

**Mobasingh Vs. the State of Rajasthan**

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**Court :** Rajasthan

**Decided On :** Jul-14-1975

**Reported in :** 1975(8)WLN373

**Judge :** C.M. Lodha and; M.L. Shrimal, JJ.

**Appeal No. :** D.B. Criminal Jail Appeal No. 437 of 1971

**Appellant :** Mobasingh

**Respondent :** The State of Rajasthan

**Disposition :** Appeal dismissed

**Judgement :**

**C.M. Lodha, J.**

1. The appellant Mobasingh has been convicted by the Additional Sessions Judge No. 2 Sri Ganganagar under Section 302 I.P.C. and sentenced to life imprisonment and a fine of Rs. 50/-. He has also been convicted under Section 201 I.P.C. and sentenced to three years rigorous imprisonment and a fine of Rs. 100/-. Both the sentences were made to run concurrently. His son Sahibsingh was also tried along with him under Section 201 I.P.C for causing disappearance of evidence namely, murder of the deceased Gomasingh, but he was acquitted and there is no appeal by the State from his acquittal.

2. Succinctly staged, the prosecution case is that the deceased and the accused-appellant (who will, hereinafter, be referred to as 'the accused') were brothers in-law to each other, in as much as their wives were sisters. Gomasingh used to live in village Kikarwali, whereas the accused is a resident of village Baehir, which is at a distance of about 10 miles from Kikarwali. The accused owed a debt of Rs. 50/ to the deceased and, therefore, the deceased left for Bashir in the morning of 11th July, 1969 to recover the said debt from the accused. When the deceased did not return, even though four or five days had passed, his son Khushalsingh PW/1 naturally became anxious and went to Bashir to enquire from the accused regarding the where-about of his father. Mobasingh informed him that he had paid the amount to the deceased, who had thereafter, left Bashir the very day he came there. PW/1 Khushalsingh searched for his father, the deceased Gomasingh, at several places where his relations resided, but Gomasingh was not found. Khushalsingh went to Bhimson, Sarpanch of Lellawaii PW/10 and told him about the disappearance of his father. Bhimsen reduced the information given by Khuchalsingh to writing and asked Khushalsingh to present the same at the Police Station, Sangaria.

This report is Ex. P/1, Khushalsingh continued MB efforts to trace out his father, but without success. Ultimately he went to village Dhiban where his maternal uncle Bhagwansingh PW/4 resided and informed bioo about the disappearance of his father. Bhagwan Singh and Khushalsingh both again went to Basbir to make further enquiries from Mobasingh and this time Mobasingh admitted before them that he had done Gomasingh to death and the matter may not be reported to the Police, as they were relations. Both these persons, then, went to the Bus Stand in village Basbir where they happened to meet Assistant Sub-Inspector, Police Station, Sangaria Suraj Prakash PW/3. to whom Khushalsingh narrated the whole matter and Suraj Prakash took down the statement of Khusalsingh then & there The statement has been marked Ex. P/2 and has been treated as a First Information Report of the occurrence. Suraj Prakash sent it to Police Station, Sangaria with constable Dhnasingh for registering a case. On its basis a case under Section 302 IP C was registered at Police Station Sangaria by the Head Constable PW/5 Trilokchand. This was on 22nd July, 1969. Suraj Prakash farther interrogaJed Khushalsingh and Bhagwansingh and after recording their

statements proceeded to the house of Mobasingh at about 4.15 p.m. along with Khushalsingh and Bhagwansingh, Mbbasingh however, did not furnish any clue about the deceased Gomasingh. The A.S.I. arrested the accused order arrest memo Ex. P/13 and took his personal search, whereupon he noticed blood stems on the 'Kachha' which the accused was wearing. The seizure memo of the 'Kachha' is Ex P/27 and the 'Kachha' has been marked as article No. 13. Thereafter, he went with the accused to the house of the Devilal, Sarpanch of Bashir PW/11 and interrogated the accused further and here the accused disclosed that he and his son Sahibsingh had buried the dead body of Gomasingh in a Tiba situated in Killa No. 2 Rohi 10 F.T.P. square No. 67. The information given by the accused was reduced to writing by the A.S.I. and the same is marked Ex. P/28. The accused expressed a desire to point out the dead body and led the A.S.I. to the spot. The party consisted of Bhagwan siugh, Khushalsingh and Devilal, besides the A.S.I. and other constables and the accused. It is said that the accused dug earth to the extent of 3' or 4' and took out the dead body wrapped in a gunny-bagend tied with a rope. An iron chain was found tied round the neck of the dead body, which was seized by the A.S.I. Seizure memo of the dead body is Ex. P/4. There were multiple injuries on the dead body. Various articles on the dead body viz. a gunny bag, a rope, a Kbas, Chaddar, a Pagari, an under-wear and an iron-chain were also taken possession of by the A.S.I., The seizure memo of these articles is Ex. P/3. The accused further gave information that he had concealed the choora and the shirt of the deceased. The information regarding the shoes is Ex. P/30 and the information regarding the shirt is Ex P/31. The accused got the shoes recovered from a dry tank nearby. The recovery memo of the shoes is Ex. P/6 and the shoes have been marked article Section The shirt, too, was recovered at the pointing by the accused under a heap of bricks lying in the same vicinity. The recovery memo of the shirr is Ex. P/7 and the shirt is article A/9. The Investigating Officer also prepared two site plans at the spot which are marked Ex. P/5 and Ex. P/29. He also sent for PW/3 Dr. Roopsingh, Medical Officer, Sangaria, who reached the spot and conducted post mortem examination of the dead body at about 6 p. m. The dead body was identified by Khushalsingh as that of his father Gomasingh. The following injuries were noticed on the dead body on post-mortem examination:

(1) 'One inched wound 6' x 1' x 2' through and through passing through the right remus of mendible just below the mendi-bular joint, to the upper jaw cutting it to the other side just

below the nose. The upper jaw is completely severed There were sharp cuts on the body edges, Left sycomitic bone was also cut. This was due to one incised wound.

(2) There was a lacerated wound completely cutting the right arm from the trunk. Dimension 6 'x3 'x through and through with a sharp cut on the right scapula V shaped dimension 3' x 1' on the upper end. Spine of the scapula v/as also cut,

(3) One incised 1 joking wound 5' x 2' x 4' on the left shoulder outer aspect near the upper end. The head of the humerus was cut completely from the shaft in the region of the wound.

(4) Right fore-arm was missing from the wrist together with a wrist bones.

(5) One incised wound 6' x 2' x through and through the left scoot also joint Depth of the wound was 5'. There were sharp cuts on the bone edges.

(6) The neck was completely severed approximately only some muscle tissues and skin tag remained. This was at a junction of first cervical vertrlbri and the skull, Tae particular ends of the skull had sharp cut on it,

The party then returned to village Bashir and stayed at the house of Devilal.

3. On the next day i.e. 23rd July, 1969 the accused gave further information to the A.S.I, that he bad buried the right hand palm of the deceased Gomasingh in a pit near the place where the dead body was buried. The information was reduced to writing and is marked Ex. 7/32 In accordance with the information, Mobasingh led the party and got the palm recovered. The recovery memo of the palm is Ex. 7/3. Mobasingh further informed the A.S.I.. that he had washed blood on a cot lying outside his Kotha and he also pointed out the blood-stained earth as well as the 'Karsi', the weapon of offence. This information memo is Ex. P/33, The A.S.I, then recovered all the three articles viz the Karsi from the Kotha, the cot from outside

the Kotha and the blood, stained earth from Kijla No. 7. The recovery memo of the cot is Ex. P/11, The recovery memo of the blood stained earth is Ex. 7/9 and the recovery memo of the Karsi is Ex. P/10 The articles suspected to be stained with blood were sent for chemical examination The human palm recovered at the instance of the accused was also sent for medical examination to Dr. Roopaingh, on 23rd July, 1969, and the doctor s statement is that the palm was a part of the dead body.

4. As regards the presence of the blood on the various articles recovered at the instance of the accused, we may mention that it was found by the chemical examiner and the serologist that the the Kichho of the accused (Article 13) was stained with human blood and as also cuttings from the shirt and the clod of earth recovered at the instance of the accused. Thus, after having carried out the aforesaid investigation, the Police challaned the accueed as well as Sahibsingh in the court of Magistrate, Hanumangaih, who committed them for trial to the court of Additional Sessions Judge No. 2, Sri Ginganagar.

5. The accused denied his complicity in the crime but examined no evidence in defence and the learned Additional Sessions Judge convicted and sentenced the accused as mentioned above. We have carefully gone through the record and have also heard Mr. K.C. Gaur Amicus Curiae on behalf of the accused and Mt. D.S. Shisodiya, Public Prosecutor on behalf of the State, On an analysis of the evidence produced by the prosecution, we may conveniently divide it under three heads:

(1) That the deceased left his home in the morning of 11th July, 1969 saying that he would go to the accused to recover the debt and was thereafter never seen alive.

(2) Extra-judicial confession made by the accused to PW/1 Khushalsingh and PW/4 Bhagwansingb, and

(3) Recovery of the dead body and the various articles alleged to be connected with the crime on the information supplied by and at the instance of the accused.

6. The case against the accused undoubtedly rests on the extra judicial congestion and the circumstantial evidence. But before we embark on the consideration of the evidence relied upon by the prosecution against the accused, we wish to dispose of the question of identity of the dead body.

7. PW/3 Dr. Roopsingh, who performed the post-mortem examination, has stated that the dead body was identifiable. PW/1 Khushalsingh, son of the deceased, has stated that the dead body was identifiable and that he had identified the same as that of his father. He has also stated that he had identified the white Chaddar, the Pagan and the Kasbah, Articles 4 to 6, found on the dead body as belonging to his father. He also identified the shirt Ex. 9 and has stated that it belonged to his father. PW/4 Bhagwansingh who is the deceased's wife's brother has also stated that he had identified the dead body by its general appearance namely, the built and structure and that it was that of his brother-in-law deceased Gomasingh. In face of the aforesaid evidence, we are of opinion that the identity of the dead body cannot be seriously disputed and though the learned counsel for the accused raised this point at one stage, but he did not press it seriously and, in our opinion, rightly, that the deceased Gomasingh died of the various injuries found on his person also cannot be disputed. The only question is, who is the perpetrator of the crime

8. We shall now proceed to consider the evidence relied upon by the prosecution against the accused. PW/1 Khushalsingh has stated that while leaving for village Bashir, his father had told him that he would return in the evening after realising the debt of Rs. 50/- from the accused. Then, we have the statement of PW/2 Jaimabingh of village Mallarkbera that the deceased Gomasingh had come to Mallarkbera and resumed onward journey after telling the witness that he was going to Bashir to meet Mobasingh and thereafter Gomasingh was never seen alive. He has also stated that the village Bashir is two miles away from his village. We see no reason and none has been pointed out to us as to why PW/1 Khushalsingh and PW/2 Jaimalsingh should not be believed on this point. We have it from the evidence of PW/3 Dr. Roopsingh that death must have taken place about 10 days before the date of post mortem examination. It may be recalled that the post-mortem examination took place on 22nd July, 1969 and according to this

medical evidence, the approximate date of death of Gomasingh comes to 11th July, 1989, the day on which he is said to have left his village Kikarwali for Bashir to recover toe debt from the accused. The evidence of PW/1 Khushalsingh is that when he went to Maboasingh for the first time to find out the whereabouts of his father Mobasingh told him that Gomasingh had come to him and he had paid Rs. 50/- to Gomasingh who had Thereafter gone away the same day This admission of the accused would show that Gomasingh had gone to Mobasingh and was not seen alive thereafter. This statement of the accused before the witness would be relevant as an admission under Section 21 of the Evidence Act.

9. A statement made by the deceased that he was proceeding to a particular place where his dead body was found or that he was going to meet a particular person for a particular purpose would be a circumstance of the transaction which resulted in his death and such a statement would fall under Section 32(1) of the Evidence Act. We may in this connection refer to the following observations of their Lordships of the Privy Council in *Pakala Narayana Swami v. Emperor* AIR 1939 P.C. 47:

The statement may be made before the cause of death has arisen, or before the deceased has any reason to anticipate being killed. The circumstances must be of the transaction general expressions indicating fear or suspicion whether of a particular individual or otherwise and not directly related to occasion of the death will not be admissible. But statement made by the deceased that he was proceeding to the spot where he was in fact killed, or as to his reasons for so proceeding, or that he was going to meet a particular person or that he had been invited by such person to meet him would each of them be circumstances of the transaction, and would be so whether the person was unknown or was not the person accused. Such a statement might indeed be exculpatory of the person accused. 'Circumstances of the transaction' is a phrase no doubt that conveys some limitations. It is not as broad as the analogous use in 'circumstantial evidence' which includes evidence of all relevant facts. It is on the other hand narrower than 'res gestes'. Circumstances must have some proximate relation to the actual occurrence, though, as for instance, in a case of prolonged poisoning they may be related to dates at a considerable distance from the date of the actual

fatal dose. It will be observed that 'the circumstances' are of the transaction which resulted in the death of the declarant. It is not necessary that there should be a known transaction other than that the death of the declarant has ultimately been caused, for the condition of the admissibility of the evidence is that 'the cause of (the declarant's) death comes into question'. In the present case, the cause of deceased's death comes into question. The transaction is one in which the deceased was murdered on 21st March or 22nd March and his body was found in a trunk proved to be bought on behalf of the accused. The statement made by the deceased on 20th or 21st March that he was setting out to the place where the accused lived, and to meet a person, the wife of the accused, who lived in the accused's house, appears clearly to be a statement as to some of the circumstances of the transaction which resulted in his death. The statement was rightly admitted.

The prosecution has, therefore, succeeded in proving that the deceased Gomasingh left his house for village Bashir to meet Mobasingh and actually met him on or about the day when he was done to death. It is further clear that thereafter he was never seen alive, but only his dead body was recovered after about ten days.

10. We may now come to the extra-judicial confession. PW/1 Khushalsingh has stated that when he went to the accused second time in company with his maternal uncle PW/4 Bhagwansingh, the accused told them that he and his son Sahibsingh had killed Gomasingh and that they had hidden the dead body of Gomasingh and further that since they were relations, the matter may not be reported to the Police. PW/4 Bhagwansingh has, however, stated that Mobasingh told them that he had murdered Gomasingh and that since they were relations, the matter may be compromised, to which the witness replied that the matter had to be reported to the Police. Earned Counsel for the accused has urged that extra-judicial confession by its very nature is a very weak type of evidence and should not be relied upon unless it is corroborated by other reliable evidence, which is otherwise unimpeachable. In this connection, he has pointed out the discrepancy between the statements of PW/1 Khushalsingh and PW/4 Bhagwansingh, inasmuch as Khushalsingh has stated that the accused stated that he and his son

Sahibsingh had both killed Gomasingh and disposed of the dead body by burying it, whereas PW/4 Bhagwansingh has stated that Mobasingh told them that he (alone) had murdered Gomasingh. According to PW/4 Bhagwansingh, Mobasingh had not implicated Sahibsingh at all. The argument is undoubtedly attractive. But on a closer examination of the statement of PW/1 Khushalsingh, we find that during the trial of the case he has tried to improve his statement by implicating Sahibsingh also. He was confronted with his statement before the Police wherein he had stated that Mobasingh had told them that on the night of 14th July, 1969 he had killed Gomasingh and had concealed the dead body with the help of his son Sahibsingh. The only explanation given by the witness for this discrepancy is that the Police might not have correctly recorded his statement. He was also confronted with his statement Ex P/2 which is the first information report in this case. In Ex. P/2 also he had stated that Mobasingh had told him that he (along) had killed his father, and had disposed of the dead body with the help of his son. When he was confronted with this statement in the First Information Report and called upon to explain it, he tried to wriggle out of it by saying that the statement might not have been recorded correctly. It appears to us that Khushalsingh has, at a later stage of the case, tried to pass the guilt of murder to Sahibsingh as well, though he has adhered to that part of his statement wherein he has stated that Mobasingh admitted before him and Bhagwansingh that he had killed Gomasingh. The improvement on the part of Khushalsingh in implicating Sahibsingh also cannot, however, stand in our way in accepting the consistent version given by both PW/1 Khushalsingh and PW/4 Bhagwansingh that Mobasingh had admitted to them that he had committed the murder of Gomasingh. We have been persuaded to adopt this view on account of the fact that Bhagwansingh is a very close relation of the accused as well as the deceased. One sister of his was married to the deceased and another to the accused. Nothing has been shown as to for what earthly reason he would falsely implicate another brother-in-law of his in a charge of murder. We are, therefore, inclined to hold that the accused made a confession before PW/1 Khushalsingh and PW/4 Bhagwansingh that he had committed the murder of the deceased Gomasingh.

11. There is nothing on the record to show that the confession was extracted by the witnesses from the accused by any threat, inducement, or promise and that it

was not voluntary. On the other hand, we have a forth right statement of PW/4 Biagwansiagh that after some talk the accused admitted to them that he had committed the murder of the deceased Gomasingh. The reason for making such a confession is obvious The accused probably thought that Bhagwansingh being a close relation of his as well as the deceased would hush up the matter. In this connection, we are tempted to reproduce the following observations of their Lordships of the Supreme Court in Magharsingh v. State of Punjab : AIR 1975 SC1320 :

The evidence furnished by the extra-judicial confession made by the accused to witnesses can not be termed to be a tainted evidence and if corroboration is required it is only by way of abundant caution. If the Court believes the witnesses before whom the confession is made and it is satisfied that the confession was voluntary, then in such a case conviction can be founded on such evidence alone as was done in Rao Shiv Bahadur Singh v. State of Vindhya Pradesh : 1954 CriLJ910 . where their Lordships of the Supreme Court rested the conviction of the accused on the extra-judicial confession made by him before two independent witnesses, namely, Gadkari and Perulakar.

12. However, we shall follow the well established rule of caution that an extra judicial confession must find corroboration and would examine the other incriminating circumstances against the accused. It is proved by overwhelming evidence that the dead body was recovered from the field of the accused. PW/4 Bhagwansingh has stated that the field from where the dead body was discovered had been in cultivatory possession of the accused for the last three or four years PW/9 Sewanand has deposed that he had a garden in one square at Bashir. In the beginning of year 1969 he gave this garden on lease to Jeetsingh son of Mobasingh for one year. He has also proved the document granting lease Ex. P/39, which bears his signature. PW/11 Devilal has also deposed that the field in which the accused unearthed the dead body was in his cultivatory possession. To the same effect is the statement of PW/1 Khusbalsingh who has deposed that the accused took the police party to the field belonging to a Jat which was being cultivated by the accused. It is thus clear that the dead body was recovered from the field of the accused.

13. We have given a detailed narration of the various other recoveries made on the information supplied by the accused and at his instance. These recoveries have been proved by the Investigating Officer PW/8 Suraj Prakash and the attesting witnesses PW/1 Khushalsingh and PW/4 Bhagwansingh, and we have no reason to doubt their testimony. PW/11 Devlal is also an attesting witness to the memos pertaining to these recoveries, but he was declared hostile and permitted to be cross-examined by the prosecution. Since he has been declared hostile, we do not find it safe to rely on his evidence, more particularly in view of the latest pronouncement of their Lordships of the Supreme Court in *Jagirsingh v. The State (Delhi Administration)* : 1975 CriLJ1009 wherein their Lordships have been pleased to hold that:

It is now well settled that when a witness, who has been called by the prosecution is permitted to be cross-examined on behalf of the prosecution, the result of that course being adopted is to discredit that witness altogether and not merely to get rid of a part of his testimony.

But even after excluding the testimony of Devlal PW/11, there is abundant evidence in support of the recovery of the dead body and various other articles connected with it on the information supplied by and at the instance of the accused. The existence of the dead body and other articles in the field of the accused and recovery of the same on information by and at the instance of the accused, coupled with the circumstance that the deceased had visited the accused a or about the time when he may have been done to death furnish strong corroboration. It was held in *Dharma v. The State* 1965 RLW 418 that the discovery of the dead body in the well at the instance of the accused was reasonably consistent with the only hypothesis that he was the murderer and no other. Thus there is a chain of circumstances reasonably connecting the accused with the crime. The extra-judicial confession, in our opinion, is amply corroborated by the circumstantial evidence referred to above and the court below was right in coming to the conclusion that the accused had committed the murder of Gomasingh.

14. Learned Counsel for the accused has urged that the prosecution has failed to prove motive for the crime. That is true. But that by itself is no ground for

disbelieving the prosecution case when it has been proved to the hilt by extra judicial confession corroborated by other circumstantial evidence. learned Counsel has also argued that investigation in this case has not been honest and the First Information Report has been prepared after collecting the evidence. To fortify his submission, he has referred to the statement of PW/4 Bhagwansingh, who has deposed that the A S.I. along with two constable left village Bashir as about 2 or 2 30 p.m. after the recovery of the dead body, whereas PW/8 Suraj Prakash A.S.I. has stated that the police party arrived at the house of Mobpsingh at about 4 15 p.m After staying there for about 15 minutes, he enquired from Mobasingh regarding the place where the dead bory was lyine, but the accused did not give any clue Suraj Prakash has further stated that Mobasingh took out the dead body at 5.00 p.m. It appears to us that there has been some slip in the statement of PW/4 Bhagwansingh when he save that the A.S.I. had left the spot at about 2.00 or 2.30 p.m. after the recovery of the dead body. We have an unequivocal statement of the A.S.I. as well as Dr. Roopsingh that he (doctor) left the place alter performing the post mortem examination at 6.30 p.m PW/4 Bhagwansingh has deposed that the AS I. was at the spot when the doctor carxe and performed the postmortem examination. Consequently, that part of the deposition of Bhagwansingh that the AS I left the village after recovery of the dead body at 2.00 or 2.30 p.m. cannot be correct and it must be due to slip.

15. We may, now, deal with certain observations made by the learned trial court against the prosecution even though it has recorded its main finding in its favour. The first point held against the prosecution by the learned Additional Sessions Judge Is that the doctor may have been summoned much earlier and not at 5 p m. as stated by the Investigating officer. In our opinion, nothing turns upon this poor and the finding of the learned Judge is based on pure conjectures. One should not lose sight of the fact that the timings were not being recorded minute to minute. Then, the learned Judge, has observed that a possibility cannot be ruled out that the A.S I. did not send any constable to Sangaria for recording the First Information Report. This finding is against the record. We have costive statements of the A.S.I. as well as PW/5 Trilockchand that the First Information Report was recorded as the Police Station at 3 30 p.m Another point made out by the learned Judge against the prosecution is that there is contradiction between the

statements of the A.S.I. on the one hand and Bhagwansingh, Khusibalsingh and Devilal on the other as to the place where the A.S.I. stayed at the night. The A.S.I. has stated that he stayed at the home of Devilal whereas other witnesses have deposed that they passed the night at the Police Station, Sangaria. In our opinion, the contradiction is not at all material and of no consequence. Then the lower court has observed that a copy of the First Information Report was submitted in the court rather late. It ought to have been submitted on 23rd but, in fact, it was submitted on 24th July, 1969. None of the witnesses has been cross-examined on this point. At any rate, delay in receipt of the First Information Report by itself does not make the investigation tainted. If any authority is needed on the point, reference may be made to *Gudar Dusadh v. State of Bihar* : 1972 CriLJ587 . The learned Judge has also observed that it is doubtful whether the First Information Report Ex. P/2 was taken down at the Bus Stand and at any rate it was not sent to the police station, Sangaria before the recovery of the dead body. In our opinion, there is no warrant for such a conclusion and the finding i.e. based on pure conjectures in utter disregard of the positive evidence of the A.S.I. FW/8 and PW/5 Trilokchand. There is nothing in the statements of PW/1 Khushalsingh and PW/4 Bhagwansingh for which such a conclusion may be drawn. Again the learned Judge has held that the First Information Report was not taken down by the A.S.I. before the recovery of the dead body and the various recovery memos and the information memos were not prepared at the time and in the manner deposed to by the AIS, Suraj Prakash. However, the learned Judge went on to observe that it is a fact that at the Bus Stand, Khushalsingh informed ASI Suraj Prakash that Mobasingh had confessed the murder, otherwise the investigation would not begin in the manner it was commenced. He has also held that the manner in which the information's were taken down one after the other is unusual and consequently he came to the conclusion that the various recoveries made in the case were not the result of the information given by Mobasingh as deposed by Suraj Prakash, ASI. Having made these observations, curiously enough, in the next paragraph, the learned Judge says that 'he could find no reason to disbelieve the statements of these witnesses Devilal, Khushalsingh and Bhagwansingh on the point that these articles A/1 to A/12 and the rondo of the dead body were recovered at the instance of Mobasingh from the aforesaid place.' We must confess that we have not been

able to follow the reasoning of the learned Judge and, in our opinion, his conclusions are self contradictory, and do not flow from the premises on which they are based. Lastly, the learned Judge has refused to believe the statement of Knushasingh on the point of identity of shirt, shoes, Kachha, Pagari etc. of the deceased on the ground that Khushalsingh had not given the description of these articles earlier. The description of these articles is given in Ex. P/2 and also in the statement recorded by the police before the recovery of the dead body. In our opinion the reasoning adopted by the learned Additional Sessions Judge to discredit the recoveries is not at all sound and we are wholly unable to subscribe to it, However, we may state that the learned Judge has believed the presence of blood stains on the Kachha worn by the accused at the time of his arrest so as to connect him with the crime.

16. Having bestowed our careful consideration on the facts and circumstances of the case, we have come to the conclusion that the prosecution has succeeded in bringing home guilt to the accused beyond reasonable doubt.

17. The result is that we do not see force in this appeal and hereby dismiss it. Earned Counsel for the appellant prays for certifying the case to be a fit one for appeal to the Supreme Court The prayer is refused.

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