JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Cr.Jail.Appeal.No.S- 90 of 2014

Date of hearing: 23.06.2017.
Date of judgment: 23.06.2017.

Appellants: Through M/s Badal Gahoti and Shahid Baloch, Advocates.

Respondent: The State
Through Mr. Shahid Ahmed Shaikh, A.P.G.

Complainant: Through Mr. Qurban Ali Bhutto, Advocate.

J U D G M E N T

SALAHUDDIN PANHWAR, J: Through instant criminal jail appeal, appellants have challenged the judgment dated 28.08.2014 passed by learned Sessions Judge, Matiari in Sessions Case No.54 of 2013, emanating from crime No.14 of 2013 registered at P.S Hala for offences u/s 17(3) Offence against Property (Enforcement of Hudood) Ordinance, 1979 and Section 392, 34 PPC.

2. The prosecution case is that on 31.12.2012 complainant Lal Chand alongwith his two sons, namely, Prem Chand and Lakhmi chand, was present in his jewelry shop, situated in Shahi Bazar Hala, when at about 1045 hours four unknown accused duly armed with pistols came there, Out of them, three having light beards, entered his shop while forth accused, shaved beard, stood outside. Accused on gun point looted gold ornaments, cash of Rs. 50,000/- from showcase of the shop and robbed Rs. 11000/- and one mobile phone HTC company model SASIOE from Prem Chand and then went away. Complainant, on his own,

remained in search of accused. On 29.02.2013 he came to know that some accused were caught hold while committing robbery from a jewelry shop at Sanghar, as such, they rushed to PS Sanghar and recognized/identified two culprits, who disclosed their names as Imdad Hussain Kori alias Asghar Ali r/o Taluka Thul District Jaccobabad and Rahmatullah s/o Ubedullah Banglani Lashari r/o Sakrand District Nawabshah. They also disclosed the name of their companion as Sabir s/o Gul Muhammad Buledi r/o near Machhar colony Bhitshah and fourth one was unknown to them, who was said to have been brought by Sabir. Then complainant returned to Hala and got his FIR registered nominating the same persons whom he recognized at Sanghar. He gave details of looted/robbed gold ornaments which according to him comprised two (2) gold sets, fourteen (14) gold rings, six (6) gold head lockets (TIKKAS), six (6) pairs of gold (JHALLAS), one pair of golden JHALLA (Polidha), four (4) gold (NATHS), six (6) pairs of gold (JHOOMAKS), three (3) pairs of gold earrings (WALIYOON), six(6) gold chains, four (4) GOLD LOCKETS, old mix Bhagat, one WALI total weighing 243 grams.

3. ASI Ubedullah (PW: 6), after registration of FIR, took up the investigation, during which inspected the place of occurrence, arrested accused Imdad and Rahmatullah from police lockup Sanghar, accused Sabir, who had been arrested, by Sanghar police, was also handed over to him, On the pointation of accused Sabir crime weapon viz. and unlicensed revolver loaded with four bullets, was recovered. He also produced accused Sabir before Civil Judge and judicial Magistrate-I Hala for conducting his identification where complainant Lal Chand properly identified him to be one of the culprits, then on the pointation of all the three accused robbed property was recovered vide memo at (Ex.8/B). After completion of investigation challan of the case was submitted showing, accused

Muhammad Hanif s/o Mahboob alias Muhammad Khan as absconder, who, ultimately, was declared as proclaimed offender vide order dated 27.02.2013.

4. On pleading of not-guilty by appellants / accused, the prosecution examined (PW:1) complainant Lal Chand at Ex. 06, he produced FIR and his further statement at Ex. 6/A and B respectively, (PW:2) Prem Chand at Ex.07, (PW:3) Lakhmi Chand at Ex. 08, he produced mashirnama of inspection of place of incident and memo of recovery of robbed property at Ex. 8/A and B, (PW:4) Amir Hyder at Ex. 10, he produced mashirnama of recovery of crime weapon revolver and bullets at Ex. 10/A, (jPW:5) Muhammad Ayood at Ex. 11, he produced mashirnama of arrest of accused Imdad and Rahmatullah at Ex. 11/A, (PW:6) ASI Ubedullah I/O of the case at Ex. 13, he produced copy of remand letters of accused, copy of letter of Superintendent District Prisons Sanghar, attested copy of FIR No. 16/2013 u/s 13 (E) AO registered against accused Sabir and certified true copy of memo of identification parade of accused Sabir at Ex. 13/A to 13/F respectively, (PW:7) Niaz Hussain Soomro Senior Civil Judge Tando Allahyar at Ex. 14, he produced memo of identification parade of accused Sabir and letter of police dated 12.02.2013 at Ex. 14/A and 14/B (PW:8) P.C Muhammad Ali at Ex. 15, he produced mashirnama of arrest of accused Sabir at Ex. 15/A, (PW:9) SHO Muhammad Ramzan, who had arrested accused Sabir at Ex. 16 and then closed its side vide statement at Ex. 17.

5. In his statement recorded u/s 342 Cr.P.C accused Imdad Hussain pleaded innocence and claimed his false implication in the case. He submitted his written statement at (Ex. 18/A) stating therein that he has already been acquitted in the case crime No. 25/2013 of PS Sanghar vide order dated 05.08.2013 passed by IInd Additional Sessions Judge, Sanghar, (which has been produced by him at Ex. 18/B)

and has further stated that witnesses are set-up by police, denied recovery of alleged robbed property on his pointation and Investigation Officer is said to have committed illegalities which favours him, Accused Hafiz Abid alias Rahmatullah and Sabir, in their statements, have also claimed false implication in the case, they, however, neither examined themselves on oath in disproof of allegations as required u/s 340 (2) Cr.P.C, nor produced any witness in their defence.

6. Learned counsel for the appellants, at the very outset, attacked the FIR while saying that same was lodged with inordinate delay and even after inquiry hence same is of no legal value and substance; he added that witnesses of ocular account are closely related and no independent witness has been examined to prove the *dacoity* which occurred at busy place i.e **'Bazaar';** no identification parade of appellant Imdad and Hafiz Abid @ Rehmatullah ever held while that of Appellant Sabir contained material illegalities; there had been material contradictions in evidences of witnesses of ocular account; recovery is also doubtful which *otherwise* is under joint-mashirnama. Concluding so, he prayed that the case against the appellant is not established beyond shadow of doubt hence benefit of doubt be extended to the appellants and they be acquitted in consequence of such *failure.*

7. On the other hand, learned counsel for the State, argued that mere delay in lodgment of FIR has never been declared to be *fatal* ; delay is *otherwise* explained; the case against appellants was established by direct evidence and witnesses had no enmity with appellants hence their testimony cannot be brushed aside merely for reason of their being related. The ocular account stood supported by recovery hence the judgment of conviction is well reasoned and deserves to be maintained. In last, he prayed for dismissal of the appeal.

8. I have heard the respective sides and have also gone through the available material *carefully.*

9. As regard the plea of delay in lodgment of FIR, I would say that it is by now a settled principle of law that mere delay in lodgment of the FIR shall never be sufficient to believe or disbelieve the contents of the FIR but question of *guilt* or *innocence* shall always need required standard of *evidence.* The *promptness* or *delay* will *however* have their relevance as a *circumstance* which *otherwise* would not prejudice the *liabilities* of either sides and that of Court to examine this *aspect* by holding the scale of justice *tight.* Reference may be made to the case of *Muhammad Zubair v. State* 2007 SCMR 437 where in it is held as:

> "4. … Generally delay in lodging F.I.R cannot in all cases lead to the inference that the case set up in the F.I.R. is necessarily true or false, however, it is relevant circumstance to be considered….FIR or reject the matter, reported therein.

I am quite conscious that delay in recording the FIR may be for reason of deliberation so as contrive anything to his advantage then the accused has to show or *least* plead that the delay in reporting the matter had been at his disadvantage because spontaneous information shall also not debar the accused from attacking the contents thereof. Reference may be made to the case of *Mushtaq Hussain & another v. State* 2011 SCMR 45 wherein at Rel. P-57, it is held as:

> ".. The purpose of the F.I.R. is to set the criminal law in motion and to obtain the first hand, spontaneous information of occurrence in order to exclude the possibility of fabrication of story or consultation or deliberation or the complaint has had time to devise or contrive anything to his advantage and the disadvantage of others and to safeguard the accused of such like

> happenings/occurrence in the F.I.R., as the spontaneity is the guarantee of truth to a greater extent.

Admittedly, there is a delay of about one (01) month in reporting the matter but it is a matter of record that such delay has not been at advantage of the complainant party, the *victims* of *dacoity* who had no enmity against the appellants / accused to falsely involve them by taking advantage of delay. On the other hand the conduct and attitude on part of the complainant party appears to be quite *natural* as the complainant detailed every thing in straight forward manner while recording the FIR which *prima facie* attaches the truthfulness to such *narration* particularly where no benefit / advantage appears to have been obtained so as to settle any personal score e.t.c. Reference may be made to the case of *Nasir Iqbal @ Nasra & another v. The State 2016 SCMR 2152* wherein it is held as:

> "7. … The scrutiny of their evidence does not suggest any exaggeration rather not assigning any specific role to the accused persons reflects the truthfulness of their testimony when in hustle and bustle of the occurrence which has been committed within a few seconds or minutes it is humanly impossible to assign specific role and giving detailed description of the same would rather infer or input to have been made out to falsely rope the accused persons, as such lodging of the FIR in straightforward manner in the fact and circumstances of the cases rules out any possibility of falsely roping the accused persons rather the lodging of the FIR in a straightforward manner shows that it carries the lodging of the FIR in a straight forward manner shows that it carries the true version. …

The conduct and attitude on part of the complainant party appears to be quite *natural* as they came forward after being satisfied about the *culprits* and avoided to involve any innocent. Even otherwise, in matters of *dacoity* the people normally stuck with looted property and not with *culprits.* The complainant party

categorically denied suggestion that **'no incident happened';** also denied suggestion that FIR was registered at instance of police and even the I.O PW ASI Ubedullah also denied the suggestions that **'incident of robbery had not taken place'** as well suggestion that **'complainant and his both sons are set-up witnesses in the case'.** Even otherwise, the irregularities committed by police during investigation of *delay* in recording the FIR would not be of much importance if material that came before the Court is *otherwise* sufficient to connect the accused with commission of crime hence the accused can still be convicted. Reference may be made to the case of *State State/ ANF v. Muhammad Arshad* 2017 SCMR 283 wherein it is held as:

> ".. We may mention here that even where no proper investigation is conducted, but where the material that comes before the Court is sufficient to connect the accused with the commission of crime, the accused can still be convicted, notwithstanding minor omissions that have no bearing on the outcome of the case.

Further, it is also by now a well settled principle of law that in absence of any thing *adverse* against the complainant party (*witnesses of ocular account)* or the *circumstances* showing possibility of any *advantage* to have been taken by the complainant, the delay alone in lodgment of FIR would not be material to disbelieve the prosecution case.

10. Now, I would attend the *plea,* raised with reference to identification of the appellants / accused. Before going into details of such *plea* , I would say that there is no provision in law that identification proceedings should be held in cases where a crime is committed by persons *unknown* to the witness or for that matter in any type of cases. The identification has by itself no independent value but is of *corroborative* in nature which *too* to exclude the possibility of sending up of an *innocent* person therefore, if case is *proved* otherwise by convincing evidence then

mere absence of *identification parade* or lapses would loose value thereof. Needful to add that mere *identification* in identification parade alone *would* not be sufficient for conviction, being a *corroborative* piece of evidence. Reference may be made to the case of *Muhammad Akram v. State* 2011 SCMR 877 wherein it is held as:

> "…it is well-settled by now that identification of an accused during identification parade cannot be considered as substantive piece of evidence and it is merely a corroboration and even otherwise identification parade is immaterial if the identification of accused is proved by other convincing evidence. In this regard, reference can be made to case titled Muhammad Afzal v. State (1982 SCMR 129), relevant portion whereof is reproduced herein below for ready reference:--.
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> > "13. Now there is no provision in law that identification proceedings should be held in cases where a crime is committed by persons unknown to the witness or for that matter in any type of cases. The identification has by itself no independent value. As stated by Viscount Haldane, L.C. in King v. Christie (1914 AC 545) "its relevancy is to show that the witness was able to identify at the time and to exclude the idea that the identification of the prisoner in the dock was an afterthought or a mistake". In practice however, it is not safe to accept the statement of a witness about complicity of an accused in a crime if he did not describe him by name or other particulars during the investigation and still was not made to identify /him out of a group. If, however, the identity of the accused is proved by other convincing evidence direct or circumstantial, the absence of identification test proceedings will be immaterial." (Emphasis provided)

The law has also developed and by now it is settled law that if testing of a witness *qua* identity of accused in Court *even* inspires confidence and the witness is consistent on all material particulars and there is nothing in evidence to suggest that he is deposing falsely then non-participation of such a witness at time of identification *parade* becomes immaterial because *ocular* account, if stands well with test of being *natural, confidence inspiring* and *direct* always diminishes value of *corroborative* pieces of evidence. Reference may be made to the case *Rafaqat Ali & Ors v. State* 2016 SCMR 1766 wherein it is held as:

> "13. The contention of the learned Counsel that the Appellants Nos.2 and 3 were not identified in the identification parade would

> not lead to an inference that they were not present at the place of occurrence. The FIR contained description of the Appellants with specific role. In fact, the injured witnesses in their testimonies before the trial court have not only identified them but also implicated them with specific role. Holding of identification parade is not mandatory. If testing of a witness qua identity of accused even in Court inspires confidence and the witness is consistent on all material particulars and there is nothing in evidence to suggest that he is deposing falsely, in such circumstances, absence of witness during identification parade would not be fatal to prosecution case.

11. In view of what has been discussed above, I am of the clear view that the trial Court committed no *illegality* while responding to these *plea (s).*

12. Now, I would take up the *ocular* account which is of most importance because it is always necessary for *ocular* account to sustain beyond shadow of doubt which *for* abandon caution may have corroboration to *eliminate* chances of any *doubt* however where *ocular* account fails the corroborative *pieces* of evidences becomes immaterial as the same *alone* cannot hold conviction. Reference may be made to the case of *Dr. Israr-ul-Haq v. Muhammad Fayyaz & another* 2007 SCMR 1427 wherein it is held as:

> '4. … It is also a settled law when ocular evidence is disbelieved in a criminal case then the recovery of an incriminating article in the nature of weapon of offence does not by itself prove the prosecution case. ..

13. The *ocular account* consists on evidence of complainant Lal Chand, PWs Prem Chand and Lakhmi Chand. I would add that the *ocular account* first brings the prosecution under a *heavy* duty to safely establish presence of the witness because *ocular* account would *only* be that which the witness claims to have seen or *heard* directly and then *credibility* of statement of such witnesses which should satisfy the conscious of the Court. In law mere *presence* at spot is not sufficient to believe whatever the witness says but its being *natural, direct* and *confidence inspiring* are

sine qua non. Reference may be made to the case of *Abid Ali & 2 others v. The State* 2011 SCMR 208 wherein it is held as:

> *21. To believe or disbelieve a witness all depends upon intrinsic value of the statement made by him. Even otherwise, there cannot be a universal principle that in every case interested witness shall be disbelieved or disinterested witness shall be believed. It all depends upon the rule of prudence and reasonableness to hold that a particular witness was present on the scene of crime and that he is making true statement. A person who is reported otherwise to be very honest, above board and very respectable in society if gives a statement* **which is illogical and unbelievable, no prudent man despite his nobility would accept such statement**.
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> *22. As a rule of criminal jurisprudence, prosecution evidence is not tested on the basis of quantity but quality of the evidence. It is not that who is giving the evidence and making statement; what is relevant is what statement has been given.* **It is not the person but the statement of that person which is to be seen and adjudged.**

In the instant matter the perusal of the record would show that place of *incident* (dacoity) is the gold smith shop of the complainant and time of incident is 1045 hours hence presence of these witnesses i.e complainant and his *two* sons is quite natural. Even otherwise there is no challenge from defence to claim of the *witnesses* of ocular account regarding owning the goldsmith shop, therefore, the presence of these witnesses at relevant time was never a matter of *dispute*.

14. The perusal of evidences further shows that complainant Lal Chand deposed that on 31.12.2012 he was present at the counter of his shop, his son Prem Chand was present at locker and reciting Geeta, Lakhmi Chand was also present with them when at about 1045 hours three armed men entered his shop while one accused armed with pistol stood outside the shop. He also stated that one of the culprits on pistol point controlled upon Prem Chand and two accused on show of their weapons made control on him and his son Lakhmi Chand and looted jewelry weighing 243 grams so also took out cash of Rs.50,000/- counter, robbed Rs.11500/- and mobile phone from Prem Chand. He further deposed that after the

incident whole market was closed and they took out a protest at main highway which was ended on assurance of SSP Matiari to arrest the accused, then on 29.01.2013 he came to know that some accused while committing dacoity from a shop of jewelry at Sanghar, have been arrested, as such, he alongwith SHO Hala went to PS Sanghar and recognized accused Hafiz Abid and Imdad alia Imtiaz Hussain Banglani, thereafter, registered FIR on same day (29.01.2013) and on 30.01.2013 police arrested both the above named accused so also Sabir and on 06.02.2013 his further statement was recorded (Ex. 6/B). According to complainant on 12.02.2013 identification parade of accused Sabir was conducted through him before Magistrate wherein he properly identified the said accused and on next day viz. 13.02.2013 police recovered robbed property viz. three (3) PAIR OF EARRINGS (Jhoomak), three (3) pair of (JHALA), three (3) head lockets (TIKKA), three (j3) nose rings (NATHS), eight (8) gold rings and four (4) locket and one set total weighing 76 grams, which he produced at Article "A".

15. The above version of complainant is fully supported by PW Prem Chand and PW Lakhmi Chand on all material aspects with regard to *entrance* of accused till lodgment of the FIR. Thus, *prima facie,* witnesses of *ocular* account, including the complainant, have categorically supported each other in respect of all *material* aspects i.e manner of happening of incident; date and time of incident; detail of robbed articles e.t.c. These witnesses categorically identified the accused / appellants during course of trial and also detailed the incident. As per witnesses of *ocular* account the accused persons had entered into the shop with *open* faces and remained in the shop for a considerable period while looting the *valuable* articles hence the witnesses of ocular account had sufficient to identify the accused persons. Such straight forward and natural detailing of whole *episodes* itself speaks

that same was not only *logical* but confidence inspiring *too.* The appellants have also not denied to have been in custody with Sanghar police at the time when the complainant party claimed to have seen them which also shoulders the logical narration by complainant party. I would not hesitate in saying that if the witnesses of *ocular* account establish their *presence* and their evidence is also found to be direct, confidence inspiring and natural then the same is to be believed. However, an exception thereto is only when the *defence* establishes the witnesses to be *interested* in false involvement or conviction of such falsely involved persons then strong *corroboration* would be required to convict the accused else it would be better to extend benefit of *doubt.* The perusal of the record shows that the complainant party *prima facie* had no motive or reason to falsely involve the appellants who were neither resident of the *Illaka* of complainant nor the appellants *pleaded* any direct enmity against the complainant party.

16. It is a matter of record that these witnesses were subjected to *lengthy* cross-examination by the defence but nothing *except* minor discrepancies could be sucked. It is also a matter of record that defence tested these witnesses by number of *pleas* which could be taken as a *reason* for their false involvement by the complainant party. The *first* plea was with regard to coercion by the police which was *categorically* denied by the witnesses. Even otherwise, the defence could not place on record any material which could justify such *enmity* of the police with them couple with a *reason* for complainant party to be black-mailed. It is a matter of record that at *later* stage the defence also came forward with plea of appellant Imdad to be *customer* and due to credit account he was falsely implicated. This *plea* was also not sufficient to establish any motive or reason for the complainant party to falsely rope the appellants. Even otherwise, such *plea* was rightly rejected by

trial court while referring to residence of the appellants Imdad Hussain and Hafiz Abid alias Rehmatullah at a place far from place of occurrence. I would add that proper test of one to be *interested* or otherwise is not dependant upon his *relationship* but true test is whether the evidence of a witness is probable and consistent with circumstances of the case or not. Reference may be made to the case of *Lal Khan v. State* 2006 SCMR 1846 wherein at relevant p.1854 it is held as:

> "… The mere fact that a witness is closely related to the accused or deceased or he is not related to either party, is not a sole criteria to judge his independence or to accept or reject his testimony rather the **true test is whether the evidence of a witness is probable and consistent with the circumstances of the case or not. "**

In another case of *Sabir @ Sabri v. State* 2007 SCMR 1292 it was held as:

> . '5. … The statements of Azhar Abbas (PW 9) and Muhammad Ali (PW 10) have rightly been considered and relied upon by the learned trial and Appellate Courts. They have implicated the petitioner in a categoric manner and nothing advantageous could be extracted as a result of lengthy and searching cross examination. Azhar Abbas (PW 9) and Muhammad Ali (PW 10) **cannot be labelled as "interested witnesses' for the simple reason that they had no motive, rancour or animosity to get the petitioner involved in such a heinous offence**. …

Worth to add here that normally the *people* avoid becoming a witness against *criminals* therefore the law always insists on *quality* and not *quantity.* Further, it is also worth to here that plea of *non-association* of independent witness may be material but where the witnesses, so named by prosecution, are shown to be *interested* because a *witness* , if otherwise, not '**interested'** may well be considered as an **'independent witness'.** Accordingly, I am of the clear view that the *ocular account,* so furnished by prosecution, qualifies the terms '**confidence inspiring, natural and direct'** hence in absence of any possibility of false involvement, such evidence was rightly believed by the learned trial Court.

17. It is also a matter of record that the complainant and other witnesses, having seen the appellants Imdad and Rahmatullah, at police station had lodged the FIR wherein the appellant Sabir was named with reference to words of the accused persons. The accused Sabir was *later* arrested and was properly picked by the complainant party in identification parade which was supervised by Mr. Niaz Hussain Soomro (PW: 7). In memo of identification parade produced at (Ex. 14/A) the Magistrate, however, noted that at the time of identification complainant pointed out that Sabir alongwith co-accused Rahmatullah, Imdad and one unknown accused had committed robbery from his jewelry shop. The witnesses also remained stuck with their such claim during course of the *trial* therefore, this also strengthened the ocular account.

18. Further, the *ocular* account also finds strength by recovery of robbed articles. It is a matter of record that such recovery was effected at pointation of the accused persons therefore, it was *admissible* within meaning of Article 40 of the Qanun-e-Shahadat Order. I would also add that though the *recovery* is under *joint-mashirnama* but this alone will not be sufficient to disbelieve the same because the prosecution categorically had claimed that all three accused persons namely Imdad, Hafiz Abid alias Rahmatullah and Sabir had *volunteered* to produce the crime weapon and robbed articles. It is categorically mentioned that in the first instance accused Sabir produced crime weapon viz. one unlicensed revolver with four live bullets from mango garden of Mangiladho Shah by leading police party and then all three appellants led the police and produced robbed articles which were *identified* by the complainant party. It was *irregularity* on part of the investigating officer which could not be sufficient to disbelieve the *recovery* of robbed articles as well crime weapon, as was held in the case of *State State/ ANF v.*

Muhammad Arshad supra. Here, it is material to add that in the instant matter, it was the complainant party (gold-smiths) who had identified their robbed articles hence chances of *mistaken* identity were also not there particularly when these articles were not beyond the detail of robbed articles. The witnesses, so produced to prove the *recovery* , were also subjected to lengthy cross examination but such lengthy cross-examination brought nothing to doubt recovery and *identity* of recovered articles. The irregularities on part of the investigating officer or some discrepancies / minor contradictions were never of any help for the accused to claim *benefit* of doubt in a case where case is *otherwise* proved. Needless to add here that the evidence of a witness is always to be read as a whole; minor discrepancies are always to be ignored because the same do creep by passage of time or by keeping the witness under lengthy cross-examination. Reference may be made to the case of *Ravi Kapur v. State of Rajastan* 2013 SCMR 480 wherein it is held as:

> "28. …. It is a settled principle that the variations in the statements of witnesses which are neither material nor serious enough to affect the case of the prosecution adversely are to be ignored by the courts. …It is also a settled principle that statements of the witnesses have to be read as a whole and the Court should not pick up a sentence in isolation from the entire statement and ignoring its proper reference, use the same against or in favour of a party. The contradictions have to be material and substantial so as to adversely affect the case of the prosecution. ….

In another case of *Dilbar Masih v. State* 2006 SCMR 1801, it is held as:

> '5. …. We find that the ocular account would also be supported by the medical evidence to the extent of sustaining the fire-arm injury by the deceased at the hand of petitioner and in these circumstances, the minor discrepancies and contradictions pointed out by the learned counsel for the petitioner would not be material either to effect the credibility of the evidence of eye-witness or create any doubt or dent in the prosecution case.

It is pertinent to mention that evidence of *official* witnesses, being formal, were rightly discussed. There may have been irregularities, committed by the

Investigating officer, while for applying the custody of arrested accused e.tc but same never brought the fact of appellants, being in custody, at such time and that of their being handed over to I.O hence same would not prevail over direct *evidence* which is also supported by other corroborative pieces of evidences.

19. In view of above discussion, I have come to the conclusion that judgment of conviction, so recorded by the trial court, is well reasoned and proper hence needs no interference. The same was accordingly dismissed vide short order dated 23.06.2017. These are the detailed reasons thereof.

Judge

imran