

Raj Kumar and ors. Vs. State

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Court : Delhi

Decided On : Aug-01-1996

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Judge : Arun Kumar and; K.S. Gupta, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 364

Appeal No. : Criminal Appeal Nos. 146 and 147 of 1993 and 104 of 1995

Appellant : Raj Kumar and ors.

Respondent : State

Advocate for Pet/Ap. : M.M. Israili,; A.R. Khan,; Rajeev Awasthi and;

Judgement :

Arun Kumar, J.

(1) This judgment will dispose of three appeals of the three appellants. The appellants were charged and convicted under Sections 364/302/ 120B Ipc, for the murder of Deepak @ Babloo, aged about 10 years. Each of them was sentenced to life imprisonment for the offences under Sections 120-B/302 Ipc and ten years' R.I. for the offence under Section 364 IPC. The sentences were to run concurrently.

(2) On 8th January, 1990 Balwant Ram, father of Deepak @ Babloo lodged Fir at police station Adarsh Nagar that his son Babloo aged ten years was missing since 5.30 p.m. on 6th January, 1990 from Azadpur T point. He described the boy as fair complexion, lean built about 3'-6' tall, wearing white shirt red sweater, green pant and white shoes. The boy was a student of fourth class. The missing person report about the boy had been lodged at the police station on 7th January 1990 vide Dd No. 20-A at 7.40 p.m. In the Fir it was recorded that Jagdish and Vasdev having timber shops near the shop of Balwant Ram, complainant had informed the complainant that on 6th January, 1990 at 5.30 p.m. they had seen Sadhana wife of Raj Kumar, nephew of the complainant holding the finger of Babloo and crossing the G.T. Road. The complainant, however, reported that when he enquired from Raj Kumar about Babloo, Raj Kumar stated 'Yeh to kuchh bhi nahin hua hai, aage dekhna ki kya hota hai'. (This is nothing. See what happens next.) According to the complainant. Raj Kumar harboured a grudge against the complainant and his family because about a year ago he had molested the wife of complainant's elder son as a result of which Raj Kumar's entry in the house of the complainant had been debarred. Raj Kumar had threatened to take revenge. Sadhana was the niece of complainant's wife and was living with Raj Kumar as his wife without marrying him. The complainant stated that he had rebuked Raj Kumar a lot for keeping Sadhana with him. He stated that he suspected Raj Kumar and Sadhana for kidnapping his son Babloo. On the basis of this statement a case was registered under Sections 364/34, IPC.

(3) Raj Kumar and Sadhana were missing. A, vigil was kept on the house where Sadhana was residing and at 3.00 a.m. on the night between 8th and 9th January, 1990 Balwant Ram, father of Babloo and Manoj Kumar, real brother of Babloo went to the police station and informed that Sadhana and Raj Kumar were present in the house of Sadhana. Si Harihar Kishore, PW-18 Along with Asi Kamini, PW-1 and two other police officers went to Sadhana's house No. C-923, Jahangir Puri, accompanied by Balwant Ram and Manoj Kumar at 3.00 a.m. and knocked at the door. Sadhana opened the door. They enquired about Raj Kumar. Sadhana stated that he was not there. Thereafter the police party heard some noise from inside and entered the house. On search Raj Kumar was found hiding under a cot. Both, Sadhana and Raj Kumar were arrested. Manoj Kumar, PW-11, brother of Babloo

has given a complete eye witness account of the arrest of both the accused. According to Manoj Kumar, Raj Kumar initially showed ignorance about Babloo. Personal search of both the accused was conducted. The search memos are Ex. PW-11/A and PW-1/ A dated 9th January, 1990. After interrogation the two accused made disclosure statements which are Ex. PW-11/B and PW-1/B, respectively of the same date. Accused Raj Kumar also produced his blood stained clothes. The same were taken possession of by S.I. Harihar Kishore, the 10 vide seizure memo Ex. PW-11/C. The seizure memo shows that the clothes were stated to have been worn by accused Raj Kumar at the time of commission of the offence. The clothes consisted of a pair of blue colour jeans (Ex. P-1), one white full sleeves shirt, both the sleeves were stained with blood (Ex. P-2) and one violet colour half sleeves woollen sweater front portion whereof near the border appeared to be blood stained (Ex.P-3). The 1.O. while appearing as PW-18 identified the clothes. After these recoveries the 1.O. proceeded to G.T. Road. The S.H.O. informed him that he was also reaching along with the Sdm concerned. At about 11.00 a.m., the Sho along with Sdm reached there. The Acp and Dcp had also reached there. Raj Kumar, accused led all of them to the fields of Sarup Nagar and pointed out the place where the dead body of Babloo was buried. The Sdm ordered digging up of the place. On digging up first a white shirt and a neck-tie appeared in the pit and than the dead body was found which was having its mouth downwards. Photo of the dead body in the pit was taken. The photographer had been summoned under the orders of the SDM. The dead body was taken out and again photographs were taken. The dead body was taken out by Manoj, brother of Babloo and Balwant Ram father of Babloo. The shirt of the deceased is Ex. P-4 and the tie with the school emblem is Ex. P-5. These were taken possession of vide recovery memo as Ex. PW-11/D. Blood stained earth and control earth were taken out from the pit and seized vide Ex.PW-11/L. Both the samples of earth were separately sealed. The body was sent for post mortem. After post mortem the dead body was handed over to the relatives of the deceased. Manoj Kumar, PW-11, brother of the deceased is an eye witness to the recovery of the clothes and dead body of Babloo and he has signed the recovery memos. His statement as PW-11 is similar to the statement of the 1.O., Si Harihar Kishore, PW- 18. Balwant Ram, father of the deceased is a signatory to the

memos prepared in this behalf. Raj Kumar also disclosed that the deceased was wearing those clothes at the time of occurrence. Balwant Ram has categorically stated that Raj Kumar had led the police party to the place of recovery of the body of the deceased in the presence of the S.D.M. and he pointed out the place where the body had been buried.

(4) Blood stains were found on the clothes worn by Raj Kumar at the time of the commission of the crime as per the Cfsi report Ex.PW 4/ A&B.; The clothes had been taken possession of at the instance of Raj Kumar himself by the 1.0.

(5) PW-19 is Shri R.S. Yadav who was the S.D.M. before whom the dead body was recovered at the instance of the accused persons. He stated that he accompanied the S.H.O. of police station Adarsh Nagar to Sarup Nagar at about 11.00 a.m. on 9th January, 1990. The Acp and Dcp had also arrived. According to this witness Raj Kumar took the party to the spot in Sarup Nagar and pointed out the place where the body of the deceased was buried. The police officials dug up the place and dead body of the boy was visible. The body was taken out and identified by the brother of the deceased who was present there in the police party. The dead body and the clothes were taken possession of. He conducted the proceedings which are Ex. PW- 18/A. The proceedings are signed by him. PW-19/A is the application for post mortem of the deceased signed by him.

(6) Dr. L.T. Ramani was examined as PW-15. He is the doctor who conducted the post mortem on the body of deceased Babloo. According to him :

'Deceased was found to have worn a Nikar which was blood stained and soiled with moist sand. Whole body was covered with sand dust. Built of the body was normal. R.M. had passed of. The lower limbs and was weakly present in the upper limbs. Eyes were normal. Comes were cloudy. Nails were pale, there was no discharge from natural orifices. External injuries :

1. 6 small incised wounds and four tiny punctured wound present on the middle and lower part of front of neck. The size of wounds varied from 4 ml. to 13 ml. scattered over an area of 6 cm x 6 cm one of the ends of all these wounds appeared more acutely cut.

2. An incised wound 1 cm x 0.3 cm into placed transversely on the upper part of sternum in the mid line 3.5 cm below a supra sternul letch. Both ends of injury were acutely cut.

3. An incised wound 1.5 cm x 0.5 cm x transversely present on the left side front of chest 8 cm below the nipple. This injury was spindale shaped.

4. An incised wound 0.4 cm x 0.1 cm x skin deep on the back of left hand.

5. Incised wound 1 cm x 0.3 cm x skin deep on the back of the right hand. Internal examination revealed as follows : Scalp tissues were normal. Skull bones were intact. Brain was pale. Neck tissues showed massive blood clots in the superficial and deeper layers. Right internal jugular vessel was found cut under one of the wounds (exbn. injury No. 1). There was no injury to trachea. Injury No. 2 was found to have entered right chest cavity through second intercostal space and had cut upper lobe of right lung on a cm deep. Total depth of this injury was 4.5 cm from body surface. Right chest cavity contains 800 ml. blood Injury No. 3 was found to be communicating with left chest cavity through 6 intercostal space. After piecing the left dome of diaphragm injury was seen to have cut liver margin 1- 5 cm deep total depth of this injury was from body surface. Left lung was pale. Heart was normal. Stomach contained little fluid. Other abdominal organs were normal.'

(7) The post mortem report is Ex. PW-15/A. The doctor opined that the injuries found on the body of the deceased were possible with the weapon of offence shown to him as Ex. P-6. The doctor denied the suggestion that murder could not have been committed with the small knife P-6.

(8) The third accused Akhilesh was arrested on 12th January, 1990. The version of the prosecution witnesses about the arrest of accused Akhilesh is at variance with each other. However, the fact is not in dispute that Akhilesh was arrested on 12th January, 1990. His personal search memo prepared on 12th January, 1990 by Inspector Vijay Kumar PW-17 is Ex. PW-11/E. The personal search of the accused did not produce any incriminating material. A disclosure statement of Akhilesh was recorded which is Ex.PW-11/F. The accused Akhilesh got recovered a knife from a trunk from his house. The knife is Ex.P-6. This knife was taken

possession of vide recovery memo PW-11/ K. The sketch of the knife is Ex.PW-11/J. His blood stained shirt is Ex.P-7 and pant is Ex.P-8. These were taken into possession vide recovery memo Ex. PW-11/H. These were sealed. At the pointing out of accused Akhilesh, a pant Ex.P-9 and a pair of shoes EX.P-10/ 1 and 2 and socks Ex.P-11/1 and 2 were recovered from a pit. They were taken possession of vide recovery memo Ex. PW-11/G.

(9) Jagdish Chand PW-3 and Vasdev Dev PW-6 are the two shopkeepers having shops near the shop of Balwant Ram, father of the deceased. These two shopkeepers are the eye witnesses to the last seen evidence' regarding deceased Babloo having been seen with Sadhana at about 5.30 p.m. on 6th January, 1990 crossing the G.T. Road. Both the witnesses knew Balwant Ram, deceased Babloo, Sadhana as well as Raj Kumar since before the incident. They appear to be already well known to each other. These two witnesses have given the relationship of Raj Kumar and Sadhana with the complainant Balwant Ram correctly. They have also stated about Sadhana and Raj Kumar residing together as husband and wife without being married. Jagdish stated that he saw Sadhana holding finger of Babloo in hand and crossing the road going towards Azadpur village.

(10) Raj Kumari PW-7 is the wife of Manoj Kumar elder brother of the deceased. She is a. witness about motive. She stated about the fact that Raj Kumar wanted to outrage her modesty and take her photograph to which she objected. She told the incident to her husband and her father-in-law. She went to the police station to make a report-about this. This annoyed Raj Kumar and he threatened to take revenge.

(11) On the basis of this evidence the Trial Court convicted the three accused persons for offences under Sections 364/302/120-B, IPC.

(12) We have heard the learned Counsel for the appellants in all the three appeals. It is a case of circumstantial evidence. There are no eye witnesses to the crime. So far as Raj Kumar and Sadhana appellants are concerned, the prosecution has succeeded in establishing their guilt. Evidence has been led about motive for the crime. They bore a grudge against Balwant Ram and his family. As

per evidence of Raj Kumari PW-7 supported by the evidence of Balwant Ram PW-13 and Manoj Kumar PW-11 (husband of PW-7), Raj Kumar had tried to outrage the modesty of the lady. She is the daughter-in-law of the family. The family had taken strong objection to this and barred the entry of Raj Kumar in the house. Raj Kumar bore a serious grudge against the family on this account. Secondly, this family was objecting to the liason between Raj Kumar and Sadhana. Raj Kumar was Balwant Ram's elder brother's son. Sadhana was the daughter of Balwant Ram's brother-in-law (Sala - wife's brother). Balwant Ram and his family objected to Sadhana and Raj Kumar living together as husband and wife without being married. This was sufficient motive for Raj Kumar and Sadhana to harm Balwant Ram and his family.

(13) The circumstances and the manner in which Raj Kumar was arrested from the house of Sadhana point to the guilt of both Raj Kumar and Sadhana. Initially both of them were missing. After a constant vigil at the house of Sadhana, they were found to return to the house in the wee hours of the night between 8th/9th January, 1990. The fact of their arrival in the house was reported to the police and the S.I. along with other police officers including lady police went to the house of Sadhana at about 3 a.m. accompanied by the complainant Balwant Ram and his son Manoj Kumar. After a knock on the door, Sadhana opened the door. She was identified by the complainant and his son Manoj Kumar. On enquiries about Raj Kumar, she stated that he was not there. Manoj Kumar PW-11 states that they heard some noise from inside the house and the police party entered the house. After a search Raj Kumar was found hiding under a cot and was arrested. All this points to the guilt of the two accused.

(14) The evidence which completely clinches the matter against the accused is the disclosure statement and Raj Kumar getting the dead body of the deceased boy Along with some of his clothes recovered from a pit in Sarup Nagar. This was done in the presence of the Sdm which puts the matter beyond any doubt. The dead body and the clothes were buried in a pit and, therefore, were concealed in a manner that only the accused knew about these and could get recovered. These were within his special knowledge. The recovery of the dead body and the clothes worn by the deceased at the instance of accused Raj Kumar leaves no manner of

doubt about Raj Kumar being responsible for the murder of Babloo @ Deepak.

(15) We may also note here that according to the CfsI report Ex.PW-4/A the blood group of the deceased matched with the blood group found on the basis of blood stains on the clothes of Raj Kumar and deceased Babloo.

(16) So far as Sadhana, appellant is concerned it has come in evidence that when Raj Kumar led the police party for recovery of the dead body, she also accompanied the police party. However, according to one witness, she remained sitting in the vehicle. The main evidence against Sadhana is last seen together with the deceased and that she tried to conceal the presence of Raj Kumar in her house on the day Raj Kumar was arrested. The evidence of PW-3 and PW-6 about having seen Sadhana with Babloo crossing the road while Sadhana was holding the hand of the deceased is natural and there is no reason to doubt the statement of these two witnesses. PW- 6 was not cross-examined on this aspect at all. Sadhana also bore a grudge against the family of the complainant because of her conduct in living with Raj Kumar as his wife without marriage which was being objected to by the complainant and his family. It appears that Sadhana and Raj Kumar conspired together to take a revenge on the family of Balwant Ram by indulging in the misdeed which led to the murder of Babloo. In the scheme of conspiracy, Sadhana was the first actor who performed the role of bringing the boy and handing him over to the co-conspirators. She performed this role and brought the boy from the shop of his father and handed him over to Raj Kumar. The next important incriminating evidence against Sadhana is that she tried to conceal the presence of Raj Kumar in her house. First both of them evaded the police by being away from their place of residence, second when they were found at the residence of Sadhana at an odd hour after a constant vigil was kept at their residence, Sadhana tried to conceal the presence of Raj Kumar. This shows complicity in the whole affair. We have no doubt about the complicity and involvement of Sadhana in the crime.

(17) Learned Counsel appearing for the appellants argued that Raj Kumar was not arrested from the house of Sadhana. For this he has relied on the statement of DW-1 Naresh, brother of Raj Kumar and DW-2 Kalinda the alleged landlady of the

house where Sadhana resided. These two witnesses tried to show that Raj Kumar was not arrested from the residence of Sadhana. The evidence of these two witnesses does not inspire any credibility and appears to be false. The prosecution witnesses have consistently deposed about the arrest of Raj Kumar from the house of Sadhana at about 3 a.m. on 9th January, 1990. The evidence of prosecution witnesses appears to be fully reliable and trustworthy.

(18) The learned Counsel for the appellants next contended that no public witnesses were associated in the recovery of the dead body and the clothes of the deceased and this makes the recovery doubtful. This argument is devoid of any merit. In the present case it has been established on record that not only the I.O. but the other police officers of the rank of Acp and Dcp as well as the Sdm of the area were present at the time of recovery of the dead body and the clothes of the deceased at the instance of Raj Kumar. The presence of the Sdm puts the recovery beyond any shadow of doubt and this argument is rendered totally flimsy.

(19) The guilt of appellants Raj Kumar and Sadhana is established beyond any shadow of doubt. There is no hypothesis pointing to the innocence of the two accused. The result is that Crl. Appeals No. 146 of 1993 and 147 of 1993 on behalf of appellants Raj Kumar and Sadhana fail. The convictions of the two under Sections 364/302/120B Indian Penal Code and sentences awarded to them by the Trial Court are upheld.

(20) Coming to the case of Akhilesh, appellant in Crl. A. No. 104 of 1995, the impugned judgment of the Trial Court shows his conviction is based only on the factum of recovery of a shirt Ex.P-7 and a pant Ex.P-8 allegedly worn by him at the time of the occurrence which had blood stains certified as that of group 'A' by the CfsI report Ex.PW-4/A. This blood group was the same as that of the deceased. Further these clothes were allegedly got recovered by accused Akhilesh himself vide recovery memo EX.PW-11/H. Apart from the recovery of blood stained clothes allegedly worn by Akhilesh, the recovery of blood stained knife said to be the weapon of offence in the present case at the instance of Akhilesh is another incriminating fact brought on record by the prosecution. The knife was recovered vide memo Ex.PW-11/K. At the instance of Akhilesh there is alleged recovery of

some clothes worn by the deceased at the time of his murder vide recovery memo Ex. PW-11/G.

(21) There are two important aspects which have to be kept in mind while dealing with the case of appellant Akhilesh. Undisputedly Akhilesh was arrested on 12th January, 1990. However, there are at least four versions on record about his arrest. The second aspect is the alleged recoveries of incriminating material at his instance. After a careful perusal of the relevant evidence on record, we are of the view that both these aspects are not free from doubt and, therefore, it is not safe to uphold the conviction of Akhilesh for offence under Sections 364/302/120-B IPC.

(22) Akhilesh was arrested three days after the dead body and some of the clothes worn by Babloo had been recovered at the instance of co-accused Raj Kumar. The first version of his arrest is as per statement of Manoj Kumar PW-11. He stated that 'I again joined the investigation on 12th January 1990 along with my father and went in search of Akhilesh in Sarup Nagar. In a room of land of Nihal Singh in Sarup Nagar, accused Akhilesh was found present. He was apprehended and his personal search was taken vide memo No. Ex.PW-11/E'. Manoj Kumar proceeds to make reference to an alleged disclosure statement made by Akhilesh which is wholly inadmissible in evidence. In cross-examination he reiterated that on 12th when he went to the house of Akhilesh, Akhilesh was present alone and the door of his house was open. A contrary version of the arrest of Akhilesh has come from PW-17 Vijay Kumar who was the Sho of the Police Station Adarsh Nagar at the relevant time. According to him, he arrested Akhilesh on 12th January, 1990 on the pointing out of Naresh brother of accused Raj Kumar at Sarup Nagar near Dharmshala. It is to be noted that PW-11 Manoj Kumar did not refer to Naresh, brother of accused Raj Kumar at all in his statement about arrest of Akhilesh. Yet another version of arrest of Akhilesh comes from the Investigating Officer of the case, i.e., S.I. Harihar Kishore PW-18. According to him, he accompanied Sho Vijay Kumar to Sarup Nagar on 12th January, 1990 for arrest of Akhilesh and arrested the accused while he was going by the side of Yadav Dharmshala. The 10 does not mention the name of Naresh. Another version of his arrest has come from the mouth of Akhilesh himself in his statement under Section

313 Cr.P.C., according to which 'on one day in the morning when I was taking tea on Burari Road in a shop, three persons who were already on the road in civil dress called me and made me to sit in a three- wheeler and took me to the Police Station Adarsh Nagar on the pretext that I have been called there.' Even if we ignore this last version of arrest of Akhilesh coming from his own mouth, there are at least two contradictory versions of his arrest, one of which is of the complainant side i.e., PW-II Manoj Kumar and PW-12 Balwant Ram to the effect that he was arrested from a room in the land of Nihal Singh in Sarup Nagar and the other version is of the 10 and the Sho that Akhilesh was arrested while going by the side of the Dharamshala. How the accused was arrested may not be a very significant fact, but such contradictory versions of his arrest cast a doubt on the veracity of the prosecution case so far as accused Akhilesh is concerned. It is also significant to note in this behalf as to from whom the contradictory versions are coming from. The persons concerned are not sub-actors or junior actors in the whole act. On the one hand, it is the complainants while, on the other hand, are the Investigating Officers. These are principal and important persons in the whole act.

(23) Similarly about the alleged recoveries made at the instance of accused Akhilesh, the case of prosecution is not free from doubt. Taking up the case of alleged recovery of some of the clothes of the deceased first it is to be noted that some of the clothes of the deceased were recovered from a pit from where the dead body was recovered at the instance of accused Raj Kumar. Some clothes are alleged to have been recovered from another pit at the instance of accused Akhilesh. This appears to be contrary to normal human behaviour. There was no reason for concealing some clothes at one place and some at another place. It is not a case of putting of all eggs in one basket. A person concealing valuables may do so at different places so that if at some place they are traced out, at least at other place they may remain untraced. Here it is a case of incriminating evidence. Recovery of some clothes at the instance of accused is good enough to implicate him. The blood stained clothes need not be concealed at different places. If some of the clothes remain untraced that could not have helped the accused.

(24) Secondly, there are different versions about the recovery of the clothes of the deceased at the instance of Akhilesh. As per the recovery memo Ex.PW-11/G,

some of the clothes of the deceased were recovered from a pit near a kila situated towards the west of Sarup Nagar. According to PW-11 Manoj Kumar some of the clothes of deceased were recovered from a ditch behind a room in Sarup Nagar. Balwant Ram PW-13 stated that on 12th January, 1990 Raj Kumar took the police party to the house of Akhilesh. He added that Akhilesh produced from the back side of his house from a ditch a pant with belt, a pair of shoes and a pair of socks of Babloo (deceased). PW-17 Vijay Kumar gave yet another version of recovery of clothes of deceased at the instance of Akhilesh. He stated that Akhilesh led him to the pit near a bhatta and on his pointing out the clothes were recovered. According to this witness the disclosure statements of accused Akhilesh were written while standing on the road. The time of the disclosure statements is given as 6.00 p.m. The statements were recorded on 12th January, 1990 and one can take judicial notice of the fact that in Delhi in the month of January by 6.00 p.m. it is pitch dark. The different versions of the alleged recovery of some of the blood stained clothes of the deceased at the instance of accused Akhilesh casts a doubt on the prosecution case in this behalf.

(25) Next is the alleged recovery of a blood stained knife and the clothes worn by accused Akhilesh at the time of commission of the offence. As per the prosecution case, the blood stained knife was taken out by accused Akhilesh from a trunk kept in his room where he used to reside and the blood stained clothes were taken off from a peg on a wall in the same room. This version of recovery of blood stained clothes of the accused and the blood stained knife alleged to have been used as weapon of offence, does not inspire any confidence. No body will keep blood stained clothes hanging from a peg in his residential room for such a long time. The offence was complete before 9th January, 1990 when the dead body itself was recovered. Akhilesh was arrested in the evening on 12th January, 1990. He had all the time at his command to wash off the blood stains from his clothes or to throw away the clothes or get rid of them by setting them on fire or otherwise. Similarly he had all the time in the world to clean the blood stains from the knife rather than preserve the knife as it is in a trunk. It is in evidence that the knife used as weapon of offence was an ordinary kitchen knife. A man of ordinary prudence would in such circumstances wash the knife and keep it in the kitchen. No body would suspect.

(26) Another important fact which casts a doubt on the alleged recoveries at the instance of Akhilesh is that no public witness was associated at any stage. Manoj Kumar, complainant has witnessed the various recovery memos along with S.I. Harihar Kishore who was the 10. There is no Explanationn for not involving any public witness. The 10 does not even say that no public witness was available. On the other hand, he has stated that Manoj Kumar signed as public witness. Manoj Kumar was one of the complainants, being the elder brother of the deceased and he was all along associated in the investigations. This fact in the circumstances of the present case deprives the prosecution case of any credibility.

(27) Before concluding we may note that so far as Akhilesh is concerned, no motive is alleged. Prosecution tried to set up a theory of ransom which was, however, not persued. It was rightly not pursued for lack of evidence and in view of the fact that the boy was apparently killed on the same day when he was kidnapped. If ransom was the motive, the boy would not have been killed so soon. It is also to be noted that Balwant Ram, father of the deceased stated while appearing as PW-13 that he did not suspect any one else nor did he have enmity with any one else.

(28) The result of the above discussion is that we are unable to persuade ourselves to agree with the conclusion of the trial Court in convicting Akhilesh for offences under sections 364/302/120-B IPC. The prosecution case against Akhilesh is not free from doubt. The appeal of Akhilesh against the judgment of Trial Court is, thereforee, accepted and his conviction is set aside. He is ordered to be set at liberty forthwith unless required to be detained in connection with any other case.