
Before J. S. Narang & Virender Singh, JJ

STATE OF HARYANA—Prosecutor

versus

SONIA & ANOTHER—Accused/Respondents

Murder Reference No. 3 of 2004

12th April, 2005

Indian Penal Code, 1860—Ss. 201, 302/120-B—Murder of eight persons including three Children of a family by a daughter and her husband of the same family—No delay in lodging the FIR—After committing crime accused No.1 making suicide note admitting the murder of 8 persons—A substantial corroborative evidence—Voluntary extra-judicial confessional statement by accused No. 1—While recording confessional statement trial Court fully adhering to the rigours of the provisions of law—Trial Court also making certification in front of the accused and accused affixing her signatures after reading the same and finding it all correct—Admission of the crime by accused No. 2 upon 'lie detection test'—No illegality in the orders of trial Court convicting the accused—Death sentence—Confessional statement by the accused within 48 hours of the murder—Element of repentance—Both the accused cannot be accepted as a menace to the society as no evidence in this regard has been brought forth—Accused have a son of about 7 years— Act of murder by accused neither a calculated one nor it can be termed as rarest of the rare case—Death sentence deserves to be commuted to life imprisonment.

Held, that murder is a heinous act by which a life is brought to an end prior to the period for which it may have continued to exist. Such act has always been looked down upon by the society since ages. The very usage of the word contemplates an act committed by a third persons qua the first person. Such act has been considered and has been delved upon by the society through legislation, executive act and the judicial scrutiny, which are the creations of the society for its own governance.

(Para 2)

Further held, that no doubt, the life a human being is lost by virtue of various acts which may be committed in the act of saving the life and which may be committed without any intention but the result of the act is such that the life is lost. The murderous act is entirely distinct therefrom. It is this act which has been subjected to the restraints, constraints and scrutiny by the society. Such act having been committed by a person, the society has provided punishment by its legislative act but for awarding such punishment the procedure has ben prescribed to test the truth before the person is held guilty. Such determination has been made the onerous duty of the judicial system created by the society and applied unto itself. This act has ben further subjected to the rule of prudence for which guidance has been provided by codifying the procedure and also regulating the same by virtue of legislative and executive action.

(Para 3)

Further held, that giving life is a pious act, taking away life is looked at with contempt and scorn. For the later act, the rigour of the law is cautious, contemporate and impeccably slow in regulating the scale for reaching the conclusion. Such Conclusion, once having been finally derived at would eliminate the person put in the scale. No doubt, steps have been provided to test each and every nook and corner of such decision for which aids have been provided by the society.

(Para 5)

Further held, that eight persons of the same family have been murdered by the accused Sanjeev Kumar and Sonia. There is no doubt, for murder of one person the sentence is the same and so also for murder of eight persons or more. The peculiar fact which needs to be noticed is that the daughter i.e. Sonia had written a suicidal note (letter addressed to Sanjeev Kumar) and this suicidal note contains the admission of Sonia with regard to the fact of having killed her father, mother, step brother, step sister-in-law and their three children and her own younger sister for the reason that none of them liked her as every one thought ill of her and they also behave with her like an enemy.

(Para 54)

Further held, that from the perusal of the evidence of the Judicial Magistrate, we find that while recording the confessional statement, he did adhere to the rigour of the provisions of law and also the law laid down by this Court and by the Hon'ble Supreme Court of India from time to time. The perusal of the confessional statement, shows that first question was put to Sonia as to whether she has understood that she is not bound to confess and if such confession is made, it can be used as evidence against her. The answer has been given in the affirmative. The statement has been recorded in the question and answer form and it took 2-½ hours for recording the statement. In the certification also, the Judicial Magistrate has observed that the detail was explained to her in regard to making confessional statement and as also that the same may be used against her and upon explaining all these facts, he believed that the confession was voluntarily made. This certification has been further signed by Sonia in English and after reading it and finding it all correct.

(Para 62)

Further held, that the presence of Sonia at the place of occurrence has been admitted by the accused and the suicidal note written in her own handwriting is a substantial corroborative evidence for accepting the murder of eight persons by Sonia and by the indicative surrounding evidence, the hand of Sanjeev Kumar in joining her for committing the heinous crime.

(Para 70)

Further held, that the prosecution has been able to bring home the guilt on the basis of the evidence brought on record. It is unfortunate that such act has been committed by the accused only to enrich themselves. The reason penned down by the daughter i.e. Sonia in her suicidal note and judicial confession does not inspire confidence that she was in any manner hated by the members of her immediate family. There is no incident spelt out or brought on record to indicate any animus by any of the members of the family against Sonia. It looks that she also fell into the same stream as other greedy persons do fall in committing such kind of crime against their nears and dears.

(Para 72)

Further held, that the act of enrichment by eliminating the family cannot be and could not be achieved by the accused. The ego, *vis-a-vis* the one who have died, is no longer to be matched. Both the accused cannot be accepted as a menace to the society as no evidence in this regard has been brought forth. Under these circumstances, we are of the considered opinion that the sentence of death awarded by the trial Court without considering the mitigating circumstances would not be sustainable. The act, therefore, cannot be termed as rarest of the rare case. Therefore, on the question of quantum of sentence, the matter is considered to the benefit of the accused. Resultantly the murder reference is declined. We commute the sentence of death to life imprisonment. The rest of the sentences are upheld to run concurrently.

(Para 90)

R. S. Cheema, Senior Advocate, with

M.J.S. Waraich, Advocate for the appellants.

D.S. Brar, Assistant Advocate General, Haryana for the State.

R.S. Ghai, Senior Advocate, with

Bipan Ghai, Advocate *for the complainant*.

JUDGMENT

J.S. NARANG, J.

(1) This judgment would dispose of Murder Reference No. 3 of 2004 and Criminal Appeal No. 556-DB of 2004, as the judgment of conviction, dated May 27, 2004 and order of sentence, dated May 31, 2004, are under scrutiny and challenge.

(2) Murder is a heinous act by which a llife is brought to an end prior to the period for which it may have continued to exist. Such act has always been looked down upon by the society since ages. The very usage of the word contemplates an act committed by a third person *qua* the first person. Such act has been considered and has been delved upon by the society through legislation, executive act and

the judicial scrutiny, which are the creations of the society for its own governance.

(3) No doubt, the life of a human being is lost by virtue of various acts which may be committed in the act of saving the life and which may be committed without any intention but the result of the act is such that the life is lost. The murderous act is entirely distinct therefrom. It is this act which has been subjected to the restraints, constraints and scrutiny by the society. Such act having been committed by a person, the society has provided punishment by its legislative act but for awarding such punishment the procedure has been prescribed to test the truth before the person is held guilty. Such determination has been made the onerous duty of the judicial system created by the society and applied unto itself. This act has been further subjected to the rule of prudence for which guidance has been provided by codifying the procedure and also regulating the same by virtue of legislative and executive action.

(4) It has been seen over the years that the aforestated acts on the part of the society did leave some grey areas, which have fallen into the domain of judicial dispensation to form guide-lines for future generation. The cardinal principles are followed even today i.e. testing such act by the one, upon whom the onerous duty has been casted. In this endeavour, the precedents are also tested and re-tested, sometimes they are explained and sometimes they are extended to bring within the circumference the factual disclosures of a particular act. The application of legal acumen becomes more acute when the act of murder, if established, has to be further weighed for taking the life of the person who acted in committing the heinous crime. Murder is always linked with the crime but the degree of crime has to be examined *vis-a-vis* the facts and the circumstances unvelled by the prosecution. The judicial system has also to perform the duty to scrutinise and appreciate the act and conduct of the prosecution in establishing the guilt. The Courts have performed such duties on being guided by the factual dispensation by ultimate equilibrium arrived at in their conscience by applying the rigour of caution and emaculate analysis of facts divulged.

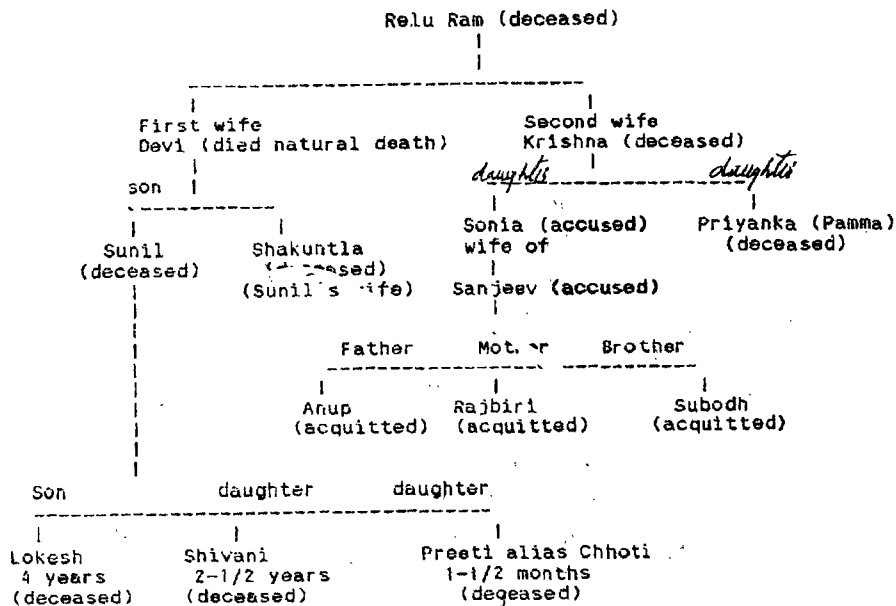
(5) Giving life is a pious act, taking away life is looked at with contempt and scorn. For the later act, the rigour of the law is cautious, temperate and impeccably slow in regulating the scale

for reaching the conclusion. Such conclusion, once having been finally derived at would eliminate the person put in the scale. No doubt, steps have been provided to test each and every nook and corner of such decision for which aids have been provided by the society.

(6) In the case at hand it is not one life but eight lives have been eliminated, who were closely related to each other with the common blood of man and wife. The charged person is no one else but the same blood line. It is the strange phenomena that each human being has a different mind, different approach and the acts committed are completely distinct. However, the reflexes may be the same but the acts and the projections are different even if there is relationship by virtue of common blood and that the blood line is the same.

(7) It shall be apposite to notice the description of the family by way of drawing the family tree.

FAMILY TREE



(8) The facts which need to be kept in mind are :—

(9) Relu Ram started his career as a driver. He owned agricultural land measuring 4-5 acres in village Prabhuwala, Hisar. Subsequently, he shifted to Faridabad (Haryana), where he delved into oil business in which he was successful and earned good money. It is at Faridabad, he built House No. 509, Sector-15, Faridabad. He also acquired agricultural land measuring 46 acres in village Litani and 52 acres in village Daulat Pur, District Hisar. He had also constructed a godown in Sector-28, Faridabad and a number of shops in village Nangloi falling in Delhi State. He had also acquired a number of other properties in Delhi, the description of which has been ascertained. It is obvious that with such kind of riches acquired, he purchased a number of auto vehicles. He got married to the woman by the name Devi and from this wedlock a son was born named Sunil. Sunil married Shakuntla and from this wedlock three children were born, son Lokesh, daughter Shivani and second daughter Priti *alias* Chhoti. After the death of first wife, Relu Ram got married second time to the woman named Krishna and from this wedlock two daughters namely Sonia and Priyanka *alias* Pamma were born. Sonia got married to Sanjeev and from this wedlock a son was born. It shall be appropriate to mention the family of Sanjeev as they had also been charged for the murder of eight persons, they are; Anup Singh ; the father, RAJBIRI : THE MOTHER AND SUBODH : THE BROTHER.

(10) It shall also be apposite to notice the story of prosecution as the entire case i.e. the evidence revolves around the same and the accused have been convicted pursuant thereto. A reference to the FIR shall be made separately. The case of the prosecution is that for the last many years, Relu Ram and Krishna were not having cordial relations and that the reason given is that she bore a grudge against her husband for rendering help and leverage to his son Sunil from the previous wife. However, for some reasons, may be matter of convenience or otherwise, Krishna was given 25 acres of agricultural land recorded in her name, which fall within the territorial jurisdiction of village Litani. It has been alleged that she used to get the land cultivated herself and was keeping the receipts to her benefit. The remaining land remained under the control and cultivation of Relu Ram and his son Sunil. A reference has been made that on 22nd August, 2001 an altercation had taken place between Krishna and

Shakuntla wife of Sunil on the point of partition of the property. However, the matter was dropped upon the intervention of Relu Ram. It has also been alleged that the altercation between the two did taken place even at night but the same was again dropped with the intervention of others. It has also been alleged that on 23rd August, 2001 a dispute had arisen between Relu Ram and Krishna on the issue of property, but, what the issue was, has not been disclosed in very clear terms. It is at 5 p.m. on the aforesaid date, when Jeet Singh, one of the employees of Relu Ram, was sitting with Sunil at the saw mill, located by the side of farm house of Relu Ram, a telephone call came from Sonia, which was ultimately heard by Sunil. It is disclosed that she had told Sunil that she wanted to celebrate Pamma's birth day at the house and that she would bring her from the hostel of Jindal School at Hisar, where she was studying. It is further the case of the prosecution that Sonia reached the house at about 9.30 p.m. in a jeep classified as "Tata Sumo" bearing Registration No. HRO2-OE/0019. which was driven by Sonia, who was accompanied by Pamma. It is also the case that Jeet Singh, who was present at the farm house, had heard some noise at 11/12.00 P.M. of the night of 23rd August, 2001. Because of the noise, he woke up and noticed that light in the room, where the spare parts of tractor etc. were kept, was on. Upon his enquiry, he found that Sonia was there and he saw her taking a rod which was used for raising/tilting the tractor from the ground. The light was switched off and Sonia went to the first floor of the house. Again at about 1.00 a.m. he heard the noise of explosion of fire works i.e. the rockets and mock bombs, which are exploded on the occasion of Diwali and Dussehra. Since he was aware that Pamma's birthday was being celebrated, he went off to sleep. Jeet Singh got up at about 4.45 a.m. on 24th August, 2001 and was sitting on his cot when he saw Sonia coming down and she drove fast in the vehicle i.e. Tata Sumo. He noticed Amar Singh Chowkidar got up and opened the gate. She came back after half an hour and went back to the house. It was at about 5.30 a.m. Ram Phal, the milk vendor, came to deliver the milk. It is at that time Sonia called him and instructed him that there was no need to bring the milk to the first floor of the house, rather the same should be left on the ground floor. It was at about 6.15 a.m. school van of the school, where Lokesh son of Sunil was studying, came and waited at the gate but Lokesh did not come down despite the fact that the driver of the van blew the horn. The

driver of the van waited for some time and left. Jeet Singh sent Rohtas, the servant, to the first floor of the house for bringing Lokesh to be dropped in the school at Uklana on motor-cycle, Rohtas came down completely preplexed and called Jeet Singh to come to the upper portion of the house. He reached the upper portion and found that Sonia was lying in the porch of first floor and was mumbling "save her save her" and further "muttered Sanjeev". Froth was seen coming out of her mouth. Jeet Singh went inside and found that Relu Ram Punia, his wife Krishna, daughter Pamma, son Sunil, daughter in law Shakuntla (wife of Sunil), Lokesh son of Sunil, Shiwani and Preeti *alias* Chhoti daughters of Sunil had been murdered in different rooms. He also found Shakuntla's hand and feet had been tied with the cot. The rod used for the purpose of tilting the tractor, which he had noticed being taken by Sonia at night, was lying on the bed. He also noticed that two saucers, one containing Kheer with Shakkar on it and the other containing about 250 grams of opium were lying there. He also saw a hand written letter in Hindi lying on the bed. The letter was picked up by him. He reached the police station Uklana at 8.15 p.m. and disclosed what he had seen and he also handed over the letter to the police officials. He also stated that some poisonous eatables may have been administered to the victims by virtue of which they may have become unconscious and thereafter Sonia may have killed them. It may be noticed that in the FIR, the distance between the place of occurrence and the police station has been defined as 12 kms. Upon the disclosure of the story by Jeet Singh, the FIR had been registered under Sections 302/120-B of the Indian Penal Code and under Sections 18/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

(11) It shall be apposite to notice the first information report recorded by the Station House Officer, Police Station, Uklana on 24th August, 2001 and also the police proceedings on 24th August, 2001 :—

"Statement of Jeet Singh, son of Dharam Singh, Caste Jat, r/o Khundan, aged 35/36 years.

"Stated that my father Dharam Singh was on friendly terms with Relu Ram Punia since last many years. Because of this reason I came in contact with the family of Relu Ram. I was doing service in HML, but owing to retrenchment I

was removed from the service in January, 2001. Muneemji used to stay at the farm of Relu Ram, who used to give me a salary of Rs. 5,000 and full expenses. Relu Ram had a son Sunil from his first wife and his first wife had expired. Sunil was married to Shakuntla, r/o Prem Ki Dhani, Sunil had a son Lukesh aged 4 years who used to study in Oxford School Uklana. A van used to come to pick him up. Sometimes, the boy would not get ready on time, then he used to be dropped on motor cycle. Sunil had a two years old daughter Siwani and 1½ months old daughter, who used to be called Chhoti. Earlier Relu Ram used to work as a driver and was the owner of 4/5 acres of land in Village Prabhuwala. Therefore, he started oil business in Faridabad and accumulated huge property. Relu Ram had married for the second time with Krishna resident of Munirka, Delhi, who was educated. Relu Ram was blessed with two daughters, born from the wedlock with Krishna. Elder one was Sonia, who was married to Sanjeev, who has one son of about 4 years old. Sonia and Sanjeev used to stay in Relu Ram's Kothi No. 509, Sector 15, Faridabad. The second daughter is Pamma, who used to study in 10+1 in Vidya Devi Jindal School, Hissar and used to reside in hostel. Relu Ram had constructed a fine palatial Kothi at Litani Mor and had installed telephone numbers 34190 and 33300 which are connected to Uklana Exchange and the Code Number is 01693. Relu Ram has 46 acres of land adjacent to kothi in Litani and about 52 acres of land in Village Daulatpur and about 4/5 acres of land in Village Prabhuwala. In Faridabad, besides the Kothi No. 509, he has plot and godown in Sector 28, DLF Faridabad. There are 13 shops in Nagloi and other property also in Delhi and many vehicles in which Tata Safari No. HR-05N-18, Tata Sumo No. HR-20E-0019 and one Maruti Car No. HR-29-6879 or 68, which is 800 cc. The Tata Sumo and above said Maruti Car have been taken by Sonia to Faridabad. In the Kothi at Litani Mor, Sheela and her mother-in-law resident of Litaani, do the work of sweeping. Amar Singh Saini who belongs to Agra is gate Chowkidar. Rohtash Harijan resident of Prabhuwala works on saw mill near

the kothi and Ramphal Harijan resident of Parbhuwala manages the dairy of buffaloes constructed in the fields adjacent to Relu Ram's kothi and supplies milk etc. to kothi. Since a few years, Krishna and Relu Ram had differences. The allegation was that Relu Ram used to help Sunil. In connection with this, Relu Ram, his son Sunil and Sunil's wife Shakuntla were on one side, whereas Krishna used to be helped by her daughter Sonia and her son-in-law Sanjeev. Krishna had got 25 acres of land near Litani kothi partitioned for her personal maintenance. She used to cultivate the same. The remaining land used to be got cultivated by Sunil and Relu Ram. At harvest, the expenditure and income were used to be divided. On 22nd August, 2001, during the day time, Shakuntla and Krishna had a dispute regarding property, but Relu Ram had intervened and pacified the matter, at night again there was a dispute between Shakuntla and Krishna. Relu Ram had reprimanded Krishna on which at about 9.00 P.M. Krishna, being displeased, started going out of the kothi on foot. I and Amar Singh were sitting on the gate below, Sunil came down calling her. I and Amar Singh, Chowkidar also tried to pacify Krishna and Sunil, pacifying her, took her upstairs. We heard Shakuntla and Sunil were levelling allegations against Krishna that she was giving all the property vehicles and money to Sonia and Sanjeev and Faridabad Kothi and despite their presence, she was settling them as Ghar-jawai. On 23rd August, 2001, at day time, Relu Ram and Krishna again had a dispute. On my asking, Sunil told me that again a dispute arose regarding property. Krishna perhaps had apprised about the same to Sonia. At about 5.00 P.M. I was sitting at the saw-mill. A telephone is installed there and when the bell rang. I picked up the phone. Sonia was speaking on the phone, Sunil was sitting near me. Sunil took the phone from me and talked with Sonia. Sunil told me that Sonia was saying that today is Pamma's birthday. She will pick up Pamma from Jindal School Hostel, Hisar and celebrate her birthday in Kothi at Litani Road. At about 9.30 P.M. Tata Sumo No. HR-20E-0019 came, which was being

driven by Sonia. Pamma was sitting on the seat next to her. On horn, Amar Singh and I enquired and then Sonia Didi called and we opened the gate. The Tata Sumo went in the porch. I and Amar Singh went to the beds down stairs. At about 11.00/12.00 midnight, I suddenly heard a sound, I got up frightened and saw that the light of the store room was on, where the spare parts of tractors were kept. I enquired who was there. Sonia told me that it was she who was present there. Sonia took the iron rod used for lifting the tractor and switched off the light and went upstairs. I did not feel necessary to enquire more and again came to my bed and slept. At night, about 1.00 O' Clock from the roof of Kothi the sounds of fire-works, bombs and rockets came from the front and back side of the house. We thought that birthday of Pamma was being celebrated. We again went off to sleep. At about, 4.45 a.m. in the morning when I got up and was smoking a biri on my cot. Sonia Didi came down in Tata Sumo No. HR-20-E-0019 driving speedily. Amar Singh chowkidar had also got up by that time. He opened the gate. The vehicle went outside. After half an hour, Sonia came back in the said Tata Sumo and took it up side in the porch. I asked Amar Singh where Sonia had gone any why she was returned and on this Amar Singh told that they have had hundred of disputes and he did not know where she had gone. At about 5.30 a.m. Ramphal brought milk in reutine. Then Sonia, on seeing, called Ramphal from upstairs and asked that milk be not brought upstairs and be kept down stairs. Ramphal had already gone half the way on the ramp. On hearing this, Ramphal came to me and asked why are they not allowing him to take the milk upstairs. On this, I told that their internal dispute might be going on. I just told him to keep the milk in the kitchen. A Bahadur works in the kitchen downstairs for Muneem, Chowkidar and other servants. We got tea prepared from him. Lokesh's school van came in front of Kothi at about 6.15 A.M. Lokesh did not come down after getting ready. The driver of the van kept blowing horn for sometime and after waiting went away. After waiting for some time. I sent the servant

Rohtash to upstairs in the Kothi to bring Lokesh, as they would drop him on the motor cycle, since the van had already left after waiting. After going upstairs Rohtash called me also upstairs being preplexed. When I went up I saw Sonia lying in front of the door of the Kothi crying that she be saved and Sanjeev be called. Froth was coming out of her mouth. Thereafter we went inside the Kothi and saw that the dead bodies drenched in blood with injuries on heads were lying there in the following manner. The description is as follows : Relu Ram Punia was lying dead on a cot in the second floor of the house and the blood Oozed out. Krishna and Siwani were soaked in blood on cot at the top floor. Sunil's wife Shakuntla, son Lokesh and one daughter of about one and half months old were found murdered in the bed room, whereas Shakuntla's hands and feet were tied to bed with clothes. Sunil was lying dead in the bed room down the bed. Iron rod which is used to lift tractor was lying on his bed, which Sonia had taken from the store room at night. In the adjacent bed room Pamma was found murdered in School dress on the bed. Kheer was found in one plate and 250 grams opium in the other plate. In one room where Sonia's bed was there, a letter was found written. A pen was found without cap. Sonia's chappal was lying there and Sonia's vomit was also lying there. I, after taking the letter with me and leaving Amar Singh and Rohtash etc. near the dead bodies and after sending the information to Relu Ram's relatives and Sunil's wife's relatives and other relatives, had come to the police station to lodge the report. The contents of the letter written Sonia are : My dear Sanjeev, foregive me. After finishing them all I am finishing myself. My father, mother, brother, sister-in-law and sister all thought ill of me till date. They all behave like enemies. My mother instigated you against me till date, but believe me I am not of that type as they all say. I was yours, I am yours and will be yours. I have always loved you and will do so always. Never misunderstand me. I am leaving a son with you. It is your job to bring him up. Never tell him as to how his maternals were. You take care of yourself

and if possible marry again. Donot ruin your life. Yours Sonia. All the best for our life. Whenever, persons like my mother and father will come on this earth, God will send a Sonia like me on this earth to finish them off. Sanjeev forgive me. Please I could not kept the promise to be with you. Please Sanjeev forgive me. Take care of my child. Now I am leaving in the care of you and my mother-in-law. You take care of yourself. I love you. Will meet in the next birth, Ur love Sonia. I produce the original letter before you. Due to dispute regarding the property in between the children of two wives of Sh. Relu Ram. Sonia under a conspiracy had murdered all the aforesaid. It may be possible that Sonia under a conspiracy had either administered some poisonous substance or made them to inhale poisoncus thing and they became unconscious and then they had been murdered. About 6 months earlier from today. Sonia with an intention to kill Sunil had fired a shot from the licensed gun of Relu Ram over a dispuTEE of property, but the shot did not go on and in the meantime, Shallu sweepress, being enraged had thrown the gun from upward to downward and the matter was hushed up in the house. Sonia's going out in the Tata Sumo at about 4.45 A.M. speedily and her coming back to home after half an hour put the needle of suspicion against her as to what Sonia had taken in the Sumo or what she had left outside and what she had brought. It seems all the murders have been committed by Sonia under a conspiracy due to the dispute over the property. I have come to lodge the report. Action be taken.

Attested

(Sd/). . .,

Sd/- Vinod Kumar
SI/SHO

Jeet Singh Punia.

P.S. Uklana dated 24th August, 2001”.

Police Proceedings :—Today, I, SI/SHO am present at the Police Station. Jeet Singh complainant came present at the police station and got his above statement recorded. Seeing the gravity of the occurrence, ASI Radhey Sham, HC Ashok Kumar, C. Partap Singh 1129, HC Samey Singh 1050

have already been sent to the place of occurrence for sending Sonia to Hospital and for keeping a guard over the spot. Whatever, Jeet Singh got recorded, was reduced into writing in verbatim, which was read over to him, to which he admitted to be correct and then put his signatures in Hindi script under his statement, to which I attest. The S.P. and the D.S.P. H.Q. have already been informed telephonically. From the above statement an offence under Section 32/120-B IPC and 18/61/85 NDPS Act seems to have been committed. Special report is being sent through C. Narsi Dass 950 to the SP and the Ilaqa Magistrate and higher Officers for information. I, SI/SHO along with HC Krishan Kumar 1004, C. Rambir 1161 and C. 1090 proceed to the spot by government conveyance, driven by Umed Singh. I have taken investigation bag with me, the complainant is also with me. For summoning the crime team at the spot, information has been sent.

(Sd/). . . ,

Vinod Kumar
SI/SHO PS Uklana

Copy of FIR Recd. at 4.00 P.M. It be sent to concerned court.

(Sd/). . . ,

D/JMIC
24-8-2001

(12) The police proceedings indicate that ASI Radhey Sham, HC Ashok Kumar, Constable Partap Singh, No. 1129, HC Samey Singh, No. 1050 had been sent to the place of occurrence for sending Sonia to hospital and for keeping a guard/vigil over the spot. It has also been stated that the Superintendent of Police and the Deputy Superintendent of Police, Headquarters, had been telephonically informed. It has also been indicated that the special report was sent through Constable Narsi Dass, No. 950, to the Superintendent of Police and the Ilaqa Megistrate and higher officials for information. It has also been indicated that the copy of the FIR was received by the Ilaqa Magistrate at 4 p.m. and it was ordered that the same be sent to the concerned Court.

(13) The perusal of the record further shows that the inquest reports of the dead bodies were prepared and that the bodies were identified by the witnesses joined at the time of preparation of the inquest reports. Date of recovery has been indicated as 24th August, 2001 and that the time of discovery in regard to Lokesh, son of Sunil, Preeti, daughter of Sunil, Sunil, son of Relu Ram, Smt. Krishna, wife of Relu Ram, Relu Ram, son of Basti Ram, Shakuntla wife of Sunil has been given as 11.30 a.m. Whereas, the time in regard to Pamma, daughter of Relu Ram, Shivani, daughter of Sunil has been given as 11 a.m. The perusal of the post mortem reports of the deceased persons shows at what time the post mortem was performed by the respective Doctors on 24th, August, 2001. All post mortem examinations were carried out on 24th August, 2001. In the case of Lokesh Ex. P3, at page 193, it was conducted at 2.30 p.m. Preeti Ex. P7, at page 247 and 248, the time recorded is at 4 p.m., in case of Pamma Ex. P18 at page 305, the time indicated is 14.45 hours, in case of Shivani Ex. P21 at page 357, the time indicated is 15.35 hours, in case of Sunil Kumar, Ex. P58 at page 473, the time indicated is 2.35 p.m., in case of Krishna wife of Relu Ram, Ex. P64 at page 529 the time indicated is 3.15 p.m. In the case of Relu Ram, Ex. P169 at page 741, the time indicated is 4.10 p.m. and in the case of Shakuntla Ex. P175 at page 791, the time indicated is 2.50 P.M. As per the respective post mortem reports the injuries indicated on the person of Lokesh are as under :—

- “1. Incised wound 2 c.m.× 1/2 c.m. on right side of forehead above right eyebrow.
2. Lacerated wound 2 c.m.× 1/2 c.m. just below injury No. 1 on right eyebrow.

(14) Following injuries were found on the person of Preeti

1. Red contusion 3 c.m.× 1 c.m. on right side of face just lateral to right eye. On dissection, sub cutaneous ecchymosis was present.
2. Red contusion 2 c.m.× 2 c.m. on left side of forehead was present. On dissection, sub cutaneous ecchymosis was present.
3. Red contusion on left side of fronto parietal area with depression was seen. On dissection, sub cutaneous ecchymosis was present. There were multiple pieces

(fractures) of frontal left parietal bones and left temporal bones. Bone pieces were penetrating in brain. There was laceration of underlying brain and membrane. Clotted blood was present in and around wounds.

(15) Following injuries were found on the person of Pamma deceased :—

1. Lacerated wound of 7 c.m.× 5 c.m. bone deep over frontal bone 2 c.m. above the hair margins. Margins of the wound were ragged with indrawing of hairs in the wound, underlying bone was found fractured in the satellite manner.
2. Lacerated wound of the size of 8 c.m.× 6 c.m. bone deep over the occipital region. Margins of the wound were lacerated and ragged. Clotted blood was found around the wound.

(16) The Following injuries were found on the person of Shiwani (deceased) :—

1. Parieto occipital bone on right side of scalp found to be fractured. On opening the scalp, bone found to be fractured in a satellite manner, underlying brain tissue was damaged with laceration of the sinuses and brain tissue.

(17) The Following injuries were found on the person of Sunil deceased :—

1. Lacerated wound about 2 c.m. × 1 c.m. on the anterior surface of right leg approximately in middle. Clotted blood was seen.
2. Lacerated wound about 3 c.m. × 5 c.m. vertical line on left side of mandible, just below the left angle of mouth.
3. Lacerated wound about 3.5 c.m. × 5 c.m. vertical line just adjacent to left eye. Clotted blood was present.
4. Lacerated wound about 4 c.m. × 1 c.m. on left side of the forehead, about 3 c.m. above the left supra orbital border.
5. Lacerated wound vertical line about 3.5 c.m. × 5 c.m. on the middle of occipital area of skull. All scalp hair were submerged with blood. The whole of the left side of face was compressed.

(18) The Following injuries were found on the person of Krishna deceased :—

1. Lacerated wound about 8 c.m. × 5 c.m. on the right fronto parietal region of skull near the hair line. Clotted blood seen, underlying fronto parietal bone was fractured into pieces. The wound was vertical line and underlying brain tissue was damaged and clotted blood was present.
2. Lacerated wound about 7.5 c.m. × 5 c.m. on the skull, approximately in the middle, fracturing underlying parietal bone and brain tissue. Clotted blood was present. The face upper limbs submerged with clotted blood.
3. Contusion about 4 c.m. × 3 c.m. on the left breast.

(19) The Following injuries were found on the person of Relu Ram deceased :—

1. Lacerated wound 7 c.m. × 2 c.m. on forehead transversely placed. On dissection, fracture of frontal bone was present.
2. Lacerated wound 15 c.m. × 5 c.m. transversely placed, extending from 8 c.m. above left ear to 10 c.m. above right ear. Clotted blood was present, On dissection, fracture of both parietal bones was present. Brain matter was protruding out of the wound.

(20) The Following injuries were found on the person of Shakuntla deceased :—

1. Incised wound 4 × 1 inch on right parieto occipital region, 8 c.m. from mid line. On dissection fracture of underlying bone was present. Laceration of cerebral tissue was present.
2. A lacerated wound 6 × 2 c.m. on left parietal region, 10 c.m. from mid line. On dissection, Sub cutaneous ecchymosis was present.
3. Lacerated wound 2 × 1 c.m. on left ear. On dissection, sub cutaneous ecchymosis was present.”

(21) The prosecution has examined as many as 66 witnesses to prove, corroborate and establish the guilt against the accused, charged under Section 302 IPC.

(22) Sub Inspector Vinod Kumar registered the case on the basis of the statement exhibited as Exs. P228. In the meanwhile, he had sent ASI Radhey Sham, Head Constable Ashok Kumar, Head Constable, Samey Singh and Constable Partap Singh to the spot. HC Ashok Kumar alongwith HC Samey Singh accompanied by Chabbil Dass took Sonia to Janta Hospital located at Barwala. She was admitted in the hospital. An application Ex. P1/52 was presented to the Medical Officer of the Hospital for recording her statement. Dr. Jagdish Sethi made an endorsement on the application, which has been exhibited as Ex. P15/A, indicating that Sonia was unfit to make the statement. A *ruqqa* Ex. P1/53 was also sent to the Station House Officer, Police Station, Barwala. Subsequently, Inspector Ram Avtar reached the farm house of Relu Ram and took over the investigation from Sub Inspector Vinod Kumar. The Photographer Miya Singh had also reached the place of occurrence and took photographs of the spot and so also of the dead bodies. Dr. S.S. Chandna, Incharge of the Crime Team, had also reached and that the vomit matter was collected in a bottle which was exhibited as Ex. P263. Vial of suspected poison was also collected along with the lid of the poison container, which have been exhibited as Exs. P265 and 264 respectively. Raj Kumar, Finger Print Expert, also took the chance prints from the glass, which has been exhibited as Ex. P266, which was lying in the same room. The articles collected were converted into parcels, which have been exhibited respectively and that the recovery memo Ex. P239, duly attested by the witnesses, was also taken into possession. The letters lying there on the cot etc. were also taken into possession and the collective exhibit has been ascribed as Ex. P212. The ball pen was also recovered, which has been exhibited as Ex. P231. The vehicle stated to be used by Sonia defined as Tata Sumo bearing Registration No. HR-20E-0019, was also taken into possession, the recovery memo has been exhibited as Ex. P237. The crackers were also taken into possession and the collective exhibit has been ascribed as Ex. P233. One gun, without butt, of .315 bore was also taken into possession and has been exhibited as Ex. P236, which was in fact, recovered from the almirah of the room of Sunil. Apart from the above, the other items had also been recovered which have been duly exhibited and that the recovery memos had also been made, which have been duly noticed in the judgment of the trial Court. It may also be noticed that DSP Mann Singh had also affixed his seal MS' on the said parcels. Inspector Ram Avtar, prepared four rough site plans of the place of occurrence i.e.

ground floor exhibited as Ex. P 269, first floor exhibited as Ex. P270, second floor exhibited as Ex. P271 and that of the top floor exhibited as Ex. P272. The statements of Amar Singh, Rohtas, Ram Phal, Rakesh, Dharambir and supplementary statement of Jeet Singh had been recorded. The parcels so made, were duly deposited with MHC Raghbir Singh, Police Station Uklana on 24th August, 2001, with seals intact alongwith the specimen of the seal.

(23) DSP Mann Singh, who had also partly investigated the case, received an application Ex. P209 moved by the Superintendent of Police for recording of the statement of Sonia by the Magistrate. The application was presented to the Chief Judicial Magistrate, Hisar, who made an endorsement Ex. P209/A, and marked it to Shri Pardeep Kumar, the then Judicial Magistrate Ist Class, Hisar. It may be noticed that the said application was presented before the Judicial Magistrate Ist Class, Hisar, at 10 p.m. Both of them went to Janta Hospital, Barwala. In that regard, the order so passed has been exhibited as Ex. P186/B. On reaching the hospital, an order was passed, exhibited as Ex. P186, for seeking the opinion of the Doctor on duty i.e. Dr. Anant Ram, as to whether Sonia was fit to make the statement or not. The Doctor gave his opinion, which has been exhibited as Ex. P186/A. The opinion is indicative that Sonia was declared fit to make the statement. The Judicial Magistrate Ist Class, recorded the statement in question and answer form, which has been exhibited as Ex. P187. It shall be apposite to reproduce the entire of the statement, which reads as under :—

“Statement of Sonia wife of Sanjeev, age 19, Occupation Housewife, r/o H. No. 509, Sector-15, Faridabad, on SA :

Q. Have you understood that you are not bound to confess ? If you confess then it can be used as evidence against you ?

A. Yes.

Q. What do you want to state ?

A. My marriage was solemnised with Sanjeev on 29th September, 1998. Sanjeev is resident of Saharanpur. This marriage was arranged by my parents, but before marriage we were known to each other. I have one child

of 2 years old namely Gollu. When I had been in 3rd class. since then my Pappa used to beat me. My father's name is Relu Ram and mother's name is Krishna Punia. When my Pappa used to beat me then my mother Krishna used to take my side. My Pappa had never loved me. My mother Krishna sometimes used to love me very much and sometimes used to hate me too much. My father never used to say anything to Sunil.

Q. What the relation you have with Sunil ?

A. Sunil is my brother. He was born out of womb of first wife of my father. My father's first wife was murdered by my father Relu Ram, Ram Singh, brother of Relu Ram and wife of Ram Singh—all of three in collusion with each other. My father used to tell this after taking liquor. After taking liquor my father also used to tell us with whom he is having illicit relations, Rozi the elder daughter of Ram Singh was born out of the loin of my father, because my father was having illicit relation with the wife of Ram Singh.

Q. After marriage where and how you lived ?

A. After marriage I lived at Saharanpur for about ten days. My father was not happy with my marriage. At the beginning my mother was happy with my marriage, but when my mother came to know that I had started to live with my mother-in-law, then my mother became unhappy with me. My mother had apprehension that my father may not sell the kothi of Faridabad. Then my mother asked us to live in kothi at Faridabad. At the time of marriage I was in 11th class. I studied in Jindal School, Hisar up to 10th class. I wanted to continue further study after the marriage, therefore, I took admission in Modern School, 17th Sector, Faridabad. My father asked my husband and in laws not to continue my further studies. After more studies I would harass them. I took admission in 11th class in the year 1998 at Faridabad.

Q. How your parents and other persons used to harass you?

A. My parents were living in kothi of Punjab Farm House Litani Mor, Uklana. Since I became able to understand the real cause of quarrel between my father and my

mother. The quarrel between my father and my mother was due to illicit relations of both of them. There had also been quarrel between them due to landed property. My father and mother used to give beatings to each other and used to abuse filthily each other. I used to intervene and to persuade them, but they did not listen me. My mother and father had started living separately from June, 1998. I have been living at Faridabad since June or July, 1998. My father was also living with me. There had been frequent quarrels between me and my mother. One day in the morning I asked my mother to prepare the break-fast and to give me as I was getting late to school, but my mother was busy in talking with Ram Chander Dahiya on phone. When I stopped my mother from talking with him then quarrel ensued between us. My mother was having illicit relations with Ram Chander Dahiya. In that quarrel my mother fired a shot from her revolver, but I escaped by chance.

Q. What were the disputes of your property ?

A. My father got executed a Will, wherein it was mentioned that after his death, Sunil would be the owner of all properties. From that time the quarrel started. I was not willing to take the property of my father. I had also given in writing that the land, which was in my name will also be managed by my father. I wanted that Sunil should live like my brother and he should come at my residence on every festival so that I should get respect in my in-laws. There was no shortage of anything in my in-laws. Therefore, I was not having any need of the property of my father.

Q. Then why you had a quarrel ?

A. My mother wanted that I should take divorce from Sanjeev and contact marriage with someone else. My mother used to tell Sanjeev on phone that I talk with bad boys on phone. My mother used to tell Sanjeev that I have got illicit relations with boys, but it was not as such. My father used to tell my husband mother-in-law and father-in-law on

phone that in case Sonia is not within their control then she should be out and thrown into canal and that he would not say anything. On 22nd August, 2001, I was in Saharanpur and on that day also my father had repeated this on phone.

Q. How all this incident has occurred ?

A. My birth day was on 23 August, 2001. I and my husband started in Sumo vehicle on 23rd August, 2001 in the noon from Hisar. In the way, a quarrel ensued between me and my husband with regard to the driving. Then we went to the hostel of Vidya Devi Jindal School, as I had to take my sister Priyanka with me. As soon as my sister Priyanka came near to our vehicle, she asked me whether I have got illicit relations with anyone because my mother had told Priyanka that Sonia had illicit relations with Rajeev. But Rajeev is my internet friend. On hearing these things Sanjeev started quarrelling with me. At about 9.00 PM he alighted from Sumo vehicle at Hisar itself and started saying that he is having no need of her and I alone go to my home. I waited for 5/10 minutes that he would come back, but he did not turn up. After that I along with my sister came to our house at Punia Farm House-kothi of Litani. We reached at about 10.00 P.M. in the kothi. This is the talk of night of 23rd August, 2001. We purchased six pastry from the shop at Hisar for home. We, the three (Sanjeev, Priyanka and Sonia) ate two pastry on the shop itself. When I reached Kothi then my mother told me that my father was saying that gate be closed and if Sonia would come she would sleep outside. When I met my family members then only my mother congratulated me on my birthday and none else congratulated me. My father started quarrelling with me and started saying that why I have brought Priyanka alias Pamma and what right I have to bring her. Then I started celebrating my birthday. I had brought crackers from Saharanpur, out of which some where fired. My Bhabi, my sister and my mother and myself had eaten the pastry. My father was on the other side of the Kothi. My Bhabi took pastry for Sunil

and went downstairs. After that I and my sister took the food. I ate one chapati with chicken. By that time was 12 O' Clock. After that I went to the room of my brother and Bhabi. After that there had been quarrel between my mother and my father. I was on the first floor in the room of my brother. Then I went to second floor. My father used to curse me. I stopped my mummy-pappa. Both of them scolded me. Then I thought that either they would live or I. Then I brought iron rod from the ground floor. After quarrel between my parents I went to the opposite room of my brother and Bhabi. I went on thinking for about half an hour in that room. By that half an hour time, my father had slept at second floor and my mother had slept at 3rd floor. After thinking for that half an hour, I brought iron rod from the ground floor. First of all, I went to the room of my father. I gave 2/3 blows of iron rod on the head of my father, he died after saying Aah. Then I went to my mother and gave iron rod blow on her head. She died after saying Aah. Then I went to the room of Sunil. I call Priyanka alias Pammi outside the room. I told Pammi to get ready for going to tournament at Panipat. Then Pammi asked me for calling mummy and I told her that I am going to call her and asked her to sit there. In the meantime, I gave iron rod blow on her head. I continued giving iron rod blows till she died. Then I brough Sunil on the second floor after telling her that Mummy wanted to talk with him. When Sunil went to the second floor, I gave iron rod blow on his head. I gave 2/4 rod blows on the head of Sunil. Sunil tried to catch me hold from my neck, but he could not succeed. Sunil had cried a bit. Then I pointed empty revolver toward Shakuntla and threatened that if she would cry, she will be shot. Then I tied Shakuntla with Chuni with the cot. Then I gave iron rod blows on her head and she died. After that I gave the rod blow on the head of Lokesh and he died. Then the younger daughter of Sunil was killed with rod. I gave rod blow on the head of second daughter of Sunil when I killed my mother. That girl had died at that time. The whole work was done by 5 O'Clock (morning). After that I went to Sumo to Surewala

thinking that I would kill myself by way of accident. But in the way I thought that I would not die in the accident of Sumo. After that I thought that I would go at the Kothi and should take poison. After that I took the bottle of Aluminium poison from the ground floor and I knew it insecticide. I drank more than half bottle. By that time, a little day-light was seen and after that I started trembling. I vomited also. After that I do not know who had taken me to the hospital.

Q. What enmity you have got with others besides your parents ?

A. I had killed all including children, because I wanted to finish all of his Khandan. Now I do not want to live. As and when the bad persons like my parents would be here, then God would always send me like Sonia. I had killed the small children otherwise they would kill my son. My father used to take Kheer because he was having problem in his teeth. My father used to take Kheer after mixing Shakkar. My father used to take opium daily. My father was doing a business of drugs etc. from Rajasthan. Since long ago my father had planted the trees of opium in his kothi at Faridabad.

Q. Do you want to say anything more ?

A. No.

RO & AC

SD/-
JMJC
25-8-2001
1.28 A.M.

Sonia Chaudhry (In Hindi)

During making statement Sonia remained fit and conscious to make the statement.

SD/-
25-8-2001
1.34 A.M.

I have explained to Sonia that she is not bound to make a confession and that if she does so, any confession she may make may be used as evidence against her and I believe that this confession was voluntarily made. It was recorded by me by my own hand and was read over to the person making it and admitted by her to be correct and it contained a full and true account of the statement made by her.

RO & AC
Sonia Chaudhry (In English)

SD/-
D/JMIC
25-8-2001

(24) After the statement was read over to Sonia, she affixed her signatures on her statement, exhibited as Ex.P187. Since the statement was recorded in the presence of the Doctor, he also made the endorsement, which has been exhibited as Ex.P187/A, he has corroborated the fact that she remained fit and conscious during the time her statement was recorded. The Judicial Magistrate Ist Class has also certified that the statement was explained to Sonia and it had also been indicated to her that she is not bound to make any confession and that if she does so, such confession may be used as evidence against her. It is also stated that the confessional statement made by her, has been made voluntarily. It has also been mentioned that the statement was recorded by the Judicial Magistrate Ist Class in his own hand writing, which was read over to Sonia, who has admitted the same to be correct and that it contains full and true account of the statement made by her. In this regard, the learned Magistrate passed the order Ex.P186/C. It may also be noticed that the shirt and Salwar and also vial containing the vomit material, had been taken possession of which have been exhibited as Exs.P189, P190 and P273 respectively. The recovery memos were also made accordingly, which have been noticed in the judgment of the trial Court. The discharge certificate of Sonia has also been exhibited along with the indoor chart, which has been marked as Ex. P192 and P193 respectively. She was arrested from the hospital on August 26, 2001 and was produced before Shri N. K. Singhal, Judicial Magistrate Ist Class, Hisar, who remanded her to police custody. She made disclosure statement for the purpose of recovery, which has been exhibited as Ex.P210 in the presence of ASI Pehlad Singh, ASI Bani Singh, ASI Sohan Singh and HC Ram Niwas, which was signed by her and which have been noticed in the judgment of the trial Court.

(25) So far as the status of Pamma's residence in the hostel in concerned and also the granting of leave by the authorities, far the factum of ingress and egress from the hostel, D.S.P. Mann Singh had taken into possession the leave application Ex.P202 and gate pass Ex.P203 and extract of the entry made in the register, which has been exhibited as Ex.P204. The rod, which is stated to have been acquired by Sonia, has been produced and exhibited as Ex.P10, which has also been shown to the Doctors, who have given their respective opinion to the effect that injuries on the dead bodies could be caused by the same.

(26) On 17th September, 2001, statements of Brahm Singh and Sunder Singh had been recorded under Section 161 of the Code of Criminal Procedure at Taxi Stand Shamli. Thereafter, on 19th September, 2001, both the said persons produced the accused Sanjeev Kumar at P.W.D. Rest House Panipat before D.S.P. Mahender Singh. Sanjeev Kumar accused was arrested on the next date. He was produced before the Ilaqa Magistrate, who remanded him to police custody till September 27, 2001. Sanjeev Kumar had made disclosure statement, which has been exhibited as Ex.P255 to the effect that he had kept concealed 25 cartridges, .32 bore revolver along with one authority letter written by Krishna deceased (mother of Sonia) at his house at Saharanpur. He had also disclosed and discovered his blood stained clothes and also the blood stained clothes of Sonia, which had been put in a plastic bag and were burnt by him in the fields in village Bhainswal (U.P.)

(27) On September 21, 2001, the applications Ex.P75 and P76, were presented to the Director of Forensic Science Laboratory, Madhuban for subjecting Sanjeev Kumar and Ajit to lie detection test. In this regard, the permission-cum-appointment was granted for 24th September, 2001, Sanjeev Kumar had given his consent, which has been duly signed by him and exhibited as Ex.P77. Likewise, Ajit Singh also gave his consent and signed the same and it has been exhibited as Ex.P78. Such consent were given before Rajni Gandhi, Scientific Assistant (Lie Detection) Forensic Science Laboratory, Madhuban. Sanjeev Kumar was subjected to the said test on that very day, but on the said date, the statement could not be completed, therefore, he was again brought on September 25, 2001. It may also be noticed that Video Cassette Ex.P253, for recording the statement of Sanjeev Kumar,

was prepared and that the audio version (manuscript) was also prepared in the process, which has been exhibited as Ex.P254. Exs.P254/B and 254/C, are copies of the ploygrams. Sanjeev Kumar accused had also made disclosure statement Ex.P261 regarding his mobile telephone, which has been duly signed by him, which has been further attested by the attesting witnesses. The Investigating Officer had also collected the telephone details relating to the calls, which had been made by Sanjeev Kumar from various places to the telephone numbers so indicated in the record. In this regard the statements of various persons were recorded in regard to the visit of Sanjeev accused at Taxi Stand, Kaithal, and also for the purpose of collection of details of calls made from S.T.D. telephone booth of Jai Dev, which has been exhibited as Ex. P207. The investigation was completed and the report under Section 173 of the Code of Criminal Procedure, was presented in Court on October 22, 2001.

(28) The trial Court,—*vide* order dated 23rd October, 2003, acquitted Anup Singh, Subodh, Rajbiri, Ramphal and Rajinder Parsad on the premises that no case was made out against them. However,—*vide* an earlier order dated February 7, 2002, all of them had been charged under section 302 read with section 120-B of the Indian Penal Code. Accused Sonia and Sanjeev Kumar had also been charged under section 25(1-B) (a) of the Arms Act. Sonia had also been charged under Section 25 (1-B) (b) of the Arms Act, and Sanjeev Kumar was also charged under Section 201 IPC. It may also be noticed that Devinder, Satinder and Varinder had also been acquitted,—*vide* order dated 23th October, 2003, who had been charged under Section 212 of the Indian Penal Code. However, all the accused had pleaded not guilty and had claimed trial.

(29) The statements of the accused Sonia and Sanjeev Kumar had been recorded under Section 313 of the Code of Criminal Procedure. They denied prosecution allegations and pleaded innocence and also stated that they had been falsely implicated. Sonia took the stand that she was picked up by the CIA staff on August 24, 2001 from Faridabad and was brought to Hisar, where she had been kept in illegal custody. It is also the plea that she had been tortured by the police throughtout the day and that threats were given that her son is in their custody and that if she did not make the statement as per their desire, they will kill her son. It has

also been pleaded that her signatures had been obtained upon a number of blank papers, which have been used in the false case against her. Sanjeev had taken the defence that his father-in-law was a noble and moneyed man and that his financial affairs were managed by his employees and they had embezzled lot of money. The people, who had to return the substantial loan amounts were not returning the same to his father-in-law. It is those employees, who were involved in the embezzlement, have falsely involved him and his wife Sonia, after murdering Relu Ram and his family members. It has also been alleged that brothers of his father-in-law had also joined hands with the police for the purpose of falsely involving them so that no fair investigation is made by invoking the indulgence of Central Bureau of Investigation. It is also the plea that his father-in-law was opposed to the then government, therefore, the investigation has not been done fairly and instead he and his wife have been falsely implicated.

(30) It may be noticed that the aforementioned persons, who are stated to have been acquitted, an application was filed on behalf of Anup Singh, Subodh, Rajinder, Ramphal, Rajbiri, Satinder and Devinder. The order of acquittal was passed upon the concession of the Public Prosecutor that no incriminating evidence is available against the accused Devinder, Satinder, Rajinder and Ramphal. In fact, statements of these persons under Section 313 Cr. P.C. were not recorded and the same were dispensed with and they were acquitted of the charges. However, the application *qua* accused Rajbiri, Anup Singh and Subodh was dismissed and their statements under Section 313 Cr. P.C. were recorded. They denied the allegations and pleaded innocence and false implication. It may also be noticed that Sanjeev Kumar, Anup Singh, Rajbiri and Subodh did not lead any evidence in their defence and closed their case accordingly. However, accused Sonia did tender some documents in her evidence and closed her defence accordingly.

(31) Learned counsel for the appellants has argued by addressing his arguments on various points by making reference to the statement of Jeet Singh Ex. P228 recorded on 24th August, 2001 at 8.15 A.M. Reference has also been made to the special report delivered to Ilaqa Magistrate at 4 p.m. at Hisar, making special reference to the fact that the distance between Uklana and Hisar is

45 kms. Whereas, the different times incorporated in the respective inquest reports (as having been noticed in the earlier part of the judgment) would indicate that the time of receipt of the special report cannot be relied upon, which must have been *ante* timed to cover up delay in lodging the F.I.R. He has also made reference to the judicial confession made by Sonia, which has been exhibited as Ex. P187, the emphasis has been made upon the certification of "voluntary nature" recorded by Judicial Magistrate Ist Class. Similarly, the credibility of lie detection test has also been questioned, apart from the other alleged discrepancies in the case of the prosecution.

(32) Learned counsel for the appellants has addressed the arguments by indicating the prosecution base in the first instance, which are noticed as under :—

- (i) Suicidal note (letter Ex. P227) which has been reproduced in the F.I.R. Ex. P228 dated 24th August, 2001.
- (ii) Judicial confession of accused Sonia exhibited as Ex.-P187 recorded on 25th August, 2001 by Judicial Magistrate Ist Class, Hisar.
- (iii) Admissions of Sanjeev Kumar accused based upon video cassette Ex. P253 and the audio version (manuscript) Ex. P254.

(33) It has been averred that the rest of the evidence produced by the prosecution is only allegedly supportive to the aforesaid base. In this endeavour, the prosecution has not been able to spell out the link in the evidence for roping in the accused. Mr. R.S. Cheema, learned Senior Advocate, has at different point of time addressed the arguments favouring Sonia but at the same time, considering certain aspects against her brought on the record, favouring accused Sanjeev Kumar. In a way, the endeavour is that if the discrepancies are established in regard to the evidence read in a crystal clear manner against Sonia, the link evidence may not be available against Sanjeev and resultantly, he may be entitled to acquittal. Learned counsel for the accused has taken us through the F.I.R., medico legal reports and also the statements of the prosecution witnesses with astute expertise and has made an effort to bring to the surface the disparity and discrepancies in the evidence of the said witnesses.

(34) In the first instance, the arguments have been addressed in regard to the delay in lodging the F.I.R. and the resultant effect thereof upon the case of the prosecution. Upon the analysis of the documentary evidence as well as the ocular evidence, it has been argued that the F.I.R. does not seem to have been recorded at 8.15 A.M. as alleged, because the enclosed reports upon the dead bodies had been completed in the afternoon and the last of the dead bodies were examined at 3.15 p.m./4.00 p.m. Thus, the question of delivery of special report to the Ilaqa Magistrate at 4 P.M. could not be possible because such report would always be normally sent after the inquest report has been prepared so that the *prima facie* veracity of the F.I.R. is not doubted. The thrust of the argument is, that in fact the F.I.R. had been *ante* timed, therefore, adverse inference can be drawn against the prosecution story. If that be so, the entire evidence led to corroborate the factum of murder, as recorded in the F.I.R., cannot be taken to have been proved against the accused. It has been further contended that delay in F.I.R. is a crucial point which has to be kept in mind by the Courts while impugning a person with an act of murder. There is no doubt that in every case the eye witness of a murder may not be available and that such is the case at hand. It has been alleged that Sonia murdered her father, mother, brother from the first wife of her father, the wife of his half brother and their three children and her own sister. The allegation is too wild to be accepted against her. The plea that the police had picked her up from Faridabad and forcibly made her to sign the statement with the threat that her only child would be killed, would inspire definite confidence in the plea taken by her. In regard to the delay in F.I.R. and the effect thereof, reliance has been placed upon the latest judgments of the Supreme Court, which are reported as under :—

- (1) In re: **Ranjivan and another versus State of Kerala,**
(1)
- (2) In re: **Suresh Chaudhary versus State of Bihar,** (2)
- (3) In re: **State of Rajasthan versus Teja Singh and others,** (3)

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- (1) 2003 S.C.C. (Criminal) 751
 - (2) 2003 S.C.C. (Criminal) 801
 - (3) 2001 S.C.C. (Criminal) 439

(35) It has been further argued that the suicidal note (letter) which has been exhibited as Ex. P227 and which has been made the base in the First Information Report (F.I.R.), does not support the prosecution version. The language used does not inspire confidence that such kind of a note could be written by Sonia and then with a calculated move, she would commit murder of eight persons of her family. If the alleged suicidal note is taken to have been written after committing the murder, the normal person would not be in such a frame of mind so as to calculatively and methodically put in the words and use the normal language. It is the normal principle that if a person commits murder in the heat with which he/she may be obsessed, the same cools down before the person would choose to pen down for finishing his or her own life. Thus, the possibility of the suicidal note being written under the tutor and especially under the influence of the police with a threat to eliminate her only child, cannot be ruled out. This, piece of evidence would lose its rigour when examined with the circumstances around it, when alleged to have been written. It has also been contended that if this note has been written after committing the murder, the hands would also be smeared with blood and such a note would certainly find a patch of blood or smearing with blood, but, none has been indicated or seen by anyone. It is too much to accept that after committing the murders, Sonia would have gone to wash her hands and thereafter she wrote this note but did not commit suicide and was laying prostrate outside the door. Apart from this, in the disclosure statement of Sanjeev Kumar, it has been elicited that his clothes and so also the clothes of Sonia, soaked with blood, which were put in plastic bag and were shown to be burnt in the field, were found near the house at Faridabad. If that be so, then which kind of clothes have been recovered by the prosecution from the hospital i.e. Salwar and Kameej smeared with blood of the murdered persons. Thus, placing total reliance upon the suicidal note is too dangerous for holding Sonia guilty of murder.

(36) Learned counsel for the appellants has further argued that the judicial confession recorded by the Judicial Magistrate Ist Class, Hisar, also does not inspire confidence. It is the case of the prosecution that she had consumed poison for the purpose of committing suicide. As the story goes, the vial containing poison was recovered from the place of occurrence and further vomit material was also collected from the place of occurrence, which was sent for chemical

examination. The chemical examination report does not support the prosecution story that Sonia had consumed poison, as no remnants or otherwise are indicative in the chemical report. It is also the case of the prosecution that Sonia had vomited when she had been taken to the hospital but this material also is not indicative of the remnants of poison or otherwise. Thus, accepting the story that she was not fit to make the statement, does not inspire confidence. Further, the Superintendent of Police moves the application and sends it through Deputy Superintendent of Police Mann Singh, to be presented before the Chief Judicial Magistrate for recording the statement. The perusal of the application shows that the request had been made for recording the dying declaration on the premises that Sonia had consumed poison. When the Deputy Superintendent of Police and the Judicial Magistrate reached the hospital, she is found to be in a fit state of mind to make the statement. There is no indication that any information had been sent by the Doctor in the course of the day that she was fit to make the statement. It is only at 10.00 P.M. such report is made by the Doctor. It is the case of the prosecution that she had been taken to the hospital in the morning and was admitted at 8.50 A.M. as indicated in the indoor chart exhibited as Ex. P192. He has further argued that the perusal of the chart would show that the blood pressure of the patient has been recorded as 110/85 and again at 10.00 A.M. it is recorded as 110/85. Another fact which needs to be noticed is that in the copy, which had been exhibited as P192, there is no indication as to by whom she had been brought to the hospital. However, the chart does bear the signatures of Chabbil Dass, son of Shri Ram Singh as patient's guardian. However, the second copy, which had been exhibited as Ex. P193, bears the indication that she had been brought by Ashok Kumar, Head Constable. On this second copy, it is indicative of the fact that on 25th August, 2001, she was required to be subjected to some medical test at 8.30 A.M. The perusal of the reverse side of the said document shows that her blood pressure at 10.00 A.M. on 24th August, 2001 is recorded as 110/70 and at 12.30 P.M. it is recorded as 120/80. Though there is a small variation in the blood pressure but the same has been recorded normal throughout till the date of her discharge on 26th August, 2001 at 9 A.M. At that time it was recorded as 120/80. There is nothing indicative that she was suffering from any excitement or was not in her proper form. Further, the documents have not been certified as true copies by any of the officials or the doctor of the hospital. Thus, this is indicative of the

apprehension that she had been kept in the hospital for buying time to concoct the First Information Report as would suite the prosecution. Learned counsel has also drawn our attention to the over writing which has been made in regard to the time upon the aforesated document. The argument is that time in the first instance was given as "6.50 A.M.". Later on it has been interpolated showing it to be "8.50 A.M." which would be indicative of the doubtful story of the prosecution. He has drawn our attention to the statement of Dr. Anant Ram, Medical Officer, Janta Hospital, Barwala, who has appeared as PW32. He has admitted in his cross-examination that there is an over writing in the column of time i.e. 8.50 A.M. on the indoor chart Ex. P192. However, it has been categorically denied that in the first instance the time was mentioned as 6.50 A.M. and later on it was changed to 8.50 A.M. However, he has admitted that at the foot-note of the aforesated exhibit in the column meant to be filled by patient/guardian, the name of Chabbil Dass son of Ram Singh is mentioned. He has also admitted that in Ex. P193, there is a mention on the top that Sonia was brought by Ashok Kumar, Head Constable, which finds mention in the original record brought by him, but, it does not find so mentioned on Ex. P192. He has also categorically admitted and explained that Ex. P192, the photocopy, was prepared at the time of admission and that the addition was made subsequently on 25th August, 2001 and or 26th August, 2001. The photo copy which has been exhibited as Ex. P193, in which the said addition appears. It has also been pointed out that Dr. Anant Ram, while making statement under Section 161 Cr. P.C. to the police had stated that Sonia was brought in unconscious state of condition and that he had treated her. Whereas, he has denied it when the statement was recorded before the Court. He has stated in his examination-in-chief that she was admitted in conscious state of mind as per medication record. It may be noticed for our pupose that upon perusal of Ex. P192 and Ex. P193 in the left side of the column, it has been recorded "Patient Conscious".

(37) Learned counsel for the appellants has also agrued that these facts coupled with the facts noted in the inquest reports, which have been exhibited as Ex. P2, Ex. P6, Ex. P17 and Ex. P20, would show the time indicated in the aforesated documents has been added subsequently as the hand writing and the colour of the ink is different. It is obvious that the time was left blank and was incorporated as per

the convenience of the prosecution. We have perused the original documents. No doubt, the time has been written in different hand and different ink. It would not be indicative of anything because it looks that the columns had been filled in by the concerned official but he was not too sure as to what time the concerned official came to know of the incident/occurrence. When this fact was ascertained, the time had been filled in and obviously in different hand and ink as the person who had filled in the form may not be available.

(38) Learned counsel for the appellants has further argued that the alleged confessional statement can also not be relied upon as the said evidence is a weak evidence, which is also not indicative and corroborative of the circumstantial evidence. In the first instance, the Judicial Magistrate had been indicated to record the dying declaration, whereas, the mannerism in which the statement has been recorded, takes the wind out of it and gives the colour of coercive statement. It is the admitted case that the Deputy Superintendent of Police was accompanied by the Judicial Magistrate. It looks that both were present when such statement was being recorded. In a way, she can be said to be in police custody and as per her defence, she had been given the threat that if she does not go along with the prosecution, her only child shall be eliminated. Another question, which would and ought to come in the mind is that, why Sonia would make such a statement when the same has to be read against her own interest? It is the settled law that before recording extra judicial confession, the Judicial Magistrate, must apprise the person of the consequences of such statement. This act finds mention only in the certification which has been made by the Judicial Magistrate, which is not indicative of the fact that before she was asked to make the statement, she was apprised of the status accordingly. If such statements suffers from such rigour, it cannot be termed as extra judicial confession and, therefore, cannot be and could not be relied upon by the prosecution. Thus, the trial Court has erred in relying upon such extra judicial confession. In this regard, reliance has been placed upon the following judicial pronouncements and the dicta laid down by the Supreme Court :

- (1) In re: **Shivappa versus State of Karnataka**, (4) Special Reference to paras 2,5,7 and 8.

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- (2) In re: **Shankaria versus State of Rajasthan**, (5) with specific reference to paras 23,24,44 and 47.
- (3) In re: **Bhagwan Singh and others versus State of M.P.**, (6) with specific reference to paras 27, 28 and 30.
- (4) In re: **Lokeman Shah and another versus State of West Bengal etc.** (7) with specific reference to para 14.

(39) Learned counsel, has also argued that the extra judicial confession does not reflect to be voluntary, as there is no indication made in this regard. Thus, would suffer from the rigour of the dicta of the Hon'ble Supreme Court rendered in **Shankaria's case (supra)**.

(40) Learned counsel has also submitted an argument that the prosecution has carried out the investigation in a very casual manner as is evident from the fact that reliance has been placed upon the rod, the alleged weapon used for murdering the deceased, which has been exhibited as Ex. P10. No finger prints have been picked up from this rod to ascribe the same to Sonia. Reliance has only been placed upon the statement of Jeet Singh PW57 to the effect that he had seen her taking the rod upstairs. This would not mean that the rod was used by her for giving blow to the deceased. Another factor, which needs to be noticed is, that the trial Court has not made any comment vis-a-vis the demeanour of the accused especially by noticing the physique of Sonia as to whether she could have given such kind of blow to the persons of heavy physique and that such blow could have killed them. It has also not been noticed that if such blow had been given one after the other, no noise was made any one and eight murders in a row were committed by her. The story of the prosecution, as has been culled out from the suicidal note, as also from the extra judicial confession, does not inspire confidence at all. In all probabilities, the story of the prosecution is full of escape routes because it is full of doubts which are tainted with "buts and ifs". It is the settled law, when the prosecution story suffers from such shortfalls, the accused would be entitled to inescapable benefit of doubt and resultantly acquittal.

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- (5) 1978 S.C.C. (CrI.) 439
(6) 2003 S.C.C. (CrI.) 712
(7) AIR 2001 S.C. 1760

(41) Learned counsel for the appellants has also argued that Pamma, the younger sister of Sonia, had been picked up by her and her husband from the hostel of the school in the evening and they had reached at the farm house at Litani Mor at 9.30 P.M. It has been indicated that Pamma was wearing her school uniform when she had been murdered. The story made out is that some tournament was to be held/played in the morning on 24th August, 2001 and, therefore, she was required to put on her uniform. This fact, which has been recorded in the extra judicial confession, does not inspire confidence at all that the murder takes place in the middle of the night on 23rd August, 2001, and/or in the early hours of the morning of 24th August, 2001, and that the little girl would be in her uniform. This fact of tournament participation has not been corroborated by any piece of evidence. The corroboration of this material fact has been certainly missed out by the prosecution, which goes a long way to show that the story of the prosecution had been concocted to save some influential persons, who had their eyes on the property of Relu Ram. Thus, the cumulative effect of the aforesaid facts noticed, would show that the accused Sonia and Sanjeev have been roped in, because on their elimination, the property would revert back to the reversioners and that the debtors shall have a complete holiday so far as their liabilities are concerned. This plea of accused Sanjeev Kumar that lot many people had taken loan from Relu Ram, which they did not want to return and it was because of the embezzlement, which was the collective act of the employees and also the loanees, has not been controverted. It is a clear and admissible fact that after the death of Relu Ram and family, the right to recover would devolve upon Sonia and also her child, who is none else but maternal grand child of the family. It is obvious that the matter has not been investigated in the right and correct perspective by the police authorities but to the contrary with one objective i.e. to shield the real culprit, who has become or who shall be beneficiary of the assets worth billions.

(42) Learned counsel for the appellant, i.e. Sanjeev Kumar accused, has further emphasised for consideration of the plausible pleas of Sanjeev husband of Sonia. It has been argued that prosecution has not been able to produce or establish an iota of evidence to rope in and charge Sanjeev for the murder of eight persons of the family. There is no reason ascribed to sanjeev Kumar for committing such a heinous crime. Sonia herself has not stated that she was ever

accompanied by Sanjeev Kumar in the joint and collective act of committing the crime. It has been alleged that both of them travelled together from Faridabad to Hisar, where they were supposed to pick up Pamma, younger sister of Sonia. Some altercation took place between the two on account of alleged infidelity pointed out by Pamma i.e. Pamma was told by her mother that Sonia was having illicit relations with one Rajeev. This was controverted by Sonia by stating that he was her internet friend. However, Sanjeev could not take it and alighted from the vehicle at about 9.00 P.M. Despite persuasion by Sonia, he did not climb into the vehicle. In disgust, she left him and drove with Pamma to Latani Mor. However, at the place of occurrence some letters written by another woman were found, indicating an affair of Sanjeev with her. She has appeared as prosecution witness and has corroborated the factum of having written such letters. If that be so, can it be said that Sonia would still try to save her husband Sanjeev Kumar and would prefer to go to the gallows herself? This fact against does not inspire confidence. The prosecution story suffers from the link evidence qua Sanjeev Kumar. Reliance has been placed upon the suicidal note, extra judicial confession, where Sanjeev Kumar has not been named as an accomplice of Sonia. If for argument sake, reliance is placed upon the aforestated two documents, Sanjeev Kumar cannot be held guilty of the offence of murder or could be termed as an accomplice.

(43) Learned counsel has further argued that the only evidence which has been used and relied upon against Sanjeev Kumar is the outcome of the "Lie detection test". This evidence can not be said to be sure evidence for convicting a person of having committed murder of not one but eight of them. There is no gadget or any instrument which can spell out or expose the human mind in regard to the lie, which may have been spoken by an individual. All over the world, lie detection test may be termed as indicative or corroborative, but, reliance upon this test alone is too dangerous to tread upon. In the case at hand, there is no evidence on the basis of which the presence of Sanjeev Kumar at the place of occurrence could be taken as corroborated or could be termed as a disclosure evidence. The circumstances and the facts which had been disclosed and the mannerism in which the statement is alleged to have been recorded while in conversation with Rajni Gandhi at the place of recording the statement i.e. Forensic Science Laboratory, Madhuban, would show

that the statement is not free from the lapse of having been recorded in police custody. Such a statement, which is recorded in such surroundings and such circumstances, cannot and should not be allowed to be used by the prosecution against the accused for describing him the murderer. Again the argument has been repeated that the rod which is alleged to have been used for committing murder, the finger prints have not been picked up to link the said evidence with Sonia and or Sanjeev Kumar. Perhaps the prosecution was aware of the fact that if this evidence is put forth and the experts in this regard are produced before the Court, they would not be able to withstand the cross-examination and especially in the event that no finger print would be sustainable or attributable to Sonia and or Sanjeev Kumar.

(44) It has been further argued that the prosecution has made as hopeless effort to put together a team of witnesses to bring about the link evidence. In that regard, it has been argued that none of them have been able to corroborate or establish the presence of Sanjeev Kumar at Kaithal and thereafter hiring the taxi and travelling by bus. It is too much to accept that a Conductor would be able to identify a stray passenger even it is accepted that he was travelling by a particular bus or by a particular taxi. The documentary evidence produced relating to the STD booth, from which it is sought to elicit that sanjeev Kumar had made call at the farm house and had also made a call to his own house at Faridabad, this again is too much to accept that the STD booth owner would be able to recognise a stray individual who would come to make a call at his booth. Linking the alleged call made to the farm house of Relu Ram and or to the house of Sanjeev Kumar would be too much to create the link especially in view of the fact that Sanjeev Kumar was never ever subjected to identification parade. It is the settled law, whenever the link evidence is missing, the plea of the prosecution attributing an act to the accused would not be sustainable. In the case at hand, the prosecution is relying upon the extra judicial confession against Sonia but is trying to read what is not written that Sanjeev Kumar had accompanied her to the farm house and was her accomplice in committing the murder. It is a clear case where the prosecution story vis-a-vis Sanjeev Kumar is full of doubts and the fallacies which have not been answered. In these circumstances, the conviction of Sanjeev Kumar is not sustainable under law. The irresistible conclusion would be that Sanjeev Kumar deserves to be acquitted.

(45) Learned Assistant Advocate General, Shri D.S. Brar, has controverted the arguments of the learned counsel for the accused. He has mainly placed reliance upon the suicidal note (letter Ex.P227) and also the judicial confession of accused Sonia which has been exhibited as Ex.P187 recorded on 25th August, 2001 by the then Judicial Magistrate Ist Class, Hisar, after she had been declared fit by the Doctor for making such statement. He has also placed reliance upon the statement of Rajni Gandhi PW 17, in regard to the lie detection test to which Sanjeev Kumar accused had been subjected to, which is further substantiated/authenticated by the video cassette Ex. P253 and the audio version (manuscript) (Ex.P254).

(46) Learned counsel has argued that the prosecution has been able to prove each and every fact noticed in the First Information Report. The accused Sonia has categorically admitted in her suicidal note that she had killed all the eight persons named in the FIR. The suicidal note has been duly incorporated in the FIR at the instance of the complainant. It is nowhere the case of the accused Sonia that the said suicidal note was never ever written by her and that is not her own hand writing. The dishonest plea that the police had obtained her signatures upon various blank papers would not affect the story of the prosecution in any manner. It is the admitted case that the FIR was registered at the earliest i.e. at 8.15 A.M. on 24th August, 2001, when the deceased were murdered by her in the early hours of the morning on 24th August, 2001. The letter containing the suicidal note was produced by Jeet Singh, the complainant, before the police authorities. The possibility and the question of utlisig the alleged blank papers signed by the accused did not arise. The facts have been truthfully stated in the FIR by the complainant as no animus has been alleged against the complainant by the accused or is inferable from any circumstances, which have emerged in the entire story of the prosecution. It is a matter of common knowledge that the truthful statements also do suffer from some kind of discrepancies when the same are subjected to the rigour of nitty gritties and hypertechnalities. The sequence of such factors has to be seen in the normal stream, and if, dehors the technalities, the irresistible conclusion can be arrived at, the same cannot be ignored.

(47) It has been further argued that the argument of learned counsel for the accused in regard to the time factor, which has been mentioned in the medico-legal reports, is of no consequence. The time

of the knowledge has to be verified from the person concerned, who had reached the spot or had received the information accordingly. This disclosure, does not in any way eluviate the documents, which have been produced by the prosecution. The other arguments that the post mortem was carried out on the dead bodies as late as till 4.00 P.M. again would not affect the story of the prosecution. Once the factum of death was verified and the stock of things were taken by the police authorities, the entire machinery swing into action and that the senior police officers had also been duly informed. In one go eight murders having been committed, the State machinery had to act in a very definite, agile and correct manner, which was adhered to and the authorities acted in a very methodical, honest, clear and firm manner. It is the admitted case that the special report did reach the Ilaqa Magistrate at 4.00 P.M., the impossibility of the same having reached at that time, as suggested by the learned counsel for the accused, is based on conjectures and surmises. The inquest reports projecting different times and the last mentioned at 4.00 P.M. would be of no consequence. The fact of murder having been committed and the dead bodies lying there, was enough of the reason to send the special report to the Ilaqa Magistrate at the earliest. No doubt the F.I.R. is shown to have been registered at 8.15 A.M. but for the police party to reach the spot, examine everything and waiting for the Doctors to give necessary declarations is not unknown to the procedures followed accordingly. The time taken is only eight hours, when the special report reached the Ilaqa Magistrate. It is also the admitted fact that the distance required to be covered by the Police Constable was 45 K.Ms., which in itself would corroborate the shortest possible time taken by the police for submitting the special report to the Ilaqa Magistrate. No doubt, the combing is required and in this process some ignorable lapses may be referred to but such deficiencies of the gaps can never ever be taken to be fatal to the story of the prosecution. Further, the argument that the suicidal note written by accused Sonia is a tutored document, does not inspire confidence on the premises that the said document did not contain the blood marks or blood patches, this document was found in the room of the accused Sonia and after retrieving, the same was produced before the police authorities and the F.I.R. was recorded at 8.15 A.M. The plea that it is a tutored document is a conjecture. The circumstances, which have emerged, are indicative of negating such plea, in which, the substance is missing.

The plea, that people who owed money to Relu Ram, on account of the loan having been taken, would not be enough of a reason for murdering Relu Ram and his entire family. The reason is obvious that the accused Sonia and Sanjeev became too greedy and such greed overpowered their balance of mind and they eliminated the entire family, little realising that such act would not entitle them to inherit the property worth crores. It is a calculative and engineered effort on the part of Sonia and Sanjeev with the one objective ; to become rich overnight. It is a matter of history and record that for riches that murders have taken place and in a given situation the son/daughter has murdered father/mother, the brother has murdered the brother, the husband has murdered his wife for encashment of the insurance policy and likewise the wife has murdered her husband for enriching herself. This case is also one of those cases, where not one person has been eliminated but eight of them have been killed so that no one remains to share the booty with Sonia and Sanjeev. The society has always seen that when one is blinded with the craze of acquiring wealth, the principles, the scruples, relationships are forgotten, ignored and are butchered for the ultimate objective. When such evil of money over powers the human mind, the man again acts in a blind folded manner to violate the rules or flouts the rules of common sense and probity and in the process gets trapped into the illegal acts. The accused have culled out a very clever story to give the curvaceous turn so as to mingle with the prosecution story, which would result in permitting Sanjeev Kumar to give a slip accordingly. Unfortunately, for the accused, the prosecution has been able to plug such slips by producing the link evidence. Both the accused master minded the entire act and the brain behind is none else but Sanjeev Kumar. He could not avoid his reaching upto Hisar as there were various events where the presence of Sanjeev Kumar could not have been ignored. The story has been set up that he had a quarrel with Sonia on account of her fling with another man and, therefore, he got down from the vehicle and walked away. It is at this stage an effort has been made to create a gap which has been duly exposed by the prosecution in producing the link evidence i.e. producing both people and also the documentary evidence to the effect that the effort was made by Sanjeev Kumar in making phone calls and thereafter the taxi stand persons, who had identified Sanjeev Kumar. Coupled with this, the presence of Sanjeev Kumar at the place of occurrence could not be

ruled out especially where eight persons have been killed. There is no answer that what was Sanjeev Kumar doing in the morning of 24th August, 2001 at Kaithal etc.

(48) Learned counsel for the prosecution has further argued that the judicial confession recorded by the Judicial Magistrate 1st Class, Hisar, cannot be ignored on the basis of the arguments put forth by the learned counsel for the appellant. Sonia accused was aware of the fact that she had written a suicidal note and that she was unsuccessful in committing suicide though the effort was made by her in bringing the poisonous material in this regard. Perhaps, it looks that Sanjeev Kumar must have motivated Sonia for consuming poison with the tacit understanding that he would make all the efforts to save her in the hospital but in fact it was on his mind that if she consumes poison and she also dies, the only person to inherit the property would be he through their child, being the lone successor of his maternal family. It looks that after committing murders and dropping Sanjeev Kumar at Kaithal and coming back to the house, Sonia chickened out and did not consume poison, though an effort looks to have been made. The suicidal note, if at all can be said to be tutored, the tutor is no one else but Sanjeev Kumar. Thus, the judicial confession does not suffer from any infirmity. Sonia has duly explained the entire status of facts in her confessional statement being recorded in this regard. It is certainly a better projection, when such matter recorded in question answer form, which is as per the rules. It is clear that she understood each and every question before the same was answered and it was recorded in the hand writing of Judicial Magistrate himself. In this process, she had ample time to think and answer the query. The argument suggesting that the application presented by the Superintendent of Police to the Chief Judicial Magistrate indicated recording of dying declaration and in fact the confessional statement has been recorded. This would also not effect the prosecution story because at that time the information given was that Sonia accused had consumed the poisonous matter, therefore, she may not survive. Thus, the usage of such word and ultimately judicial confession being recorded would not give the twist in favour of the accused. In fact, it is not a twist it is the actual fact which has come on the record, which definitely corroborates the story of the prosecution.

(49) Further, the technical discrepancies pointed out in regard to the indoor ticket exhibited as Ex.P192 and the second copy exhibited as Ex.P193, does not again effect the story of the prosecution. The original document contains these facts very clearly and that the aforestated both documents are nothing but photo copy, one i.e. Ex.P192 may have been taken only for the purpose of establishing the factum of admission of Sonia in the hospital subsequently when all the entries were made accordingly, the second exhibit marked as Ex.P193 has also been taken on record. The fact of Sonia having been brought by Ashok Kumar HC, has been proved by various other corroborative evidence. Sonia being not in fit state of mind for making the statement is supportive by the fact that she was subjected to medical test at 8.30 A.M. on 25th August, 2001. She was declared fit to make a statement at 10.00 P.M. on that date. It is the admitted case that it is for the experts to certify as to when a person is fit to make the statement. In this regard, no question has been asked from the concerned Doctors by the counsel for the accused at the time of cross-examination. Further, the argument that there has been some over writing/interpolation of the words "6.50 A.M." which has been shown as "8.50 A.M.", this fact has been very fairly admitted by Dr. Anant Ram PW 32 but no infirmity has been elicited in this regard as is evident that no suggestive question was put to the Doctor which could be indicative of the fact that the document is a fabricated document. The Doctor has further explained that Ex. P192, the photo copy was prepared at the time of admission and that the addition was made subsequently on 25th August, 2001 and or 26th August, 2001. No further cross examination has been adhered to in this regard and that such act has again not been taken to the logical conclusion. By pointing out these facts, the story of the prosecution is not affected in any manner as the same have been duly explained. The other discrepancies that the aforestated Doctor had made a statement under Section 161 of the Code of Criminal Procedure that Sonia was brought in an unconscious state of condition and that he had treated her. He has admitted his cross-examination that Sonia was admitted in conscious state of mind as per medical record. Apart from this ; upon the indoor ticket it has been recorded "patient conscious".

(50) Learned counsel for the prosecution has argued that the judicial precedents relied upon by the learned counsel for the accused, are not at all applicable to the facts of the case at hand. In fact, in

the case at hand, learned Judicial Magistrate had categorically apprised the accused the factum of her statement being used against her and she had been given ample time to think consciously and cautiously before making such statement i.e. giving answers to the questions. In this case, she had been apprised of the question and she gave the answer and then the next question was asked. Further, she could not be said to be in the police custody as she had not been arrested till 26th August, 2001. She had been taken to the hospital by Ashok Kumar HC and that a medical card indicates that in the column meant to be filled by patient/guardian the name of Chabbil Dass, son of Ram Singh has been mentioned. By no stretch of imagination, she could be taken to be in the police custody. The judicial confession has been made by her voluntarily. No act of coercion, undue influence is elicitable from any of the circumstances which have emerged. The judicial confession made by Sonia has been testified by the Doctor i.e. PW 32, who also certified the status of her mind being in dispensable status. The perusal of the suicidal note is also indicative of the fact that she wanted to kill the family. She has categorically stated that "after finishing them all today, I am finishing myself. My father, mother, brother, sister-in-law and sister all thought ill of me till date. They all behave like enemies. My mother instigated you against me till date, but believe me I am not of that type as they all saywhenever people like my mother and father will come on this earth, God will send a Sonia like me to finish them off". In the confessional statement as well, she has given such indication. The cumulative reading of both these documents would show that the confessional statement made by her does not suffer from any infirmity and, therefore, is not comparable with any of the circumstances indicated in the judicial precedents relied upon by the learned counsel for the accused. The argument that no finger prints have been picked up from the rod, such like items would be of no consequence when the document i.e. suicidal note had been found and she had made judicial confession. She has herself disclosed that she had used the rod for killing all the members of the family. This rod was in fact discovered by her in her own statement. The argument that when eight persons were killed, no noise was made by any one. It is the case, that in fact all of them had gone of to sleep and it is at that time the heinous act of murdering all the persons was committed by the accused Sonia and Sanjeev Kumar.

(51) Further, the argument that Pamma her sister was found wearing school uniform when she had been murdered and that the story set up that she had to go for some tournament in the morning and therefore, was dressed like that. This story cannot be rubbed of as the fact brought on record is that Pamma the sister of Sonia was picked up by Sonia and Sanjeev at night, therefore, she could not have been wearing her school dress in the hostel. When she came to the house for celebrating her birth day, she could not have been in the school dress, but when the dead body of Pamma was found, she was shown to be wearing school uniform. It is obvious that she was to go to the school and she had changed her clothes for this purpose in the early hours of the morning and it is thereafter she had been killed by the accused.

(52) Further, the argument that Sanjeev Kumar has been wrongly indicated only on the basis of the report of the lie detection test is absolutely incorrect, the attendant circumstances and the link evidence, the prosecution has been able to lay its hands and the same have been produced accordingly, categorically proves the charge against Sanjeev Kumar. The accused Sanjeev Kumar has not been able to give any plausible reason for being at Kaithal and around the farm house at Litani Mor in the morning of 24th August, 2001. If he was not there, he would have been able to produce ample evidence for his being present else where but no such evidence has been brought on record as none was available. It has been very fairly admitted and correctly that Sanjeev Kumar had accompanied Sonia to Hisar for picking up Pamma, the younger sister of Sonia. Sanjeev Kumar master minded the entire act very cleverly and thoughtfully tried to give the twist to all the facts so that the indicative link evidence is demolished or does not become available to the prosecution after his presence having been recorded at Hisar. However, the police authorities have investigated the matter emaculately and have been able to demolish and pierce through the stealth game played by Sanjeev Kumar by bringing a shallow curtain around himself. The circumstantial evidence and also the story spilled by Sonia is indicative that both husband and wife carve out a plan to become rich over night. Thus, the pleas of Sonia and Sanjeev are not strong enough to withstand the exposures made by the prosecution supported by the reliable and acceptable evidence. There is no doubt that the lie detection test is not a gadget which can definitely determine itself between the truth and the lie. However, the reaction and action of the person, to the questions put to him, are indicative from the body language which

is measured and gauged by the scientific instruments comparable with a normal human being. The sacrificial act on the part of Sonia by making certain observations in the suicidal note and so also the judicial confession, would not and cannot save her accomplice Sanjeev Kumar. The possibility of a single person killing eight persons can also not be ruled out but the circumstances placed in this case give substantial indication that it was the combined work of Sonia and Sanjeev Kumar. Sonia along may not have done this. Thus, no case is made out for giving any benefit of doubt to any of the accused and that both of them have been correctly convicted.

(53) We have heard learned counsel for the parties and have also perusal the paper book and have also examined the evidence referred to by the learned counsel for the parties. We have pondered over the matter and have also deeply considered the respective arguments of learned counsel for the parties.

(54) In the case at hand, eight persons of the same family have been murdered by the accused Sanjeev Kumar and Sonia. There is no doubt, for murder of one person the sentence is the same and so also for murder of eight persons or more. The peculiar fact which needs to be noticed is that the daughter i.e. of Sonia had written a suicidal note (letter addressed to Sanjeev Kumar) and this suicidal note contains the admission of Sonia with regard to the fact of having killed her father, mother, step brother, step sister-in-law and their three children and her own younger sister for the reason that none of them liked her as every one thought ill of her and they also behave with her like an enemy. She has also stated that her mother has been instigating Sanjeev against her. She also wrote to convince him that she is not that kind as others have alleged. She categorically stated that "she was his, she is his and she shall remain his". We have perused the aforestated original document, which has been exhibited as Ex.P-227, which is written in vernacular Hindi language and that the translation of the same in English language has also been placed on the record. It shall be apposite to reproduce the transcript of the same which reads as under :

"My dear Sanjeev,

I may be excused. today after finishing all of them I am finishing myself as well. My father, mother, brother, sister-in-law, sister have always thought ill of me. All of them behaved

with me as if they are my enemies. My mother instigated you against me. But Sanjeev you must believe me I am not that kind of a person as has been projected all of them. I was yours, I am yours and I shall always remain yours. I always loved you and I shall continue to love you. I should not be understood a wrong person. I am handing over a son under your care and looking after this child is your responsibility. He should never ever be told as to what kind of maternal family was his. You should take care of yourself and if possible get married again .You should not spoil your life.

Yours Sonia

All the best of your life.

As and when people like my mother and father would be sent on this earth then God will send a person like me in Sonia so that they arte eliminated. Sanjeev you should excuse me please because I have not been able to fulfil my promise to live with you

Please Sanjeev forgive me. You should look after my child. I am leaving him under you and my mother-in-laws trust. You should look after yourself.

I love you.

We shall meet again in the next life your love Sonia

Yours Sonia”.

(55) This letter was shown by Jeet Singh complainant to the police authorities, which has also been reproduced in the FIR. Upon investigation, the accused had been sent up for facing trial, after they had pleaded not guilty.

(56) The pivotal argument has been that the suicidal note Exp-227 is nothing but a tutored document by the police authorities, after Sonia had been taken into custody from Faridabad and brought to Hisar and that the FRI had also been ante timed to project linkage accordingly. We are not at all convinced, this argument is not sustainable. The cumulative reading of the evidence shows that the matter was reported to the police authorities at 8.15 A.M. and that

the F.I.R. was re-order and at the same time Sonia was also removed to the hospital and the time notified upon the document having her brought to the hospital is 8.50 A.M. The argument that the time has been interpolated "8.50 A.M." instead of "6.50 A.M.", this does not get into the attendant circumstances. If the time is taken as 6.50 A.M.: the same would not synchronise with the bus coming to pick up Lokesh for the school. It is too much to accept that at every step the story has been shifted to fit into the attendant circumstances. The perusal of the document Ex.P227 shows that it is in the hand writing of Sonia as no defence has been put forth ever by the accused that this is not her own hand writing. The plea that this could be taken as a tutored document is also not sustainable as the perusal of the document shows that the manner in which it has been written, tutoring by the police authorities cannot be spelt out. The reading of this letter shows the projection of incoherent thoughts by the author of the letter. The only person who gets the benefit of this letter would be Sanjeev Kumar and none else, who saw to it that the linkage of evidence against him is broken in one way or the other. Thus, it is impossible to accept that this document has not been authored by Sonia. The possibility of being tutored by Sanjeev Kumar cannot be ruled out.

(57) The contention that the inquest reports/ the medico legal reports establish the discrepancies of time given on the respective documents, which have been noted above. It is correct, by virtue of the visual examination of such reports, the time written is in different hand and ink but this would not demolish the document or reflect any doubt. The documents indicate the time of the knowledge of the person, who is stated to have disclosed as to at what time and date the incident of death came to his knowledge. The documents are also indicative of the time at which post mortem was carried out. Which is different in respect of different bodies and the last post mortem carried out is at 4.00 P.M. The argument that if the post mortem has been carried out at 4.00 P.M. then how is it that the special report also reached the Ilaqa Magistrate at 4 P.M. We are not impressed with this argument. Admittedly, the FIR was recorded at 8.15 A.M. and thereafter the intimation to the senior police officials was also given and the facts divulged in the FIR were also required to be *prima facie* authenticated. It is at that time the police party visited the place of occurrence and that the bodies were identified and that the Doctors had been called to examine the bodies and that the entire act consumed

the requisite time. However, once the factum of death was established and that persons had been identified, the process and procedure for delivering the special report to the Ilaqa Magistrate was undertaken. The distance report to the place of occurrence to Hisar has been accepted at 45 KMs. Thus, the special report reaching the Ilaqa Magistrate at 4.00 P.M. is not unusual rather it synoronises with the facts which have been disclosed. thus, this argument aslo deserves to be rejected.

(58) It has also been argued that there is substantial delay in recording of the FIR as the prosecution was trying to cull out a story so that it is acceptable to the judicial constraints and restraints. The story as divulged in the FIR could not have been formulated immediately at 8.15 A.M. when the murders are stated to have been committed in the early hours of August 24, 2001. This argument is also not sustainable. The FIR is shown to have been registered at 8.15 A.M. upon the complaint of Jeet Singh PW 57. There is no delay in lodging the FIR. Thus, the reliance placed upon the dicta of the Hon'ble Supreme Court of India, which have been noted hereabove, are of no help to the counsel for the accused. The argument in regard to the delay in lodging the FIR is rejected. It may also be noticed that the plea of the accused, having been picked up from Faridabad, does not inspire confidence at all as there is no evidence to this effect produced by the accused. The plea is purely conjectural and, therefore, is not sustainable under law.

(59) The argument that the suicidal note, if written after committing the murder, marks of blood or the patches or the smearing could have been found on such note. We have perused the aforestated document in original and we find that on this document "Q1" does appear on the two pages. It looks that these pages were taken from the exercise book of a child, therefore, the question of the note being tutored cannot be accepted but it looks to be handy work of both husband and wife and mainly the master mind of Sanjeev Kumar. Thus, it seems to have been created before the murders. This argument is also not sustainable. Yet another argument that the blood stained clothes of Sonia had been recovered accordingly and at the same time another set of clothes could not have been recovered in the fields near the house of Sanjeev Kumar at Faridabad. This again looks to be a creation of Sanjeev Kumar for the purpose of misleading the investigating authority. This alone would not create any doubt or demolish the story of the prosecution.

(60) It has also been argued that the story of the prosecution that Sonia had consumed poison for the purpose of committing suicide, has not been brought to the logical conclusion as the vomit material collected from the place of occurrence was subjected to chemical examination and the report did not support the story of consumption of poison. Similarly, the vomit material collected in the hospital also does not support the aforesaid story. It is correct that the chemical examination report does not indicate that Sonia had consumed poison. It looks that the accused created attendant circumstances which became indicative of consumption of poison by Sonia but in fact she does not seem to have consumed poison though the vial of poisonous material was also found at the place of occurrence. We cannot lose sight of the fact that the material was found at the place of occurrence. It looks that after committing murders, she could not contain the ghastly site and, therefore, puked and the first assessment came to be that she has consumed poison. However, the absence of consumption of poison by Sonia in itself is not such a fact so as to dilute the story of the prosecution in any manner. It looks that she was dazed after committing such act, and of course, with the assistance of Sanjeev Kumar and she could not contain herself because it was too much to be taken in. Thus, the doctors correctly and rightly opined at the hospital that she was not in a fit state to make any statement. Thus, the aforesaid infirmity expanded and projected has not impressed us to accept a dent in the story of the prosecution.

(61) Further, the argument that the application moved by the police authorities before the Chief Judicial Magistrate for recording the statement makes a mention that dying declaration has to be recorded as Sonia had consumed poison, whereas, the fact of the matter is that she had not consumed poison at all. Be that as it may in the first instance, the indications were that she had consumed poison and, therefore, the police authorities were justified in using the words "dying declaration". However, the factual position as emerged from the other evidence which have produced by the prosecution to the effect that Sonia was not in a fit state of affairs for making a statement, has been amply established. Another argument has been advanced to the effect that Sonia was absolutely fit and fine to make the statement but the police did not record the statement as they were buying time to make out a fool proof case against Sonia and Sanjeev Kumar. It is for this reason that the statement was recorded

at 10.00 P.M. and by that time the prosecution had culled out the story as indicated in the FIR which was ante timed and also the documents created such as the suicidal note and the judicial confession. We are afraid, this argument also does not appeal to our conscious. We have perused the documents exhibited as Ex.P192 and P193. No doubt, the blood pressure of the patient has been recorded as 110/85 and this by no chance would be indicative of any excitement of the patient i.e. Sonia. Dehors this, the traumatic condition of a patient may not be divulged through the measure of the blood pressure but when a patient is in a dazed state of mind, it may not be possible to record the statement. The best judge in such a state would be man whose opinion is always accepted and honoured unless it is tainted or is perverse on account of the attendant circumstances. No such factors are indicative in the case at hand. Another argument in this regard that these two documents are photo copies of the same document i.e. the indoor ticket, but, both of them contained different contents and especially in regard to who had brought Sonia to the hospital. In the document exhibited as Ex.P192, the name of Ashok Kumar HC does not find mention whereas in Ex.P193, this fact does find mention. Dr. Anant Ram, Medical Officer, has appeared as PW32 and he has very fairly accepted the over writing. He has also accepted that the document exhibited as Ex.P192 is a photo copy of the original which was made at the time of admission but thereafter the factual position was indicated in the original document and probably on August 25, 2001 or August 26, 2001. This fact again would not damage the story of the prosecution. The fact of the matter is that Sonia was brought to the hospital. She was administered treatment and her confessional statement was recorded in the hospital by Judicial Magistrate Ist Class in his own hand writing and that too in question and answer form, meaning thereby giving her sufficient time to think and submit the answer to the question. Thus, the aforestated argument is also not sustainable and the same deserves to be rejected.

(62) It has also been argued that confessional statement of Sonia cannot be relied upon as the same is a weak evidence which is also not indicative and corroborated by the circumstantial evidence. The aforestated statement was recorded in the presence of DSP Mann Singh and thus the same would be taken to have been recorded in the police custody. In the case at hand, the custody would not mean the actual factual arrest indicated by a document but the fact of the

matter is that the judicial Magistrate was brought by the Deputy Superintendent of Police and he was present when the statement was recorded. It is also the argument that the Judicial Magistrate did not apprise Sonia of the consequences of such statement, giving such indications after the recording of such statement are of no consequence. Such indications should be made before recording the judicial confession. This act on the part of the Judicial Magistrate is missing. It has also been contended that the Judicial Magistrate did not ascertain the voluntary character of the confessional statement. Therefore, the statement suffers from the rigour of Section 164 of the Code of Criminal Procedure. The element of coercion is indicative because of the presence of DSP at the hospital. Reliance has also been placed upon the judgement of the Hon'ble Supreme Court in Shivappa's case (supra). We are afraid, the dicta of Hon'ble Supreme Court is not applicable in the case at hand. In that case, the magistrate categorically replied to the questions that he had not stated to the accused that he was a magistrate and he also admitted that no question was asked that the police had induced him to give the statement. He had also further stated that he could not tell as to whether the police or the police officials were present in the vicinity of the Court. In the case at hand, from the perusal of the evidence of the Judicial Magistrate. We find that while recording the confessional statement, he did adhere to the rigour of the provisions of law and also the law laid down by this Court and by the Hon'ble Supreme Court of India from time to time. The perusal of the confessional statement, which has been reproduced hereabove, shows that first question was put to Sonia as to whether she has understood that she is not bound to confess and if such confession is made, it can be used as evidence against her. The answer has been given in the affirmative. The statement has been recorded in the question and answer form and it took 2-1/2 hours for recording the statement. In the certification also, the Judicial Magistrate has observed that the detail was explained to her in regard to making confessional statement and as also that the same may be used against her and upon explaining all these facts, he believed that the confession was voluntarily made. This certification has been further signed by Sonia in English and after reading it and finding it all correct Dr. Anant Ram had also certified that during making the statement Sonia remained fit and conscious to make the statement. The Judicial Magistrate has categorically answered in cross examination that

Superintendent of Police was not present in the hospital when he started recording the statement of Sonia. He also did not know what statement she was to make. It was during the course of recording the statement which became indicative that she was making the confession. Thus, to discontinue her statement for providing legal aid was not considered appropriate. The questions with regard to voluntariness on the part of Sonia was also asked and to which a categorical answer has been given that before recording her statement she was told that she is not bound to make any confession and if she would make any confession then the same can be used against her and in this regard after recording her statement, a certificate Ex.P187/B, was also given by him. He has categorically denied that the statement of Sonia was recorded as per the draft supplied by the police department and that at the time of recording the statement she had been tortured and that her statement was recorded in the presence of the police as well as the media. He has categorically stated that in the room in which Sonia was lying on the bed, no police official was present and in fact no policeman was present in the hospital at that time. He has also stated that at the time of recording her statement, she was not suffering from any mental illness. However, no certificate in this regard was obtained as it was not found necessary as she was found to be fully conscious and mentally fit by the Judicial Magistrate. He has categorically answered that he had orally asked from Sonia in regard to the fact as to whether she was under any threat, pressure or fear and the Judicial Magistrate was satisfied that she was not under any such kind of pressures.

(63) Reliance has also been placed upon the judgement of the Supreme Court rendered in Shankaria's case (supra) in which the tests have been provided for determining as to whether the confessional statement has been made voluntarily and without any influence and whether it is true and trustworthy. In that case also, the magistrate had made a memorandum which upon being rendered into English reads as follows :

“ I have explained to Shankaria alias Ratan Lal that he is not bound to make the confession and if he does so, any confession whatever he makes, may be used against him in evidence and I believe that his confession of the crime has been made voluntarily by him (Shankariya). This

confession has been made in my presence by him (Shankariya) On my reading over, on hearing it, the accused admitted it to be correct. It is a true and full record of the statement which he (Shankariya) made voluntarily.”

(64) Considering all the facts and circumstances, it has been held that the High Court was right in coming to the conclusion that the confession had been made voluntarily by Shankariya accused. It may also be mentioned that in that case the accused had been arrested by the Superintendent of Police on June 3, 1974 at Bhatinda. He was then taken to Ganganagar in Rajasthan in connection with the investigation of 15 crimes of a similar pattern committed in Ganganagar District. The accused remained in police custody upto June 12, 1974 on which date in the afternoon, he was brought by the police to Raisingh Nagar where the Judicial Magistrate Ist Class was holding his Court. Under the orders of the Magistrate, the appellatant was committed to the judicial lock up at Raisingh Nagar in the evening of June 12, 1974. He remained in the judicial lock up for two days more. On June 13, 1974, an application was submitted by the Superintendent of Police to the Magistrate requesting him to record the confession of the accused. Upon order of the Magistrate, the accused was sent for from the judicial lock up on the following day at 7.00 A.M. for recording his confessional statement. He was produced before the Magistrate and at 8.20 A.M., the Magistrate put some questions to the accused by way of preliminary examination to ensure whether he wanted to make a confession voluntarily. The question put to the accused have been reiterated in the aforesated judgement.

(65) In the case at hand as well, the question was put to Sonia accordingly and the answer given is in the affirmative. It may also be noticed that Sonia was never ever arrested by the police. She had been taken to the hospital and when she was fit to make the statement upon certification by the Doctor, her confessional statement was recorded. The certification was also made in front of her and she has affixed her signatures after reading the same and finding it all correct. The voluntary nature of the statement was also put to her and the same has been admitted by accepting the certification made by the Judicial Magistrate.

(66) Reliance has also been placed upon another judgment of the Hon'ble Supreme Court of India rendered in **Bhagwan Singh's case (supra)**. The perusal of the aforestated judgment indicates that judicial confession was made while in police custody and such statement was not found to be voluntary and, therefore, was held to be unreliable. It has also been noticed that the accused in that case was in police custody when he was produced handcuffed for recording judicial confession and after recording his statement, he was given back to the custody of the police. Thus, there was every possibility for the accused having been physically and mentally pressurised for giving judicial confession on an assurance that he will be cited a prosecution witness as an approver.

(67) The facts in the case at hand are quite distinct as is evident that Sonia had not been arrested but had been hospitalised and when she made the confessional statement, no police officer was present in the room nor in the hospital as has been categorically answered by the Judicial Magistrate in his cross examination. Her arrest has been indicated on 26th August, 2001.

(68) Reliance has also been placed upon another judgment of the Hon'ble Supreme Court of India rendered in **Lokeman Shah's case (supra)**. The facts elicited in this judgment are entirely different. The plea had been taken that the persons arrested along with the appellant in that case had died in the lock up and this would be indicative of physical torture to which the appellant would or could have been subjected to. This argument was not accepted for eclipsing the voluteerness of the confession of the appellant, recroded by the Judicial Magistrate. Thus, this judgment is also of no help to the learned counsel for the accused.

(69) The argument that the prosecution has carried out the investigation in a very casual manner and has tried to rope in the persons upon the suspicion of enriching themselves, whereas, the fact of the matter is that if the accused are found guilty upon the basis of the inadmissible evidence, the property worth billions would go to the reversioners. In this context, no investigation whatsoever has been made and none of the reversioner has been associated in the investigation as no effort is forth coming from the evidence produced by the prosecution.

(70) We are afraid this argument is without any merit. The presence of Sonia at the place of occurrence has been admitted by the accused and the suicidal note written in her own hand writing is a substantial corroborative evidence for accepting the murder of eight persons by Sonia and by the indicative surrounding evidence, the hand of Sanjeev Kumar in joining her for committing the heinous crime. The plea that the beneficiaries were the persons who had taken substantial loans by way of conniving with the employees of Relu Ram and upon the death of entire family the loan would not be recoverable. We fail to understand that ordinarily in such a situation the right of inheritance would come in favour of Sonia the only daughter alive. If this was the intention why would they leave Sonia, Sanjeev Kumar and her child to live in this world. The plea and the argument based thereon is absolutely frivolous and the same is rejected.

(71) We have already expressed our views so far as the credibility of lie detection test is concerned. However, the conversation of Sanjeev Kumar with Rajni Gandhi having been recorded in the Forensic Science Laboratory, Madhuban is also piece of evidence and ordinarily such kind of solitary conversation may not be sufficient to accept the allegation of prosecution against such person. Such statement, coupled with the indicative circumstantial evidence, would certainly lead one to an inevitable conclusion. The fact that Santeev Kumar accompanied Sonia up to Hisar while his sister-in-law was picked up from the hostel, the quarrel on account of which Sanjeev Kumar is stated to have alighted from the vehicle is not free from doubt, the fact that Sanjeev Kumar might be lying down in the rear seat of the vehicle cannot be ruled and, therefore, he could not have been seen by the gate keeper. It happens so many times that a person who is sitting alone in the rear seat may lie down and may not be seen outside at a distance. In fact, Sanjeev Kumar had accompanied Sonia for joining the birth day celebrations of Pamma, his only sister in law, and the quarrel as has been mentioned by Sonia, he would get down from the vehicle and would not like to join the celebration is not at all convincing. Apart from this, on the date following i.e. 24th August, 2001, the presence of Sanjeev Kumar has been established by virtue of the link evidence produced by the prosecution i.e. the owner of the STD booth, the taxi Driver/owner at the taxi stand and also the conductor of the bus in which he travelled. The possibility of recognising the son-in-law of Relu Ram, the rich person

in the vicinity, by any person cannot be ruled out. Another fact which has been noticed is that he made a call at the telephone number at his Faridabad house and perhaps at the farm-house to know the status. From this booth, no one would have any interest to make a call at the house as no evidence to this effect has been produced to controvert the story of the prosecution. Thus, the corroborative and link evidence cannot be brushed aside. There is no reason to doubt the attendant circumstances and also the conversation with Rajni Gandhi, which cannot be taken to have been recorded in the police custody. He had been given ample time to make such conversation which became corroborative, not being solitary evidence only, for indicting Sanjeev Kumar.

(72) We have examined the matter threadbare and have also made a conscious effort to reach the nook and corner of the evidence brought on record by the prosecution. We are of the considered opinion that the prosecution has been able to bring home the guilt on the basis of the evidence brought on record. It is unfortunate that such act has been committed by the accused only to enrich themselves. The reason penned down by the daughter i.e. Sonia in her suicidal note and judicial confession does not inspire confidence that she was in any manner hated by the members of her immediate family. There is no incident spelt out or brought on record to indicate any animus by any of the members of the family against Sonia. It looks that she also fell into the same stream as other greedy persons do fall in committing such kind of crime against their nears and dears.

(73) For the reasons recorded above, we find no reason to differ with the conclusion arrived at by the learned Sessions Judge in convicting the accused. Resultantly, the conviction is upheld and the appeal is dismissed *qua* conviction.

Quantum of sentence.

(74) Learned Sessions Judge has heard the counsel for the accused and also the accused-appellant Sanjeev Kumar in person. He had also heard the Public Prosecutor for the State assisted by the learned counsel for the complainant in regard to the quantum of sentence. The learned trial Court has considered various judicial pronouncements cited in support of the arguments by the learned counsel for the accused. He also considered the judicial pronouncements

in support of the prosecution. Thus, while applying his mind for awarding death sentence in the rarest of the rare cases, which have been further upheld by the Hon'ble Supreme Court of India, he has also made reference to the guide-lines culled out in this regard, which read as under :—

- (1) When the murder is committed in an extremely brutal, grotesque, diabolical, revolting or distasteful manner so as to arouse intense and extreme indignation of the community.
- (2) When the murder is committed for a motive which evinces total depravity and meanness; e.g. murder by hired assassin for money or reward; or old-blooded murder for gains of a person vis-a-vis whom the murderer is in a dominating position or in a position of trust; or murder is committed in the course for betrayal of the motherland.
- (3) When murder of a member of a Scheduled Caste or minority community etc. is committed not for personal reasons but in circumstances which arouse Social wrath; or in cases of bride burning or dowry deaths or when murder is committed in order to remarry for the sake of extracting dowry once again or to marry another woman on account of infatuation.
- (4) When the crime is enormous in proportion. For instance when multiple murders, say of all or almost all the members of a family or a large number of persons of a particular caste, community or locality be committed.
- (5) When the victim of murder is an innocent child, or a helpless woman or old or infirm person or a person vis-a-vis whom the murderer is in a dominating position or a public figure generally loved and respected by the community.

(75) The trial Court has opined that the present case squarely falls in the category of rarest of rare cases where sentence of death is warranted. Resultantly, both the accused upon conviction have been sentenced to death and also to pay fine of Rs. 2,000 each for the offence under Section 302 read with Section 34 and Section 120-B

of the Indian Penal Code. It has been ordered that they be hanged by neck till they are dead. This sentence has been ordered to be executed after the same is confirmed by High Court and till then the accused have been directed to be kept in judicial imprisonment. Pursuant to the above, the murder reference has been received and that the accused have filed the appeal challenging the order of conviction dated 27th May, 2004 and have also challenged the quantum of sentence announced,—*vide* order dated 31st May, 2004.

(76) Learned counsel for the appellant has argued that in fact the trial Court has not given the appropriate hearing to the appellants upon the question of sentence as envisaged under Section 235(2) of the Code of Criminal Procedure. It has been emphatically provided under Section 236 Cr. P.C. that if the accused has not been previously convicted or it is claimed by the accused that the person had not been convicted earlier, this fact ought to have been ascertained from the prosecution. The perusal of the order shows that this claim has not been categorically and emphatically denied by the prosecution. As a sequel thereto, the trial Court ought to have taken a lenient view especially keeping in mind the four years child born from the wedlock of both the accused.

(77) Mr. R.S. Cheema, learned Senior Advocate has further contended that so far as the four years child is concerned, no allegation is attributed against him. In case the sentence of death awarded by the learned Sessions Judge, is upheld, the innocent child would be deprived of the very existence of both the parents. There is no law which provides for denying the protection and care of both the parents. It has been further argued that if the sentence of death is commuted to that of life, the innocent child shall be able to see his parents and may be able to grow with the reality of life as the son of father and mother though they would be known as convicts. At the same time, it may act as a deterrent for the child that such similar act should never ever be committed by him. He has also contended that so far as accused-appellants are concerned, if, the commutation is granted as aforestated by upholding the conviction, they shall die of shame every day in front of their own child, such living, of course, shall be worst than the sentence of death by way of which they shall be eliminated once for all and they shall die only once.

(78) He has also argued that once the sentence of death is executed, the cruel hands of life through the immediate relations would be left behind for different agenda i.e. eliminating the child so that the property worth billions would revert to them for nothing. In these circumstances, the danger to the life of the small child thrown in front of such unscrupulous persons would not be protected by anyone.

(79) Learned counsel has made reference to various judgments of Hon'ble Supreme Court of India, which are noticed as under :—

(1) **Balraj versus State of U.P. (8)**, In this case the accused murdered his brother and his children. The matter again related to the family and, of course, for some personal reasons and that the death sentence was not awarded.

(2) **Mukund alias Kundu Mishra and another versus State of Madhya Pradesh, (9)**

.. In this case a lady and her two children had been murdered and the robbery was committed thereafter. The murders of all were held to be ghastly tainted with betrayal of trust to such act has not been accepted as rarest of rare case and resultantly the death sentence was not awarded.

(3) **Panchhi and others versus State of U.P. (10)**. It has been observed that the brutal murder is not only the factor for determining/coming to conclusion for awarding death sentence. The act of brutality may be passed on various factors by virtue of which the accused commits such act.

(4) **Sheikh Ayub versus State of Maharashtra, (11)**

.. In this case the accused killed his wife and five children, the reasons attributable are always different in each case wherever the act of murder is committed. By examining the act based on the circumstances would always affect the awarding of the sentence by the Court.

(5) **Bachhitar Singh versus State of Punjab, (12)**

(8) AIR 1995 S.C. 1935

(9) AIR 1997 S.C. 2622

(10) 1998 S.C.C. (CrL.) 1561

(11) AIR 1998 S.C. 1285

(12) 2002 (4) R.C.R. 212

.. In this case the accused killed brothers and their families but the act remained within the family and the person accused could not be accepted as a menace to the society and that the possibility of reformation was not ruled out. Resultantly, no death sentence was awarded.

(6) Lehna versus State of Haryana, (13)

.. In this case the accused killed mother, brother and sister in law. The act again remained personal and does not amount a menace to the society.

(7) Parkash Dhawal Khairnar Patil versus State of Maharashtra, (14)

.. In this case, the accused murdered his brother, brother's wife and four children only over the partition of property. No doubt the property is a blissful asset but sometimes sharing of the same becomes an act not likeable within the family. It is either enrichment or the ego which comes in for such act being committed.

(80) The learned counsel has argued that the rarest of rare cases is very difficult to be adjudged. It all depends upon the determined circumstances against the accused and the benefit accrued or accruable to the accused. The mitigating circumstance which ordinarily is required to be seen in such cases is that to what extent the accused would be a menace to the society. Apart from this, the conduct of the accused in general and the mannerism with which the accused had conducted himself vis-a-vis his relations and so also the society would be a relevant factor to be kept in mind. In the case at hand, there is nothing on record to show that the accused would be a menace to the society. There is no derogatory act of the accused brought on record vis-a-vis their relationship with the world at large, No witness has stepped into the witness box to establish the fact that they had ever made an effort to devour the property of the closest of the relations. It is also a matter of common knowledge that the dispute over the property generally arises between the blood relations only and sometimes amongst the partners. In a case where the property is a subject

(13) 2002 (3) S.C.C. 76

(14) 2002 (1) R.C.R. 212

matter of dispute, the two claimants would be involved ; one-the endeavour is made to take possession of the property to satisfy one's ego and second-to acquire the property to enrich oneself. Both such circumstances would be personal to the person of the accused and in such acts such accused can never ever be a menace to the society. In the case at hand, without prejudice to the case argued on behalf of the accused even if it is accepted for the sake of argument that both husband and wife had joined hands to enrich themselves, this would not term them as menace to the society. Thus, the death sentence awarded by the trial Court is far in excess vis-a-vis the facts and the circumstances putforth by the prosecution. The element of repentance also flows from the documents produced by the prosecutions one-the suicidal note which has been recovered which in itself shows that the story of enrichment cannot be taken to a logical conclusion. If enrichment was the only element, she would have never ever tried to kill herself. It is a different story that as per the facts which have emerged, the accused Sonia chickened out and did not consume the poison. However, the story had remained put this document, the interpretation could have been different and, of course against the accused, but, after almost two days of the act committed by her, she made a confessional statement before the Judicial Magistrate, wherein again the statement has been made which is corroborative and explanatory to the suicidal note. Thus, the element of repentence is clearly discernible and, therefore, reformation cannot be ruled out. Similar is the conduct of Sanjeev Kumar, perhaps, he can be placed at a better pedestal in this regard. Resultantly, the sentence of death deserves to be commuted accordingly.

(81) Mr. D.S. Brar, learned Assistant Advocate General, has argued that the trial court has correctly awarded the punishment of death sentence to be hanged till dead: The act of the accused in eliminating the entire family, except themselves, with a purpose and object to enrich themselves is certainly an act beyond the comprehensions of human mind. It is unconscienable that the flesh and blood of the two i.e. father and mother would think in terms of eliminating them and so also those who have taken birth from the same womb or have been sired by the same person and that such person should be allowed to live. If the death sentence is commuted to life sentence, after suffering the sentence as defined by the State, the accused would be again at large to think and carve out another

design to kill another person to enrich themselves. A person of such thought and mind have no place to live in the society when they pose constant and continuous danger to all others for money. So far as the small child is concerned, he has his grand parents to look after him. It shall be impossible for a child to grow in front of those who had perpetrated the elimination of his maternal. Further, he shall always feel shameful and remorse whenever the society would point out that he is the child of those who are greedy, unscrupulous and unbecoming of parents of a child. Apart from this, what teaching can be expected from such persons even if their own child has to be brought up by them. With the confession made by Sonia not by virtue of one document but the two admitted documents i.e. the suicidal note and the confessional statement made before the Judicial Magistrate, nothing remains to any ambiguity or any doubt. Especially, when she had been assisted and had found her own husband to eliminate her own blood relations. It is in the interest of the child and so also in the interest of the society that such persons should not be allowed to breathe and remain in this world. The Hon'ble Supreme Court of India has expressed its opinion on a number of occasions as to when an act can be termed as rarest of the rare acts. This act of both the accused falls fairly and squarely within the guide-lines promulgated by the Hon,ble Supreme Court of India.

(82) We have heard learned counsel for the parties and have also perused the order of the trial Court dated May 31 2004 pronounced on the quantum of sentence. Learned trial Court has made an effort in examining the dicta of the Hon'ble Supreme Court of India,—*vide* which in some cases the death sentence awarded has been accepted and yet in others the said sentence has been commuted to life imprisonment. The theory that each case is decided upon its own facts enumerated, discovered and brought on record still hold the field and that no two cases are similar. According to us, the resultant act of murder can be considered under three grounds for examining the quantum of sentence to be awarded to the accused. One— if such act has been committed to enrich oneself, the act would be personal benefit to the accused but if such act is confined only within the four corners of relations and friendship, the effect thereof shall be different but if it is allowed to go beyond and is allowed to be committed in the society at random, the effect would be entirely different i.e. Does it become a menace to the society? The person who commits such act—

is that person emanable to reformation and that the repentance is indicative by virtue of the subsequent behaviour and conduct, should such a person be eliminated ?

(83) The second situation would be that the murder is committed which is directly related to the ego of the persons, which may be tainted with sudden and grave provocation. However, satisfaction of ego is an element which is open to reformation and which can be subdued by various aids and advices. This may not be a menace to the society.

(84) The third category would be where the murder is committed for the heck of it or for the pleasure of the persons. The achievement of such perverse pleasure would always be accepted as a ghastly act by the society and that such person if allowed to continue, would be a menace to the society. His previous conduct would make one reach the conclusion that such a persons is beyond the scope of purview of reformation. in such a situation, can we sustain such a person in the society when there is a constant fear in the minds of the society. Such an act or the acts of a person which would cause constant fear of elimination or being crippled, could be termed as a constant menace to the society. According to us, such acts of a persons need to be examined accordingly.

(85) The Hon,ble Supreme Court of India has expressed various test to examine such kind of situations. Legislative observations have also been made from time to time which have become the guidelines in the grey areas.

(86) We have examined the observations of Hon'ble Supreme Court of India by virtue of the citations mentioned at the bar by the learned counsel for both the sides and we have pondered over the matter in hand. Learned trial Court did make a mention that the accused Sonia and Sanjeev have a son and has observed that this cannot be a mitigating circumstance.

(87) This observation has been considered by us. The aspect which requires to be seen and discussed is, the beginning of act of repentance by both the accused. In our analysis, all the evidence which has been brought on record by the prosecution, the pivotal factor is that in the first instance Sonia, the accused, formulated her

mind to commit murders of her close relations and of course in this act she was perpetrated by her own husband Sanjeev Kumar. The document which reflects in our minds is the suicide note, the perusal of which shows that she tried to spell out the behaviour of her relations vis-a-vis her but this was not enough to come to a conclusion for committing the murders. In this regard, there is something else which has weighed with us i.e. eliminating the family to enrich herself, her husband and her child and this certainly was shared with her husband who become an accomplice. Had it been a calculated murder with a particular objective, she may not have written the suicidal note and thereafter would not have made confessional statement before the Judicial Magistrate and that too just after almost 48 hours. Thus, the element of repentance cannot be lost sight of but at the same the element of jealousy has also been reflected and in this regard Sanjeev Kumar became her partner.

(88) The other factor which has emerged is that both of them have a child, who was only four years old and now probably must be about seven years old.

(89) This act of the accused would not fall within the four corners of "menace to the society". It may be alarming for the society but the existence of both would not be a menace vis-a-vis others. It is the admitted fact of life that a parent would always see his or her own reflections in their child. It is blissful when one would see oneself growing up in the child. The child equally gets the pleasure in growing in front of his/her parents. The child when he grows up, always looks upto the parents to find something creditable in them to be proud of, but, in the circumstances of a case like the one in our hands, such child will have no reason to be proud of them. This fact shall always be missing, which shall be a death for both the accused every day, every minute and every time. By eliminating both the accused would leave a photographic memory for the child but seeing them to live in shame is something worse than that.

(90) Considering all the facts and circumstances and also the dicta of the Hon'ble Supreme Court in various Judicial pronouncements, which have been cited at the bar. We are of the considered opinion that the act of enrichment by eliminating the family cannot be and could not be achieved by the accused. The ego, *vis-a-vis* the one who

have died, is no longer to be matched. Both the accused cannot be accepted as a menace to the society as no evidence in this regard has been brought forth. Under these circumstances, we are of the considered opinion that the sentence of death awarded by the trial Court without considering the mitigating circumstances as discussed above, would not be sustainable. The act, therefore, cannot be termed as rarest of the rare case. Therefore, on the question of quantum of sentence, the matter is considered to the benefit of the accused. Resultantly, the murder reference is declined. We commute the sentence of death to life imprisonment. The rest of the sentences are upheld to run concurrently.

(91) Before we part with this judgment, it may be observed, though, it does not fall within the domain of the jurisdiction of the criminal Court to comment or make any observations in regard to the assets of the family, principally it falls within the domain of the civil Courts, in the circumstances as have been noticed by us, it shall be absolutely necessary that the fiscal interest of the minor ought to be protected. It shall be appreciated if the matter whenever, is placed before the Civil Court for granting appropriate protection to the minor child of the accused in regard to the entire property, which might be inherited by the child, is dealt with in his interest and of course, with dexterity. Of course, the right of inheritance may not be available to the accused but the child would always be entitled as per the provisions of law. In this regard, the management of the property needs to be framed in such a manner so that when the child attains majority, he would be justifiable inheritor of the same without any dissipation or loss to his account.

R.N.R.