.1995.

9. The body of the deceased, Pappu @ Raj Kishore Prasad, was sent for post-mortem examination. Dr. Vijay Kumar Gopal (PW-3), who conducted the examination on 23.12.1995, prepared the post-mortem report, marked as Exhibit Ka-2. As per the said report, the following ante-mortem injuries were found on the body of the deceased:-

"(i) Gunshot wound of entry 1x1 cm size chest cavity deep, on front of right sided chest 2x1/2 cm below to the medial end of right clavicle, margins of wound are inverted with abraded collar, wound directing inwards and backwards, underneath pleura and lungs are perforated through and through, one and half

litre free & clotted blood present in the chest cavity, one big metallic pellet (looking like bullet) recovered from the tissue side chest cavity.

(ii) Abrasion 1x1/2 cm on right knee front side.

(iii) Multiple abrasion in 11x5 cm area in front of left knee.

(iv) One abrasion 1x1/2 cm on left side forehead."

Dr. Vijay Kumar Gopal (PW-3) opined that the cause of death was shock and hemorrhage as a result of ante-mortem gunshot (firearm) injuries.

10. After completing all the necessary formalities and recording the statements of witnesses, investigating officer Suresh Chandra Sharma (PW-8) submitted a charge sheet (Exhibit Ka-15) against accused Sher Singh and appellants Dharmendra Singh and Charan Singh under Sections 302, 394 and 411 IPC in the Magistrate Court having jurisdiction. In respect of the Arms Act case, investigating officer Kailash Chandra Verma (PW-9) also filed a charge sheet (Exhibit Ka-19) against appellant Dharmendra Singh under Section 25 of the Arms Act.

11. Since the case was exclusively triable by the Court of Session, the learned Magistrate Court committed the case to the Court of Session for trial.

12. Charges were framed against appellants, Dharmendra Singh, Charan Singh and accused Sher Singh on 14.10.1996 by the Trial Court under section 302/34 and 394 IPC. Charges were also framed against appellant Dharmendra Singh under section 411 IPC and

under section 25 of the Arms Act on 14.10.1996. However, on 14.03.2008, an amended charge was framed by the Trial Court against appellant Dharmendra Singh under section 411 IPC. Against appellant Dharmendra Singh, an amended charge was also framed on 14.03.2008 under section 25 of the Arms Act by the Trial Court. The charges were read over to the accused persons, the accused persons pleaded not guilty and claimed trial.

13. In support of its case, the prosecution adduced Hemant Kumar Mishra as PW-1, informant Suresh Kumar Khanna as PW-2, Dr. Vijay Kumar Gopal as PW-3, Suresh as PW-4, Ashok Kumar as PW-5, T.R. Kothari as PW-6, Laxmichandra Upadhyay as PW-7, Suresh Chandra Sharma as PW-8, Kailash Chandra Verma as PW-9, Mahendra Singh Tyagi as PW-10, Rajesh Kumar as PW-11, Surendra Kumar as PW-12, Om Prakash as PW-13, and Yashpal Singh as PW-14. Apart from the above oral evidence, the prosecution also relied upon documentary evidence from Exhibit Ka-1 to Exhibit Ka-21. The prosecution further relied upon material exhibits from Exhibit-4 to Exhibit-58 in support of its case.

14. After the evidence of all the prosecution witnesses was completed before the Trial Court, accused-appellants Dharmendra Singh and Charan Singh were examined under section 313 Cr.P.C. Appellants Dharmendra Singh and Charan Singh answered all the questions put to them under section 313 CrPC in the negative. They denied all allegations and expressed their ignorance about the questions put to them. They also stated that they were

falsely implicated in this case by the police. They further stated that they would adduce defence evidence, and in their defence, appellants Dharmendra Singh and Charan Singh adduced Gajju Singh as DW-1.

15. It is worthwhile to mention here that during the pendency of the trial, accused Sher Singh had died. Due to the death of accused Sher Singh, the case was abated against him by the learned Trial Court, as revealed from the last paragraph at page six of the impugned judgment and order dated 27.03.2008.

16. After recording the evidence of the prosecution and defence, the Trial Court heard the arguments of both sides. After hearing the arguments, the Trial Court found the appellants, Dharmendra Singh and Charan Singh, guilty of the alleged crime. The Trial Court convicted and sentenced Dharmendra Singh and Charan Singh to rigorous life imprisonment under section 302/34 IPC, along with a fine of Rs. 2,000/- each. Both the appellants, Dharmendra Singh and Charan Singh, were also convicted and sentenced under section 394 IPC for 10 years of rigorous imprisonment, along with a fine of Rs. 2,000/- each. In default of payment of the fine, both appellants, Charan Singh and Dharmendra Singh, were ordered to serve two years of rigorous imprisonment. Appellant Dharmendra Singh was also convicted and sentenced for three years of rigorous imprisonment, along with a fine of Rs. 2,000/- under section 411 IPC. In default of payment of the fine, appellant Dharmendra Singh was also sentenced to four months of additional rigorous imprisonment. Appellant Dharmendra Singh was

also convicted and sentenced to one year of rigorous imprisonment, along with a fine of Rs. 500/- under section 25 of the Arms Act, and in case of default of payment of the fine, two months of rigorous imprisonment. All the sentences of the appellants were directed to run concurrently.

17. Aggrieved by the above impugned judgment and order of conviction and sentence dated 27.03.2008, passed by the learned Additional Sessions Judge, Court Number 9, Moradabad, appellant Dharmendra Singh filed Criminal Appeal No. 2718 of 2008, and appellant Charan Singh filed Criminal Appeal No. 2075 of 2008, before this Court.

18. Learned counsel for the appellants submitted that there is no reliable and trustworthy evidence against the appellants. The witnesses of fact, who are said to be the eyewitnesses of the case, such as, informant Suresh Kumar Khanna (PW-2), Suresh (PW-4), Ashok Kumar (PW-5), Rajesh Kumar (PW-11), and Surendra Kumar (PW-12), have not supported the prosecution story before the Trial Court and they all turned hostile. Since informant Suresh Kumar Khanna (PW-2) turned hostile and has not supported the written report (Exhibit Ka-1), the whole prosecution story fell on the ground. Due to this reason, there is no eyewitness evidence by which the prosecution could prove the case against the appellants beyond reasonable doubt. It is also submitted that the so-called suitcase (*attache*) of the deceased, which was recovered by the police from the possession of the appellant Dharmendra Singh, could not find support from

the evidence of any independent recovery witness. All independent recovery witnesses turned hostile and have not supported the recovery of the suitcase (*attache*) and any articles/objects found inside of it, relating to the deceased from the possession of the appellant Dharmendra Singh. Since there is no independent evidence of recovery witnesses because they have turned hostile, the prosecution case could not be proved against the accused-appellants for the commission of the alleged crime solely on the basis of police personnel as witnesses of the recovery and on the strength of their evidence.

19. It is further submitted that the recovery and the crime alleged against the appellants could not be proved and established by the prosecution beyond reasonable doubt only on the basis of police witnesses. Police personnel have an interest and motive to prove their case, so they are interested witnesses to prove their recovery memos at any cost against the appellants. Therefore, in view of the above, the prosecution is totally unsuccessful in proving its case against the appellants beyond reasonable doubt. It is further argued on behalf of the appellants that the Trial Court failed to consider this vital aspect while appreciating the evidence on record. Owing to misappreciation and improper evaluation of the evidence, the Trial Court erroneously held the appellants guilty and convicted them for the commission of the alleged offence. The findings recorded by the Trial Court are contrary to the material evidence available on record and, therefore, unsustainable in the eyes of law.

20. Further, the appellants have duly established their defence through the testimony of defence witness Gajju Singh (DW-1), however, the Trial Court failed to properly consider and appreciate the reliable testimony of the said defence witness. The Trial Court misread the evidence on record and relied upon evidence which could not legally be relied upon against the appellants. Therefore, the impugned judgment and order of conviction and sentence dated 27.03.2008 is perverse in law, without support of any cogent evidence, and also against the settled principles of law. Hence, the impugned judgment and order dated 27.03.2008 is liable to be set aside and both these criminal appeals of the appellants deserve to be allowed.

21. *Per contra*, learned A.G.A. on behalf of the State-respondent, has vehemently opposed the arguments of the learned counsel for the appellants and submitted that although all witnesses of fact have turned hostile, yet the prosecution case finds support from their hostile statements, and the occurrence of the alleged incident as well as the participation of the appellants in the commission of the alleged crime stand fully proved and established beyond reasonable doubt. It is a settled principle of law that the evidence of hostile witnesses cannot be rejected *in toto*. The evidence supporting the prosecution case has rightly been considered against the appellants. Therefore, the learned Trial Court, after properly appreciating and relying upon the prosecution evidence, rightly held the appellants guilty of the alleged offence. It is also submitted that there is no such law that the evidence of police witnesses shall be rejected solely

on the ground of their being police personnel. The police witnesses had no enmity or personal interest against the appellants to falsely implicate them in the case.

22. The recovery of the looted suitcase (*attache*) and all articles/objects which were found inside of it, along with cash of more than Rs.1,25,000/- belonging to the deceased, were recovered from the possession of the appellant Dharmendra Singh. Appellant Dharmendra Singh was caught red-handed at the railway station near the place of occurrence by the police personnel along with the prosecution witnesses. In such a situation, the recovery of the looted suitcase (*attache*) of the deceased, Pappu alias Raj Kishore Prasad, from the appellant Dharmendra Singh cannot be doubted or suspected merely on the ground that only police witnesses have supported the recovery of the looted suitcase (*attache*) and the articles/objects found therein.

23. Further, the Trial Court has appreciated the evidence in its proper perspective and recorded a reasonable finding which is based on cogent evidence available on record against the appellants. It is also submitted that the appellants committed the alleged offence with common intention, prior planning, premeditation and prior concert, and each of them actively played his respective role in the commission of the alleged offence. In view of the aforesaid arguments, the learned A.G.A. has submitted that there is no perversity or illegality in the impugned judgment and order of conviction and sentence dated 27.03.2008 passed by the learned Additional Sessions Judge, Court Number 9, Moradabad.

Consequently, both the criminal appeals filed by the appellants, being devoid of merit, are liable to be dismissed, and the impugned judgment and order of conviction and sentence dated 27.03.2008 passed by the learned Trial Court deserve to be affirmed.

24. In light of the submissions made by the learned counsel for the parties, we have perused the written report (Exhibit Ka-1). It reveals that the accused Sher Singh (who died during the course of trial), along with the present appellants, were named as accused persons in the written report by the informant, Suresh Kumar Khanna (PW-2). A perusal of the written report further reveals that appellant, Dharmendra Singh was caught red-handed with the looted suitcase (*attache*) and other articles belonging to the deceased, Pappu @ Raj Kishore Prasad. The accused Sher Singh (who died during the course of trial) and appellant Charan Singh managed to escape from the scene of occurrence. Thus, it is clear that the accused, Sher Singh (who died during the course of trial) and the present appellants, Dharmendra Singh and Charan Singh, were named in the written report (Exhibit Ka-1) and a case was registered against them as Case Crime No. 612 of 1995, under Sections 394, 302 and 411 of the IPC.

25. The informant, Suresh Kumar Khanna (PW-2), who lodged the written report (Exhibit Ka-1) at the police station, was produced before the Court as PW-2. From a perusal of the evidence of informant, Suresh Kumar Khanna (PW-2), we find that the informant has turned hostile and has not supported the prosecution story,

although he himself had lodged the written report against the named accused persons. Furthermore, from a perusal of the entire evidence of the informant (PW-2), we find that this witness refused to identify the accused persons in Court and stated that he does not know the accused Dharmendra Singh, Charan Singh and Sher Singh. However, he accepted the fact that the incident occurred on 22.12.1995, at about 3:45 P.M. From the statement of this hostile witness, it is also revealed and established that deceased, Pappu @ Raj Kishore, was a resident of Chhata Bazar, Police Station Town, District Muzaffarpur, Bihar. He used to sell raw materials to this witness and other traders, and usually visited Moradabad to collect payments.

26. A perusal of the evidence of this hostile witness discloses and establishes the fact that on the date of the incident, i.e. 22.12.1995, Pappu @ Raj Kishore had come to Moradabad to collect payments. He had collected a total sum of Rs.1,25,000/- in cash from traders, namely, Sachin, Mohammad Nasir, Rajesh Metal, Ishwar and Ibrahim. After collecting the payments, which was kept in a suitcase (*attache*) in his hand, he was returning to the railway station to catch a train. Out of courtesy, this witness and one Surendra Kumar accompanied Raj Kishore to see him off at the railway station. It is further established from the statement of this hostile witness that when they reached near the eastern gate on the main road of the railway station, left the rickshaw, and began to walk on foot, three persons came there and started snatching the suitcase (*attache*) from the hands of Raj Kishore. According to this witness, by the time he

reached the exact spot, Pappu @ Raj Kishore had already sustained a gunshot injury, and the shooter had fled. The witness claimed he did not see the shooter.

27. Thus, despite the hostile statement of the informant (PW-2), the fact remains clear that the deceased, Pappu had come to Moradabad on 22.12.1995, to collect payments, and had indeed collected it from the traders of Moradabad. The incident occurred on 22.12.1995 at about 3:45 P.M. The suitcase (*attache*) containing Rs.1,25,000/- which was in the hands of Pappu @ Raj Kishore, was snatched. In the process of snatching the suitcase (*attache*), Pappu @ Raj Kishore was shot dead by the accused persons. Although the witness clearly mentioned in the written report (Exhibit Ka-1) that accused Sher Singh had fired a gunshot at Pappu @ Raj Kishore's chest, causing his death on the spot, he turned hostile during his cross-examination and failed to reiterate those facts.

28. In his cross-examination, Suresh Kumar Khanna (PW-2) stated that he had written the report of this incident and what Daroga Ji told him, he wrote. This implies that upon turning hostile, the witness resiled from his statement previously recorded by the Investigating Officer under Section 161 of the CrPC. He sought to shift liability by alleging that the written report was prepared solely under the dictation of Daroga Ji and that he merely recorded what was dictated to him. It appears from the hostile deposition of this witness that, due to fear and intimidation by the accused persons, he chose not to support the prosecution's case. Furthermore, the

deceased Pappu @ Raj Kishore Prasad was a resident of Chhata Bazar, P.S. Town, District Muzaffarpur, Bihar, and had died on the spot during the incident. The material change in circumstances following the death of Pappu @ Raj Kishore Prasad also appears to be a reason why the informant (PW-2) turned hostile.

29. Another witness of fact, Suresh (PW-4), has also turned hostile and has not supported the prosecution story. However, from a perusal of the hostile statement of PW-4, we find that the date and time of the incident have been fully established. From the statement of this witness, it is also established that three persons were snatching the suitcase (*attache*). This witness stated that he knew the accused persons, Charan Singh, Sher Singh and Dharmendra Singh. However, with the intent to protect the accused persons and weaken the prosecution case, this witness initially stated that Charan Singh had snatched the suitcase from the businessman and it was recovered from the possession of Charan Singh. This witness also accepted the fact that one of the three persons had fired at the businessman.

30. In his cross-examination by the prosecution, Suresh (PW-4) acknowledged that the accused, Dharmendra, who snatched the suitcase (*attache*), was not present in the Court on that day. This witness further admitted that it was by mistake he had stated that Charan Singh snatched the suitcase (*attache*). From the evidence of this witness, it is established that the suitcase was actually recovered from the possession of accused, Dharmendra Singh and that the accused, Sher Singh

(who died during the course of trial), had shot at the deceased. However, during his cross-examination by the defence, this witness also stated that he agreed to be an eyewitness under the influence of the police. Thus, from the hostile statement of this witness (PW-4) as well, the factum of the incident dated 22.12.1995, along with the time and place of the occurrence, has been clearly established. This fact has also been established that the accused Sher Singh (who died during the course of trial) had shot at the deceased Pappu @ Raj Kishore, and the accused Dharmendra Singh had snatched the suitcase (*attache*) from the hands of the deceased Pappu @ Raj Kishore.

31. Another witness of fact, Ashok Kumar (PW-5), has also supported the prosecution story. From a perusal of the evidence of this witness, it is apparent that the incident, as narrated in the written report (Exhibit Ka-1), occurred in his presence. This witness saw the occurrence of the alleged incident with his own eyes. This witness has clearly stated that the accused, Sher Singh (who died during the course of trial) and who was present in the Court, had shot at Pappu @ Raj Kishore. He stated that the accused who snatched the suitcase (*attache*) was not present in the Court on that day. The person who snatched the suitcase (*attache*) ran away and was caught red-handed on the bridge, while the other two accused fled from the spot. A suitcase (*attache*) was recovered from his possession. Thus, the prosecution story finds strong support from the evidence of prosecution witness Ashok Kumar (PW-5). From the evidence of this witness, the respective roles of the accused Sher Singh (who died

during the course of trial) and the present appellant, Dharmendra Singh, have clearly emerged and been established exactly as narrated in the written report (Exhibit Ka-1) by the informant (PW-2).

32. From a perusal of the evidence of another prosecution witness, Rajesh Kumar (PW-11), we find that this witness has turned hostile and has not supported the prosecution story. He stated that he does not know any of the accused persons and was also unacquainted with the deceased, Pappu @ Raj Kishore.

33. Prosecution witness Surendra Kumar (PW-12) has also turned hostile and failed to support the prosecution story, stating that he does not know the accused persons. However, this witness established the fact that he was familiar with the deceased, Pappu @ Raj Kishore, who was engaged in the business of supplying raw materials for utensils and was a native of District Muzaffarpur, Bihar. Thus, from the evidence of Surendra Kumar (PW-12), it is established that deceased, Pappu @ Raj Kishore, was a resident of Chhata Bazar, District Muzaffarpur, Bihar, and worked as a supplier of raw materials for manufacturing utensils in Moradabad.

34. The next prosecution witness, Om Prakash (PW-13), has verified and testified to the *Panchayatnama* (Ex. Ka-22) of the deceased, Pappu alias Rajkishore Prasad.

35. Thus, from a perusal of the evidence of the informant, Suresh Kumar Khanna (PW-2), we find that the informant has accepted and verified the fact that he had written and lodged the written report (Ex. Ka-1) at

the concerned police station. Following the lodging of the written report, a case was registered by the police. Although the informant (PW-2) stated that he had written the report under the dictation of the Daroga Ji, and that whatever was narrated by the Daroga Ji, had been recorded by him in the written report (Ex. Ka-1), yet, by the aforesaid statement of the informant (PW-2), the sanctity and legality of the First Information Report does not lose its importance, and thereby, the prosecution story cannot fall to the ground. The reason for this is that prosecution witness S.I. Yashpal Singh (PW-14), who was posted as Head Moharrir at GRP, Moradabad on 22.12.1995, had registered the First Information Report (Ex. Ka-23) as Crime No. 612 of 1995, under Sections 302, 394 and 411 of the IPC against the named accused persons. This witness, Yashpal Singh (PW-14), on the same date and on the basis of the recovery memo prepared by the In-charge Inspector Hemant Kumar Mishra, had also registered a case under Section 25 of the Arms Act as Crime No. 613 of 1995 against the accused-appellant, Dharmendra Singh, which is Exhibit Ka-16. On the basis of the above recovery, the First Information Report under Section 302 of the IPC, and the case under Section 25 of the Arms Act, the Investigating officers undertook the task of investigation and investigation of the cases commenced.

36. Therefore, merely on the ground of the statement of the informant (PW-2) that he had written the written report (Exhibit Ka-1) under the dictation of the Daroga Ji and recorded only what was told by the Daroga Ji, the prosecution story and the sanctity of the First Information

Report, cannot be doubted on this count. Hence, the written report (Exhibit Ka-1), in which the names of the accused persons have been clearly mentioned by the informant (PW-2), remains relevant, trustworthy and firmly supports the prosecution story.

37. Recently, on the point of hostility of the informant and regarding negative statements made by the informant about the First Information Report, the Hon'ble Supreme Court in ***Goverdhan and Another v. State of Chhattisgarh; (2025) 3 SCC 378***, has held in paragraph no-32 as under:-

"In this regard, we may profitably refer to the decision of this Court in Bable @ Gurdeep Singh v. State of Chhattisgarh, (2012) 11 SCC 181, wherein it was observed as follows:

"14. Once registration of the FIR is proved by the police and the same is accepted on record by the court, and the prosecution establishes its case beyond reasonable doubt by other admissible, cogent, and reliable evidence, it will be impermissible for the court to ignore the evidentiary value of the FIR. The FIR, Ex. P-1, has been duly proved by the statement of PW 1, Sub-Inspector Suresh Bhagat. According to him, he had registered the FIR upon the statement of PW 1, and it was duly signed by him. Thus, the FIR was registered and duly formed part of the record of the police station, which were maintained in the normal course of its business and investigation. Thus, in any case, it is a settled proposition of law that the FIR by itself is

not a substantive piece of evidence, but it certainly is a relevant circumstance of the evidence produced by the investigating agency. Merely because PW 1 has turned hostile, it cannot be said that the FIR would lose all its relevancy and cannot be looked into for any purpose."

38. In view of the legal principles as settled by the Hon'ble Supreme Court in **Goverdhan (supra)**, it is clear that merely because the informant (PW-2) has turned hostile, it cannot be said or presumed that the First Information Report has lost its relevancy and cannot be looked into for any purpose. In the present case, Yashpal Singh (PW-14) has duly and legally verified and testified to the registration of the First Information Report on the basis of the written report (Exhibit Ka-1) submitted by the informant (PW-2) at the concerned police station. Apart from Yashpal Singh (PW-14), the registration of the First Information Report under Section 302 of the IPC and Section 25 of the Arms Act has already been proved by the evidence of other police witnesses, who were produced as prosecution witnesses.

39. At the time of the incident, SHO Hemant Kumar Mishra (PW-1) of Police Station GRP, Moradabad, along with his police team, and SHO Majhola, Brij Kishore Dwivedi, were also present near the place of occurrence. Upon hearing the gunshot and hue and cry of the people, SHO Hemant Kumar Mishra (PW-1) and the police team of SHO Brij Kishore Dwivedi, of which, S.I. T.R. Kothari (PW-6) was also a member, rushed towards the source of the noise. The police team of SHO Hemant Kumar Mishra

(PW-1) and other police officials caught the accused-appellant, Dharmendra Singh, red-handed with the looted suitcase (*attache*) of the deceased, Pappu @ Raj Kishore, near the pathway leading to Ramtalaiya from the stairs of the railway station bridge at 4:00 P.M. The recovery was effected, and the recovery memo was prepared on 22.12.1995, in the presence of the recovery witnesses for the prosecution, who were police personnel.

40. SHO Hemant Kumar Mishra (PW-1), S.I T.R. Kothari (PW-6), and S.I. Mahendra Singh Tyagi (PW-10), who were recovery witnesses, were present at the time when the present accused-appellant, Dharmendra Singh, was caught red-handed with the looted suitcase (*attache*). Upon opening the suitcase (*attache*), one old used white-coloured kurta and trousers, one khaki-colored pants, one Coca-Cola-coloured shirt, one yellow bedsheet, one *tahmat (lungi)*, one Casio calculator, one towel, and shaving cream were recovered. Apart from the above recoveries, a sum of Rs. 1,25,000/- was also recovered, which included 10 bundles of Rs. 100/- notes and 5 bundles of Rs. 50/- notes. Among these, three bundles of Rs. 100/- notes, totaling Rs. 30,000/-, bore the seal of Mohammed Nasir; three bundles of Rs. 100/- notes bore the seal of Rajesh Metal; two bundles totaling Rs. 20,000/- bore the signature of Ibrahim in Urdu; the remaining two bundles of Rs. 500/- and Rs. 100/- notes bore the signature of Sachin in Hindi; and 5 bundles of Rs. 50/- notes bore the signature of Ishwar. Along with the money and articles, one 12-bore *tamancha* (country-made pistol) along with three 12-bore cartridges were also recovered from the possession of the accused-

appellant, Dharmendra Singh. SHO Hemant Kumar Mishra (PW-1), under whose leadership the accused-appellant, Dharmendra Singh, was caught red-handed with the looted suitcase (*attache*) near the place of occurrence, duly testified to all the facts regarding the recovery memo before the Court.

41. From a perusal of the evidence of SHO Hemant Kumar Mishra (PW-1), it is evident that this witness, in his examination-in-chief, has stated the facts regarding the arrest of the accused-appellant, Dharmendra, and the recovery of the looted suitcase (*attache*) along with other articles and Rs.1,25,000/- as found inside the suitcase, which belonged to the deceased, Pappu @ Raj Kishore. In the Trial Court, all the articles found in the suitcase (*attache*) and recovered from the possession of the accused-appellant, Dharmendra Singh, were produced, and each and every article was endorsed as Material Exhibit-4 to Material Exhibit-58.

42. A lengthy and grueling cross-examination was conducted by the defence. However, from a perusal of the cross-examination done on behalf of the accused persons, we find that it centered only around the location of the place of occurrence and the different platforms, roads, and places where the present accused-appellant, Dharmendra Singh, was caught red-handed with the looted suitcase (*attache*) and articles belonging to the deceased, Pappu @ Raj Kishore. In this manner, the entire cross-examination by the accused-appellants mainly focused on the place of occurrence and the spot from where the accused-appellant, Dharmendra Singh,

was caught red-handed with the looted suitcase (*attache*). Thus, from a perusal of the cross-examination, we find that no material fact could be elicited by the defence to cast doubt on the presence and testimony of SHO Hemant Kumar Mishra (PW-1) on any ground. The testimony of SHO Hemant Kumar Mishra (PW-1) as a recovery witness, finds ample corroboration and support from the other recovery witnesses of the prosecution, namely, S.I. T.R. Kothari (PW-6) and S.I. Mahendra Singh Tyagi (PW-10).

43. From a perusal of the entire evidence of S.I. T.R. Kothari (PW-6) and S.I. Mahendra Singh Tyagi (PW-10), we find that PW-6 and PW-10 have testified to and corroborated the fact of the arrest of the accused-appellant, Dharmendra Singh, who was caught red-handed with the looted suitcase (*attache*) and the articles found therein in the same manner and words as stated in the evidence of SHO Hemant Kumar Mishra (PW-1).

44. A lengthy and grueling cross-examination was also conducted by the defence of these recovery witnesses, S.I. T.R. Kothari (PW-6) and S.I. Mahendra Singh Tyagi (PW-10). However, even after the lengthy cross-examination, no such fact emerged in the evidence of these witnesses by which their testimony could be regarded as suspicious or doubtful.

45. Thus, from a perusal of the evidence of SHO Hemant Kumar Mishra (PW-1), it is amply clear that at the time of the incident, these witnesses (PW-6 and PW-10) were present near the place of occurrence. Following the

incident, these witnesses, along with the police team, caught the present accused-appellant, Dharmendra Singh, red-handed with the looted suitcase (*attache*) belonging to the deceased, Pappu @ Raj Kishore, and recovered Rs.1,25,000/- found inside the suitcase (*attache*), along with other personal articles of daily use belonging to the deceased. The evidence and testimony of SHO Hemant Kumar Mishra (PW-1) find full support and corroboration from the evidence of the other recovery witnesses, S.I. T.R. Kothari (PW-6) and S.I. Mahendra Singh Tyagi (PW-10), who were also members of the police force. In this manner, the testimonies of SHO Hemant Kumar Mishra (PW-1), S.I. T.R. Kothari (PW-6), and S.I. Mahendra Singh Tyagi (PW-10) fully corroborate and support each other.

46. Therefore, the factum of the arrest of the accused-appellant, Dharmendra Singh, immediately after the incident near the place of occurrence, and the recovery of the looted amount of Rs. 1,25,000/-, has been clearly proved and established by the evidence of prosecution witnesses Hemant Kumar Mishra (PW-1), T.R. Kothari (PW-6), and Mahendra Singh Tyagi (PW-10). Thus, this recovery of the amount of Rs. 1,25,000/- establishes the motive behind the commission of the alleged crime by the accused persons. The accused persons were well aware of the fact that Pappu @ Raj Kishore was a businessman and a resident of Chhata Bazar, P.S. Town, District Muzaffarpur, Bihar, who used to deal in raw materials used for the manufacturing of utensils. The deceased, Pappu @ Raj Kishore, regularly supplied raw materials to traders in Moradabad and frequently visited the area to

collect payments from them. This fact was well within the knowledge of the accused persons. The substantial sum of Rs.1,25,000/- induced and motivated the accused persons to commit the alleged crime. In this manner, a strong motive is established against the accused persons for the commission of the offence, namely, the acquisition of Rs. 1,25,000/-, which was a highly significant and valuable amount in the year 1995. Hence, the motive for the commission of the crime stands clearly established and proved beyond reasonable doubt from the evidence of the prosecution witnesses and other materials available on record.

47. Although there is no independent or public witness to the recovery, and the recovery witnesses are exclusively police personnel, there is no rule of law which stipulates that the testimony of police personnel as recovery witnesses cannot be relied upon without corroboration from independent public witnesses. Police personnel are also responsible citizens of the country, they hold public offices and discharge their official duties with the utmost responsibility. Therefore, merely on the ground that SHO Hemant Kumar Mishra (PW-1), S.I. T.R. Kothari (PW-6), and S.I. Mahendra Singh Tyagi (PW-10) happen to be police personnel, this Court finds no ground or material to disbelieve or discredit their reliable, trustworthy, and creditworthy testimonies.

48. From a perusal of the evidence of SHO Hemant Kumar Mishra (PW-1), S.I. T.R. Kothari (PW-6), and S.I. Mahendra Singh Tyagi (PW-10), it is evident that the testimonies rendered by them before the Court inspire

absolute confidence. Their evidence fully establishes and proves the prosecution case as set forth in the written report (Exhibit Ka-1).

49. Hon'ble Supreme Court in ***Girja Prasad (Dead) by LRS. v. State of M.P., (2007) 7 SCC 625***, has held in paragraph-25 as follows:-

"25. In our judgment, the above proposition does not lay down correct law on the point. It is well settled that credibility of witness has to be tested on the touchstone of truthfulness and trustworthiness. It is quite possible that in a given case, a court of law may not base conviction solely on the evidence of the complainant or a police official but it is not the law that police witnesses should not be relied upon and their evidence cannot be accepted unless it is corroborated in material particulars by other independent evidence. The presumption that every person acts honestly applies as much in favour of a police official as any other person. No infirmity attaches to the testimony of police officials merely because they belong to police force. There is no rule of law which lays down that no conviction can be recorded on the testimony of police officials even if such evidence is otherwise reliable and trustworthy. The rule of prudence may require more careful scrutiny of their evidence. But, if the court is convinced that what was stated by a witness has a ring of truth, conviction can be based on such evidence."

50. In the same way, Hon'ble Supreme Court in ***Madhu @ Madhuranatha v. State of Karnataka, (2014) 12 SCC 419***, has held on the same points in paragraph nos. 17, 18 and 19 as follows:-

"17. The learned counsel for the appellant has vehemently argued that in some of the recoveries, though a large number of people were available, but only police personnel were made recovery witnesses. Thus, the whole prosecution case becomes doubtful.

18. The term "witness" means a person who is capable of providing information by way of deposing as regards relevant facts, by via an oral statement, or a statement in writing, made or given in court, or otherwise. In Pradeep Narayan Madgaonkar v. State of Maharashtra, (1995) 4 SCC 255, this Court dealt with the issue of the requirement of the examination of an independent witness, and whether the evidence of a police witness requires corroboration. The Court held that though the same must be subject to strict scrutiny, however, the evidence of police official cannot be discarded merely on the ground that they belong to the police force and are either interested in the investigation or in the prosecution. However, as far as possible the corroboration of their evidence on material particular should be sought.

19. Thus, a witness is normally considered to be an independent unless he springs from sources

which are likely to be tainted and this usually means that the said witness has cause to bear such enmity against the accused so as to implicate him falsely. In view of the above, there can be no prohibition to the effect that a policeman cannot be a witness or that his deposition cannot be relied upon if it inspires confidence."

51. Thus, in the light of the law laid down by the Hon'ble Supreme Court in the aforementioned cases, it is a well-settled principle that the evidence of police witnesses cannot be doubted or discarded merely on the ground that they belong to the police force. If the evidence of a police witness inspires confidence and their testimony is found to be trustworthy and reliable, there is no justification to disbelieve them. Under such circumstances, the conviction of an accused can be safely recorded based on the sole testimony of police witnesses. In the present case, the defence has neither adduced nor filed any evidence to show that the police harbored any enmity or grudge against the accused-appellants. There is absolutely no reason why the police personnel would falsely implicate innocent persons like the accused-appellants in a heinous offence involving murder and the robbery of Rs. 1,25,000/-, along with other personal articles belonging to deceased, Pappul @ Raj Kishore.

52. Although the defence produced a defence witness, Gajju Singh (DW-1), a perusal of his evidence reveals that the defence merely attempted to establish that the accused-appellant, Dharmendra, was falsely arrested by the police while returning from his sister Bina's house.

However, from a perusal of the testimony of Gajju Singh (DW-1), we find no statement explaining why or under what circumstances the police would falsely arrest the accused-appellant, Dharmendra, and implicate him in the commission of the alleged crime. Therefore, it is evident that while defence witness Gajju Singh (DW-1) attempted to shield the accused-appellant, Dharmendra Singh, he was miserably unsuccessful in his endeavor. Consequently, we find no substance or relevance in the evidence of defence witness Gajju Singh (DW-1), and accordingly, we disbelieve and reject his testimony.

53. From the evidence of the prosecution's witnesses of fact, namely, Suresh Kumar Khanna (PW-2), Suresh (PW-4), Ashok Kumar (PW-5), and Surendra Kumar (PW-12), it is established and substantiated by the record that the deceased, Pappu @ Raj Kishore, was a resident of Chhata Bazar, P.S. Town, District Muzaffarpur, Bihar. He was a trader who supplied raw materials for manufacturing utensils to various traders in Moradabad and regularly visited Moradabad to collect payments for the materials supplied. On the date of the incident, i.e., 22.12.1995, he was in Moradabad for this purpose. The fact that he had collected payments totaling Rs. 1,25,000/- from traders such as Sachin, Mohammad Nasir, Rajesh Metal, Ishwar, and Ibrahim is firmly established by the testimonies of the aforementioned fact witnesses, the recovery witnesses as well as the recovery memo itself.

54. The accused persons were well-acquainted with these facts. This substantial sum of Rs. 1,25,000/- provided the motive for the accused, Sher Singh (who

died during the course of trial), and the present appellant, Dharmendra Singh, to loot the deceased, Pappu @ Raj Kishore. With a premeditated plan and prior concert, accused, Sher Singh (who died during the course of trial) and appellant, Dharmendra Singh, lay in wait and monitored the movements of the deceased. As soon as the deceased arrived at the railway station and deboarded the rickshaw, the accused persons, driven by the aforesaid motive, attempted to snatch the suitcase (*attache*) from his hands. Upon facing resistance from the deceased, accused, Sher Singh (who died during the course of trial) fired at the chest of Pappu @ Raj Kishore, while the present appellant, Dharmendra Singh, forcibly snatched the suitcase (*attache*) from the victim's hands and attempted to flee with the looted property. However, the appellant, Dharmendra Singh, was caught red-handed on the railway station overbridge immediately after the incident by the police party, along with the looted suitcase (*attache*) containing Rs. 1,25,000/- and other personal articles belonging to the deceased.

55. The looted amount of Rs. 1,25,000/- was recovered from the suitcase (*attache*) found in the possession of the present appellant, Dharmendra. Thus, it is clear that the present appellant, Dharmendra, played an active role with premeditation, a pre-arranged plan, and prior concert along with co-accused, Sher Singh (who died during the course of trial), in the commission of the alleged crime.

56. Although one 12-bore tamancha and three 12-bore cartridges were also recovered from the possession of the

appellant, Dharmendra Singh but the prosecution witness, S.I. Kailash Chandra Verma (PW-9), who investigated Case Crime No. 613 of 1995, under Section 25 of the Arms Act, did not send the recovered *tamancha* and cartridges for expert examination to the Forensic Science Laboratory. Furthermore, he did not personally test whether the recovered *tamancha* was in a workable condition or not. This fact was explicitly admitted in his evidence by the Investigating Officer, Kailash Chandra Verma (PW-9), who conducted the investigation in the Arms Act matter. Due to which, the recovered *tamancha* and cartridges could not be connected with the alleged crime. Consequently, it is evident that the prosecution has failed to establish whether the recovered 12-bore *tamancha*, along with three 12-bore cartridges, was used in the commission of the alleged crime or not. On this ground, we find that the conviction of the appellant, Dharmendra Singh, under Section 25 of the Arms Act is bad in the eyes of law and contrary to settled legal principles. Hence, his conviction under Section 25 of the Arms Act is unsustainable in the eyes of law, and the accused-appellant, Dharmendra Singh, is liable to be acquitted of the said charge.

57. From a perusal of the prosecution evidence available on record, it is evident that the appellant, Charan Singh, could not be arrested from the place of occurrence, and no incriminating materials were recovered from his possession. Therefore, we find the presence of the appellant, Charan Singh, at the place of occurrence to be highly doubtful. In light of the evidence available on record, we find no role or involvement of the appellant,

Charan Singh, in the commission of the alleged crime. Consequently, we are of the considered view that the benefit of doubt must be extended to the appellant, Charan Singh, in this case.

58. We have also perused and duly considered the findings and reasoning given by the learned Trial Court. We find that the Trial Court, by misappreciating the evidence, has erroneously held the appellant, Charan Singh, guilty of the commission of the alleged crime. Furthermore, from a perusal of the findings and reasoning, it appears that the Trial Court failed to appreciate the evidence against the appellant, Dharmendra Singh, for the charge levelled under Section 25 of the Arms Act in its proper perspective, and wrongly, without any cogent evidence, held him guilty under the said Section. However, from a perusal of the findings and reasoning of the Trial Court, we find that it has appreciated and evaluated the evidence against the appellant, Dharmendra Singh, for the charges under Section 302/34, 394 and 411 of the IPC in a proper perspective and in accordance with well-settled principles of law. In this regard, the learned Trial Court has duly evaluated the evidence against the appellant, Dharmendra Singh, based on the material available on record and in accordance with the established tenets of law.

59. In view of the aforesaid, the judgment and order passed by the learned Trial Court dated 27.03.2008 is liable to be modified. Accordingly, we modify the

judgment and order of conviction and sentence passed by the learned Trial Court dated 27.03.2008.

60. Thus, in light of the aforesaid discussion, we find that the conviction of the appellant, Charan Singh, under Sections 302/34 and 394 of the IPC as well as the conviction of the appellant, Dharmendra Singh, under Section 25 of the Arms Act, are unsustainable and liable to be set aside.

61. In view of the above, we **allow** the Criminal Appeal No. 2075 of 2008 filed by the appellant, **Charan Singh**, by extending the benefit of doubt to him, he is being acquitted of all the charges levelled against him. Consequently, we set aside the impugned judgment and order of conviction and sentence dated 27.03.2008 passed against the accused-appellant, Charan Singh, by learned Trial Court in Sessions Trial No. 1037 of 1996 (State Vs. Dharmendra Singh and Others), arising out of Case Crime No. 612 of 1995 (Case Crime No. 911 of 1995) under Sections 302/34, 394 IPC, Police Station-Kotwali, District- Moradabad. He is on bail, his bail bonds stand canceled, and his sureties are discharged from their liabilities.

62. In light of the discussions held above, we find that the conviction of the appellant, **Dharmendra Singh**, under Sections 302/34, 394 and 411 of the IPC is well-founded and is liable to be affirmed. Consequently, the impugned judgment and order of conviction and sentence dated 27.03.2008 passed against the accused-appellant, Dharmendra Singh, by learned Trial Court in Sessions

Trial No. 1037 of 1996 (State Vs. Dharmendra Singh and Others), arising out of Case Crime No. 612 of 1995 (Case Crime No. 911 of 1995) under Sections 302/34, 394, 411 IPC, Police Station Kotwali, District- Moradabad, is hereby **affirmed** and the impugned judgment and order of conviction and sentence dated 27.03.2008 passed against the accused-appellant, **Dharmendra Singh**, by learned Trial Court in Sessions Trial No. 1038 of 1996 (State Vs. Dharmendra Singh), arising out of Case Crime No. 613 of 1995, under Section 25 of the Arms Act, Police Station Kotwali, District- Moradabad, is hereby **set-aside**.

63. Accordingly, Criminal Appeal No. 2718 of 2008, filed by the appellant, **Dharmendra Singh**, is **partly allowed** only in respect of the offence registered under Section 25 of the Arms Act. By extending the benefit of doubt, the appellant, Dharmendra Singh, is hereby acquitted of the charge under Section 25 of the Arms Act.

64. The accused-appellant, Dharmendra Singh, is on bail. He is directed to surrender before the court of the learned Chief Judicial Magistrate (CJM), Moradabad, within a period of one month from the date of production of a certified copy of this order, to serve out the remaining sentence as passed by the learned Trial Court vide its order dated 27.03.2008 in Sessions Trial No. 1037 of 1996 (State Vs. Dharmendra Singh and Others), arising out of Case Crime No. 612 of 1995 (Case Crime No. 911 of 1995) under Sections 302/34, 394, 411 IPC, Police Station Kotwali, District- Moradabad.

65. In the event that the appellant, Dharmendra Singh, fails to surrender before the court concerned within the stipulated period of one month, CJM, Moradabad, shall take immediate steps by issuing non-bailable warrants against him to secure his arrest. Upon his arrest, the appellant shall be sent to jail to serve out the remaining sentence as awarded by the learned Trial Court vide order dated 27.03.2008.

66. Let a copy of this judgment and order, along with the Lower Court Record (LCR), be transmitted to the learned Trial Court forthwith for necessary information and compliance.

(Vinai Kumar Dwivedi,J.) (Siddharth,J.)

July 10, 2026

Aditya