

State v. Naresh Dhankar
: 1 :

HRPL010018142018



Presented on : 25-04-2018
Registered on : 25-04-2018.

**IN THE COURT OF PRASHANT RANA,
ADDITIONAL SESSIONS JUDGE, PALWAL.**

Sessions Case Number	25 of 25.04.2018.
CNR Number	HRPL01-001814-2018.
CIS Number	SC-130-2018.
UID Number	HR0195.
Date of Decision	17.03.2023.

State Versus Naresh Dhankar

.....Accused.

FIR No. 04 of 02.01.2018.
Under Sections: 302, 307, 332, 353, 186
of IPC.
Police Station: City, Palwal.

Present : Sh. Dinesh Ambavta, Learned Public Prosecutor assisted by
Sh. Ran Singh, Advocate, Learned Legal Aid Counsel, for
Complainant.
Accused Naresh Dhankar in custody.
Sh. K.K. Gupta, Advocate, Learned Defence Counsel.

JUDGMENT

The accused Naresh Dhankar had been sent by Station House

Officer of Police Station, City, Palwal to face trial for commission of offences under Sections 302, 307, 332, 353, 186 of Indian Penal Code, 1860 (hereinafter referred to be as 'IPC').

2. The case of the prosecution is that on 02.01.2018 Sub-Inspector Jairam along with SPO Satbir Singh and Constable Sudhir Driver, were present on crime patrolling duty in official vehicle at Minar Gate, Palwal. Information was received from Police Control Room, Palwal that a person trespassed the Palwal Hospital, Palwal and has seriously injured a women with an iron rod and has absconded. The police party went to the hospital. The victim was in ICU and had already expired. There were grievous injuries on her head, forehead and eyes. Her family member Taslim was present there. Telephonic information about the incident was given to the SHO. On receiving the information, SHO Police Station City, Palwal along with senior Police Officers reached the spot with a PCR. Sub-Inspector Jairam went in the PCR to trace the accused. Subsequently, one more dead body was found in front of Welfare Trust. There were grievous injuries on the head of the victim. The dead body was lifted and sent to Government Hospital, Palwal in a PCR. Subsequently, another dead body was found in front of Moti Park. The same was lifted and sent to Government Hospital, Palwal in a PCR. Subsequently, another dead body was found near the shop of *Jagan Kabaadi*. This victim had also received head injuries and body was sent to Government Hospital, Palwal in a PCR. Subsequently, another dead body

was found at Rasulpur Road. This victim had also received head injuries and body was sent to Government Hospital, Palwal in a PCR. Subsequently, another dead body was found near Mayur Hotel, *Old Sohna Mod.* This victim had also received fatal injuries on the head. The dead body was sent to Government Hospital, Palwal in a PCR. All the incidents were of identical nature. Sub-Inspector Jairam along with police staff went back to the Palwal Hospital where Taslim, the brother-in-law of deceased Anjum, moved complaint against Dr. Ashish Gupta, Dr. Parvinder Sorout, Dr. Aeshi Gola, Budh Parkash Gaur @ Modi, Manish Kumar, Rahul Khan, Mukesh Kumar, Harender @ Keeper, Shyam Sunder, Neeraj Kumar, Kishanwati and the staff of Palwal Hospital. He submitted that he is a resident of village Buraka, Tehsil Hathin, District Palwal. Yesterday i.e. on 01.01.2018 at around 4:00 PM, he got admitted his wife Miskeena in Palwal Hospital, as she was suffering from bleeding. After the admission at around 10:00 PM, his brother Harish, Lukman, sister-in-law Rabiya and Rihana went back to village Buraka to arrange blood. The complainant along with his sister-in-law Anjum remained in the hospital. Miskeena was admitted in ICU on the second floor. In front of the gate of the ICU, his sister-in-law Anjum was sleeping on a bench. At around 11:30 PM, the complainant came on the ground floor. At around 2:38 AM, he heard a loud noise and he ran upstairs. He found that his sister-in-law Anjum was lying on the floor and there were serious injuries on her head and it was profusely bleeding. At that time, one

person came out of the bathroom situated in the front. He had an iron rod in his hand and he ran towards the complainant and tried to assault him. The complainant saved himself. Accused went down and started running. The entire staff of the hospital was awake now. The complainant chased the accused and also raised hue and cry, and asked the persons present, to apprehend the accused. However, none of the staff members of the hospital helped him to apprehend the accused. The accused absconded, taking advantage of darkness and fog. The complainant came back and saw that Anjum was in a serious condition. She was also got admitted in ICU. After sometime, she succumbed to the injuries, during treatment. The complainant and her family members reached the hospital. In the morning, they came to know that the same accused has committed 5-6 murders in the night. The entire incident of assault on Anjum is recorded in the CCTV cameras of the hospital. On account of the negligence of the staff members of Palwal Hospital, the accused committed murder of his sister-in-law Anjum. If the security arrangements in the hospital had been proper, the murder would not have taken place. The staff members were also involved in the murder. The accused may be identified from the CCTV footages. Appropriate proceedings be initiated against the Doctors, staff members of the Hospital and the accused. At that time, the family members of other victims met Sub-Inspector Jairam, who told the names of the victims to be Munshi Ram, Sita Ram, Khem Chand, Subhash. One victim was unidentified and efforts were made to trace his identity. As per

the complaint and the circumstances, Tehrir was sent through SPO Satbir for registration of FIR under Sections 302, 120-B of IPC. It was directed that Senior Police Officer be informed and special reports of FIR be delivered to Senior Police Officers and the Learned Illaqua Magistrate. Scene of crime team was requested to come on the spot. Sub-Inspector Jairam along with the police staff took the dead body of Anjum to the Government Hospital, Palwal, for inquest proceedings of all the dead bodies.

3. On the basis of the above-said complaint, FIR was registered under Sections 302, 120-B of IPC. Investigation was set into motion. Inquest proceedings were conducted in regard to deceased Anjum, Munshi Ram, Sita Ram, Khem Chand, Subhash and one unidentified victim. Scene of crime team reached the spot and also photographer Sanjay was called on the spot. HC Gurmukh, Finger Print Technician was called Palwal Hospital. Dr. Vinod Kumar inspected the dead bodies. Photographer Sanjay clicked the photographs. On completion of inquest proceedings, the documents were submitted before the Postmortem Board.

4. The Postmortem Board conducted the postmortem of the 6 dead bodies. Postmortem reports were received. The cause of death was opined to be shock and hemorrhage due to anti-mortem injuries to vital organs of the body i.e. head injury, which was sufficient to cause death under ordinary course of nature, in all 6 Postmortem reports.

5. The Pulindas were received from the Doctors and seized. The seizure memo was counter-signed by ASI Rajesh. The SHO Police Station City, Palwal had already received the CCTV camera footage in his mobile and viralled the same, as the Senior Police Officers had directed all the police officers of the District, to search the accused. All the police officers of the District started searching for the accused. During search, information was received from public persons that the accused was present at Adarsh Colony in the street behind the Sukhram Hospital. Identifying the accused from CCTV footage, the Police Officers, ASI Rajesh, Sub-Inspector Mohammad Illiyas, HC Sandeep, ASI Ramdiya, Constable Lukman and SPO Har Parshad apprehended the accused. While apprehending, the accused inflicting injuries upon the police officers also. Residents of Adarsh Colony told the name of the accused to be Naresh Kumar, who is son-in-law of Dharampal Malik, resident of Adarsh Colony. While apprehending, accused Naresh fell on the road and received injury on his head. He was brought to General Hospital, Palwal and was referred to Safdarjang Hospital, Delhi. At the time of apprehending the accused Naresh, an iron pipe around 4 feet in length, 1 inch width was seized from him. Same was produced by ASI Ramdiya before SHO Police Station City, Palwal. The pipe had blood smeared on one end. The Finger Print Technician HC Gurmukh took the finger prints from the rod. Jamatalashi of the accused was done and the articles in his possession were seized. He was sent to Safdarjang Hospital, Delhi along

with the police party. The complainant and eye-witness, Taslim identified the accused as the person who had murdered Anjum and then absconded from Palwal Hospital. His supplementary statement was recorded under Section 161 Cr.PC. Statement of Harish was recorded under Section 161 Cr.PC. The injured police officers ASI Rajesh, HC Sandeep and SPO Har Parshad got themselves medico-legally examined and submitted their MLRs before Sub-Inspector Jairam. HC Sandeep had suffered 3 injuries, SPO Har Parshad had suffered 4 injuries and ASI Rajesh Kumar suffered 2 injuries. Their statements were recorded under Section 161 Cr.PC. Offences under Sections 186, 332, 353, 307 were added. Statements of witnesses Raj Kumar, Tejpal, Nanne, Chandi, Arvind, Raghvinder, Satish, Harish, Ajmal and Rahish were recorded in regard to deceased Sita Ram, Munshi Ram, Subhash, Khem Chand and Anjum. The unidentified victim was identified to be Surender and statements of Prince and Surender son of Shri Ram were recorded in regard to deceased Surender. HC Gurmukh applied finger-print powder on the iron pipe used in the offence and finger-prints got visible on the pipe. The same were secured by way of tape and then collected. The photographs of the finger print were clicked from the iron pipe recovered from the accused. The iron pipe was seized and sealed with a seal of 'JRS'. The same was counter-signed by the witnesses. The dead body of Anjum was handed over to her family members for the last rites. Sub-Inspector Jairam inspected the scenes of occurrence and prepared site-plans of each scene of occurrence. HC

Gurmukh collected the finger prints of the accused from glass door of ICU at Palwal Hospital. The same were secured by way of tape and handed over to Sub-Inspector Jairam, who seized and sealed the same with seals of 'JRS'. Statement of HC Gurmukh was recorded under Section 161 Cr.PC. HC Hemraj, Cyber Cell Incharge, received the CCTV footage of cameras inside Palwal Hospital and around the same. He submitted the same before Sub-Inspector Jairam, who seized the same. The statement of HC Hemraj was recorded under Section 161 Cr.PC. The DVR along with hard disk of CCTV were received through technician Shrikant. The same were seized and sealed with seals of 'JRS'. The statement of technician Shrikant was recorded under Section 161 Cr.PC. The statements of Mukesh Kumar and Sulepal, the security guards of Omaxe City, Palwal where accused Naresh resided, were recorded, under Section 161 Cr.PC. The security guard had seen the accused going out of his house at 1:20 AM along with an iron pipe. Statement of Jakir was recorded under Section 161 Cr.PC, as the accused tried to assault him also with the iron pipe. Statement of Virender son of Pappu was also recorded as the accused had chased him with the iron pipe. Seema daughter of Dharampal, wife of accused Naresh, was joined investigation. The statement of Kapil son of Azad, resident of Adarsh Nagar, Palwal was recorded, as the accused had tried to kill him also. Statement of Kamlesh wife of Sumer, resident of New Extension Colony, Palwal was recorded, as the accused was earlier a tenant in their house and he had asked for

water for washing his hand and feet. Statement of Devi son of Hariya was also recorded, as the accused had demanded from him, a three-wheeler to go to Faridabad.

6. Accused Naresh was got admitted in Safdarjang Hospital, Delhi by Sub-Inspector Aash Mohammad and ASI Rameshwar. They received the documents from Safdarjang Hospital and submitted the same to the Sub-Inspector, who seized and sealed the same. The statements of Sub-Inspector Mohammad Illiyas and ASI Rameshwar were recorded under Sections 161 Cr.PC. Constable Lukman and ASI Ramdiya also submitted their MLRs. Constable Lukman had received 3 injuries and ASI Ramdiya had received 4 injuries. Statement of ASI Ramdiya was recorded under Section 161 Cr.PC. The case property was deposited in the Malkhana. The dead bodies of deceased Subhash, Sita Ram, Khem Chand, Surender @ *Bhikhari Baba* and Munshi Ram were given to their family members for the last rites. Statement of Constable Raj Kumar who had delivered the special reports, was recorded. On 04.01.2018, Superintendent of Police, Palwal constituted SIT (Special Investigation Team), which was consisted of DSP City Abhimanyu, Inspector Devender, Sub-Inspector Ashwani, Sub-Inspector Jairam and HC Hemraj, Cyber Cell. The accused was opined by Doctor to be unfit for statement. The CDRs of mobile phone numbers 9728337859, 9631326749 and 9518118498 of accused Naresh, were received for the period from 01.01.2018 to 05.01.2018. Also, the CDRs of deceased Khem Chand of

his mobile numbers 9812785224 and 9991030138, CDRs of deceased Munshi Ram of his mobile number 8814064812 and the CDRs of Seema wife of accused Naresh of her mobile number 8818005922, were received from Cyber Cell, Palwal. From the CDRs and locations, it was found that the location of mobile number 9728337859 of accused Naresh was near Saraswati School, Adarsh Colony, Palwal from 6:05 AM to 7:37 AM. The location of mobile number 9671326749 of accused Naresh was near Police Station City, Palwal from 2:21 AM to 4:04 AM. The location of mobile number 9518118498 of accused Naresh was at Adarsh Nagar, Palwal from 4:41 AM to 6:25 AM. All the murders had taken place within the above-said locations, where the accused was present, as per his mobile phone locations. The CDRs were seized and the statement of HC Hemraj, Cyber Cell was recorded. On 10.01.2018, accused Naresh was discharged from Safdarjang Hospital, Delhi. He was arrested. His discharge summary was received and his disclosure statement was recorded. He was produced before the Learned Magistrate and 2 days police remand was sought. He got demarcated the scene of occurrence where he murdered the women with iron rod. The demarcation memo was counter-signed by HC Sanjay and HC Virender. Their statements under Section 161 Cr.PC was recorded. Sub-Inspector Jairam received the service record of accused Naresh from Agriculture Department, Bhiwani. On 11.01.2018, the disclosure statement of accused was recorded in the presence of ASI Manoj and HC Virender and their statements were recorded under Section

161 Cr.PC. 4 days further police remand was received from the Learned Magistrate. On 12.01.2018, SHO Devender conducted the further investigation. He went to the Army Headquarter and received the retirement papers of the accused. On 13.01.2018, DSP City conducted the investigation. On 14.01.2018, disclosure statement of accused Naresh was recorded in the presence of ASI Manoj and HC Sanjay. The accused got demarcated the scene of occurrence at Sohna Road near Mayur Hotel where victim Subhash was killed. Subsequently, he got demarcated the scene of occurrence where victim *Bhikhari Baba* was killed whose name was known to be Surrender. The accused then demarcated the scene of occurrence in front of Ricco Battery Inverter Store where Chokidar Munshi Ram was killed. Subsequently, accused demarcated the scene of occurrence near *Ganda Nala* where Chokidar Sitaram was killed. Subsequently, the accused demarcated the place near Rasulpur Chowk, NH-2 where Khem Chand was killed. The demarcations made by the accused corroborated the scenes of occurrence. The demarcations were counter-signed by the accused, ASI Manoj and HC Sanjay. Statement of ASI Manoj and HC Sanjay were recorded under Section 161 Cr.PC. On 16.01.2018, photographs and CD of the postmortem of the dead bodies were received from photographer Sanjay. The seizure memo was counter-signed by Sanjay and his statement under Section 161 Cr.PC was recorded. The retirement records of accused Naresh were received from Army Headquarter by SHO Devender. The same were seized. The

statement of HC Anil Kumar was recorded. The statements of eye-witnesses Virender and Jakir were got recorded before the Learned Magistrate, as per the provisions under Section 164 Cr.PC. On 10.02.2018, Draftsman HC Sarwan Kumar prepared scaled site-plans of the scenes of occurrence. His statement was recorded under Section 161 Cr.PC. Dr. Ashish Gupta and Dr. Parvinder Sorout was joined investigation and it was found that no Doctors or staff of Palwal Hospital were involved in the offence. Offence under Section 120-B of IPC was deleted. Scene of crime team report was received from Dr. Vinod and the case property was sent to SCRB Madhuban along with Pulindas, iron pipe and the finger prints. The result of the same are awaited and the same shall be submitted, as and when received. On completion of investigation, final report was submitted, for trial of the accused.

7. The copies of the final report and the documents annexed with it were supplied to the accused, free of cost, as per the provisions under Section 207 of the Code of Criminal Procedure, 1973.

8. Since the offences were exclusively triable by the Court of Sessions, the Learned Illaqa Magistrate, committed the case for trial by the Court of Sessions.

9. Finding a prima-facie case, the accused was charge-sheeted on 15.05.2018. Subsequently, on 24.09.2018, the charge was re-framed and the accused was separately and distinctly charged for each offence, giving all the necessary particulars of date, time and places of occurrence

of each offence of murder and other offences. He was charge-sheeted for commission of offences under Sections 302, 307, 332, 353, 186 of IPC. He pleaded not guilty and claimed trial. The earlier evidence was adopted by the Defence except the evidence of PW3 Taslim, the complainant. He was summoned again and examined accordingly.

10. The prosecution in order to prove its case got examined the following witnesses :

PW1	Sub-Inspector Rajesh Kumar.
PW2	Constable Raj Kumar.
PW3	Taslim Khan, Complainant.
PW4	Dr. Mukesh Sarang.
PW5	Dr. Raj Kumar.
PW6	Sub-Inspector Jai Ram, Investigating Officer.
PW7	ASI Sarwan Kumar.
PW8	Ajmal.
PW9	Satish.
PW10	Surender.
PW11	Raj Kumar.
PW12	Nanhey Ram.
PW13	Dr. Charan Singh.
PW14	Arvind.
PW15	EASI Ram Diya.
PW16	Prince.
PW17	Pravesh Kumar.
PW18	Dr. Shiv Shankar.
PW19	Shri Kant, CCTV Technician.
PW20	Vinod Kumar Singh, Scene of Crime Team.

PW21	Sanjay Kumar.
PW22	SPO Har Prasad.
PW23	HC Gurmukh, Finger Print Technician.
PW24	Virender, eye-witness.
PW25	Zakir, eye-witness.
PW26	Mukesh Kumar.
PW27	Sub-Inspector Rameshwar Singh.
PW28	Inspector Ashwani.
PW29	HC Sanjay.
PW30	SPO Satbir Singh.
PW31	Parminderjit Singh.
PW32	Sub-Inspector Manoj Kumar.
PW33	ASI Jaiveer Singh.
PW34	HC Raj Kumar.
PW35	Seema.
PW36	HC Sandeep.
PW37	HC Hemraj, Cyber Cell.
PW38	HC Ajay Kumar.
PW39	Sub-Inspector Mohammad Illiyas.
PW40	Constable Prince.
PW41	Kamlesh, eye-witness.
PW42	Kapil, eye-witness.
PW43	Devi Ram, eye-witness
PW44	Jasdeep Singh, Nodal Officer, Vodaphone.
PW45	Sh. Gaurav Khatana, the then Learned JMIC, Palwal.
PW46	ASI Virender Singh.
PW47	Ramesh Chand, Finger Print Expert.
PW48	Sandeep Sharma, Nodal Officer, Reliance.
PW49	Gopi Chand.
PW50	Deepak Kumar, Nodal Officer,

	Vodaphone.
PW51	Anju Bala, Serologist,
PW52	Adesh Chauhan, Nodal Officer, Reliance,

11. The prosecution in order to prove its case, placed reliance upon the following documents :

Ex.P1	FIR.
Ex.P2	Endorsement.
Ex.P3	Seizure memo of blood-stained clothes of 6 deceased.
Ex.P4	Complaint.
Ex.P1 to Ex.P29	Photographs.
Ex.P30 & Ex.P31	CDs.
Ex.PW4/A	Affidavit of Dr. Mukesh Sarang.
Ex.PW4/B	Postmortem report of Subhash.
Ex.PW4/C	Postmortem report of Munshi Ram.
Ex.PW4/C	Postmortem report Sita Ram.
Ex.PW5/A	Affidavit of Dr. Raj Kumar.
Ex.PW5/B	Postmortem report of Anjum.
Ex.PW5/C	Postmortem report of Surender.
Ex.PW5/D	Postmortem report of Khem Chand.
Ex.PW6/A	Endorsement.
Ex.PW6/B	Seizure memo of iron rod.
Ex.PW6/C to Ex.PW6/H	Site-plans.
Ex.PJ	Seizure memo of clothes of accused.
Ex.PW6/K	Seizure memo of DVR along with hard disk.

Ex.PW6/L	Seizure memo of finger-prints from iron pipe.
Ex.PW6/M	Seizure memo of pen-drive containing CCTV footage.
Ex.PW6/N	Application for taking opinion.
Ex.PW6/O	Application moved before Medical Officer, Safdarjung Hospital, Palwal.
Ex.PW6/P	Seizure memo of CDR of mobile No. 9728337859 of accused Naresh.
Ex.PW6/Q	Arrest information memo.
Ex.PW6/R to Ex.PW6/T	Disclosure statements of accused.
Ex.PW6/U to Ex.PW6/Y	Demarcation memos of place of occurrence.
Ex.PW6/Z	Seizure memo of photographs of deceased and CD.
Ex.PW6/AA	Seizure memo of CDR of mobile No. 9518118498 of accused Naresh.
Ex.PW6/AB	Seizure memo of document regarding mental condition of accused.
Ex.PW6/AC	Seizure memo of medical fitness of accused.
Ex.PW6/AD	Death report of Anjum.
Ex.PW6/AE	Application for conducting postmortem of deceased Anjum.
Ex.PW6/AF	Handing over memo of dead body of Anjum.
Ex.PW6/AG	Death report of Sita Ram.
Ex.PW6/AH	Application for conducting postmortem of deceased Sita Ram.
Ex.PW6/AI	Handing over memo of dead body of Sita Ram.
Ex.PW6/AJ	Death report of Khem Chand.
Ex.PW6/AK	Application for conducting postmortem of deceased Khem Chand.
Ex.PW6/AL	Handing over memo of dead body of

	Khem Chand.
Ex.PW6/AM	Death report of Munshi Ram.
Ex.PW6/AN	Application for conducting postmortem of deceased Munshi Ram.
Ex.PW6/AO	Death report of Surender
Ex.PW6/AP	Application for conducting postmortem of deceased Surender.
Ex.PW6/AQ	Handing over memo of dead body of Surender.
Ex.PW6/AR	Death report of Subhash.
Ex.PW6/AS	Application for conducting postmortem of deceased Subhash.
Ex.PW6/AT	Fard Jamatalshi of accused.
Ex.PW6/AU	Arrest memo.
Ex.PW6/AV	Application for appointment of Doctor.
Ex.PW6/AW	Application for providing Doctor.
Ex.PW6/AAA	Call detail records.
Ex.PW6/AAB	Certified under Section 65-B.
Ex.PW7/A	Scaled site-plan.
Ex.PW12/A	Statement of Nanhe Ram under Section 175 Cr.PC.
Ex.PW12/B	Handing over memo of dead body of Munshi Ram.
Ex.D1	Statement of Nanhe Ram under Section 161 Cr.PC.
Ex.PW13/A	Affidavit of Dr. Charan Singh.
Ex.PW13/B	OPD Card.
Ex.PW13/C	MLR of ASI Ramdiya.
Ex.PW13/D	MLR of Constable Lukman.
Ex.PW13/E	OPD Card.
Ex.PW14/A	Handing over memo of dead body of Subhash.
Ex.PW14/B	Statement of Arvind under Section 175 Cr.PC.

Ex.PW16/A	Statement of Prince under Section 175 Cr.PC.
Ex.PW17/A	Statement of Parvesh.
Ex.PW18/A	Affidavit of Dr. Shiv Shankar.
Ex.PW18/B	MLR pf ASI Rajesh Kumar.
Ex.PW18/C	MLR of HC Sandeep Kumar.
Ex.PW18/D	MLR of SPO Har Parshad.
Ex.PW18/E to Ex.PW18/G	OPD Cards.
Ex.PW19/A to Ex.PW19/G	Photographs of accused.
Ex.PW20/A	Serology report.
Ex.PW23/A & Ex.PW23/B	Finger-Prints.
Ex.PW28/A	Demarcation of place of occurrence.
Ex.PW31/A	Application for supply of copy of CDR, CAF and certificate.
Ex.PW31/B	Certificate under Section 65-B of Indian Evidence Act, 1872.
Ex.PW31/C	Customer application form of accused.
Ex.PW31/D	CDR of mobile No. 9671326749.
Ex.PW31/E	Certificate under Section 65-B of Indian Evidence Act, 1872.
Ex.PW31/F	Customer application form of accused.
Ex.PW31/G	CDR of mobile No. 9728337859.
Ex.PW31/H	Location chart.
Ex.PW31/I	Location chart.
Ex.PW31/J	Certificate under Section 65-B of Indian Evidence Act, 1872.
Ex.PW34/A	Affidavit of HC Raj Kumar.
Ex.DX	Statement of Virender and Zakir.
Ex.PW35/A	Statement of Seema.
Ex.PW40/A	Affidavit of Constable Prince.

Ex.PW44/A	Subscriber detail record.
Ex.PW45/A	Application for recording the statement of Virender under Section 164 Cr.PC.
Ex.PW45/B & Ex.PW45/C	Zimni orders.
Ex.PW45/D	Certificate.
Ex.PW45/E & Ex.PW45/F	Statements under Section 164 Cr.PC.
Ex.PW47/A	Finger-prints Report
Ex.PW47/B & Ex.PW47/C	Comparison chart of Finger Prints
Ex.PW47/D	Photographs of Finger Prints
Ex.PW47/E	Photographs of Finger Prints
Ex.PW47/F & Ex.PW47/G	Finger Prints Report.
Ex/PW48/A	Certificate under Section 65-B of Indian Evidence Act, 1872.
Ex.PW48/B	Customer application form of accused.
Ex.PW48/C	Location chart of mobile No. 9518118498 of accused.
Ex.PW48/D	Cell ID Chart of mobile No. 9518118498.
Ex.PW48/E	Certificate under Section 65-B of Indian Evidence Act, 1872.
Ex.PW51/A	Serology report.
Ex.MO/1 to Ex.MO/13	Case property; Iron Rod, Clothes of deceased and Clothes of accused
Ex.MO/X to Ex.MO/Z	Chance Finger Prints

12. After the evidence of prosecution was closed.

13. It is pertinent to mention that an application was moved on

behalf of accused under Section 328 read with Section 330 Cr.PC for postponing the trial of the accused, with the contentions that he was a psychiatric patient. The application was dismissed vide order dated 18.07.2018 by the Learned ASJ, Palwal with the observation that the accused did not suffer from mental condition and unsoundness of mind, making him incapable to take his defence. It was also observed by the Learned ASJ, Palwal that while the charge was explained to him he took the plea for not guilty with all awareness with a composed mind. The accused preferred no appeal against the said order, and the trial continued.

14. The accused was produced before this Court for the first time on 29.07.2022 and next on 09.08.2022. He submitted that he was suffering from some neurological and physical disease and pain in various parts of body but he did not specify the exact problem. Hence, vide order dated 09.08.2022, the Superintendent District Jail was directed to get done thorough examination of the accused, from the Doctors at Jail including complete diagnosis, the body and mind of the accused and provide the requisite medical treatment and submit the report of the same. The detailed report was submitted by the Superintendent District Jail, Faridabad on 23.08.2022, to the effect that the requisite treatment is being given to the accused and his general condition was stable and his behaviour is normal. Again on 03.02.2023, the Learned Defence Counsel submitted that the accused suffered from psychiatric disorder and head injury but requisite treatment is not being given to him. Again the

Superintendent District Jail, Faridabad was directed to get thorough check-up of the accused and submit report. The report was submitted on 10.02.2023, to the effect that the requisite treatment is being given to the accused and his general condition was stable and his behaviour is normal and there was no complaint since 15.01.2018, when he was lodged in the Jail.

15. Assistant Superintendent, District Jail, Faridabad at Neemka was examined as CW1. This Court witness was called to submit the report about the physical and mental condition of the accused, the treatment given to the accused and his behavior and whether there was any complaint of violence for the entire period of his stay in the Jail since 15.1.2018. As per the report, the general condition of the accused was stable and his behaviour was normal. The witness submitted the following reports.

Ex.C1- Report of the Superintendent Jail

Ex.C-2 Medical report.

Ex.C-3 - Entire treatment records.

16. After the evidence of the prosecution was concluded and the Court Witness was examined, the accused was examined as per the provisions under Section 313 of the Code of Criminal Procedure, 1973. All the incriminating evidence was put to him. He denied the same and claimed innocence. He submitted that witnesses were deposing falsely. The evidences have been fabricated against him. It was a false case and he

has been falsely implicated. He was suffering from psychosis since 2001 till now. The accused wished to lead evidence in defence.

17. No evidence was led in defence. The defence evidence was closed by accused on 14.03.2023. Arguments were heard.

18. The evidence on record, is detailed as below.

19. PW1 Sub-Inspector Rajesh Kumar, Palwal stated that on 02.01.2018, he was posted as ASI in Police Station City, Palwal, when he received Tehrir endorsed by Sub-Inspector Jai Ram. He lodged FIR Ex.P1 and made endorsement Ex.P2 on the Tehrir and sent the special report to the Learned Illaqua Magistrate and Senior Police Officers. He also stated that on the same day, Sub-Inspector Jai Ram handed over to him, blood stained clothes of 6 dead persons, which were seized by him vide seizure memo Ex.P3. The same was sealed with the seals of 'SS'.

20. PW2 Constable Raj Kumar proved the delivery of special reports to the Learned Illaqua Magistrate and Senior Police Officers on 02.01.2018.

21. PW3 Taslim Khan, eye-witness deposed that on 01.01.2018 his wife Miskina was admitted in Palwal Hospital, Palwal. His sister-in-law Anjum stayed in the hospital with Miskina. He left Anjum at 11:30 PM in front of ICU on the first floor of the hospital. Anjum was resting on a bench in front of the ICU. At around 2:30 AM in the intervening night of 01.01.2018/02.01.2018, he heard the sound of something falling on the ground. The witness was on the ground floor and he rushed to the first

floor. He found that Anjum was lying on the floor, in a blood pool. She had injuries on her head. Then he saw the accused Naresh coming from the toilet with an iron rod in his hand. He attacked on him but he escaped. Accused tried to run away and the witness chased him to the ground floor but he absconded on account of darkness and heavy fog. He was seen going towards the direction of City Police Station. He came back and picked Anjum and admitted her in the same hospital. She expired after sometime. If the hospital had adequate facility for security, then the incident would not have occurred. The incident was recorded in the CCTV cameras installed in the hospital. In the morning, he came to know that accused had also killed some other persons. He met the police officers at hospital and moved complaint Ex.P4. The witness identified the accused in Court. During cross-examination, the witness stated that he wrote in the complaint that accused had killed 5 other persons, on the basis of information given by the Police Officers. No other person in the hospital was hurt by the accused. All the employees of the hospital fled away due to fear of the accused. After the incident, he saw the accused for the first time, while deposing in the Court. He admitted that he did not see the accused assaulting Anjum. However, he immediately saw him with a rod. He was in a state of anger. The witness could not comment whether the mental condition of the accused was normal or not. The witness was suggested that the accused had killed many street dogs and he claimed ignorance about this fact. He was suggested that he was a planted witness

and he made complaint on asking of the police. The witness denied the same.

22. PW4 Dr. Mukesh Sarang, Medical Officer, Government Hospital, Palwal deposed that on 02.01.2018, he along Dr. Deep Kishore conducted the postmortem of deceased Subhash, Munshi Ram and Sita Ram. The Doctor proved the postmortem reports; Ex.PW4/B of deceased Subhash, Ex.PW4/C of deceased Munshi Ram and Ex.PW4/D of deceased Sita Ram. In the opinion of the Board, the cause of death was shock and hemorrhage as a result of ante-mortem head injury.

23. PW5 Dr. Raj Kumar, Medical Officer, Government Hospital, Palwal deposed that on 02.01.2018, he along with Dr. Yatinder conducted the postmortem of deceased Anjum, Surender, Khem Chand and one unidentified person. He proved the postmortem reports; Ex.PW5/B of deceased Anjum, Ex.PW5/C of deceased Surender and Ex.PW5/D of deceased Khem Chand. The cause of death in all the cases was shock and hemorrhage due to ante-mortem head injuries.

24. PW6 Sub-Inspector Jai Ram, Investigating Officer deposed that in the intervening night of 01.01.2018/02.01.2018, he was on crime patrol duty along with SPO Satbir Singh and Constable Sudhir in police vehicle. He received the telephonic message from Police Control Room, Palwal that a person caused grievous injuries to someone in Palwal Hospital, Palwal and has absconded. The police party went to the Palwal Hospital, Palwal. He found that a lady was admitted in ICU. She had

received grievous injuries on her eyes, forehead and head and was found to be dead. He met one Taslim, who was relative of deceased Anjum. Sub-Inspector Jai Ram gave information to SHO Police Station City, Palwal, who came to the hospital along with the other Police Officers. The SHO Police Station City, Palwal searched the CCTV footages and took the photographs of accused Naresh from the CCTV footage and circulated the same on the Whatsapp of all Police Officers of Palwal. When he was going towards Police Station City Palwal, he found 5 dead bodies near Geeta Welfare Trust, T-Point Sohna Road, shop of *Jagan Kabaadi*, Rasulpur Turn and Mayur Hotel, Palwal. All the dead bodies were sent to mortuary of General Hospital, Palwal. All the Police Officers of District Palwal were deployed in the search of accused, as he had earlier been arrested by Police Station Camp, Palwal in another FIR. When he reached back at Palwal Hospital, Palwal, complainant Taslim moved complaint Ex.P4 and he made endorsement Ex.PW6/A and sent the same for registration of FIR. He called the photographer and Forensic Science Expert and Scene of Crime Team, who inspected the dead bodies. Photographs were clicked by Photographer Sanjay. Inquest proceedings were conduct. The deceased were identified as Subhash, Munshi Ram, Sita Ram, Anjum, Surender and Khem Chand by the persons known to them. The postmortems of the dead bodies were conducted at Government Hospital, Palwal and Pulindas were received from the Doctors vide Ex.P3. Then he came to know that accused Naresh has been arrested from Adarsh

Colony, Palwal and he has suffered injuries while he was apprehended. He has been referred to Safdarjung Hospital from Government Hospital, Palwal. ASI Ramdiya handed over the iron pipe used by the accused, in the commission of offences. The same was seized vide Ex.PW6/B, in the presence of witnesses. Finger Print Expert Gurmukh clicked the photographs of finger-prints on iron rod and those lifted from Palwal Hospital. Then he visited each and every spot of murders and prepared site-plans Ex.PW6/C to Ex.PW6/H. He visited the spot where the accused was arrested and recorded the statement of Seema wife of accused Naresh Dhankar. He also recorded the statement of one Kapil on whom accused attacked, to commit his murder. He also recorded the statement of one lady Kamlesh, from whom accused Naresh demanded water to wash his hand and feet, which were blood stained. He also recorded the statement of a person from whom accused tried to hire a three-wheeler to abscond from Palwal. He also recorded the statements of 2 security guards of Omaxe City, Palwal from where the accused had proceeded with iron pipe. ASI Rameshwar handed over him clothes of accused Naresh Dhankar. The same were blood-stained and were seized vide memo Ex.PJ. Siri Kant, technician handed over to him, DVR along with hard disk of CCTV from Palwal Hospital, Palwal, which was seized vide ExPW6/K. HC Gurmukh handed over the finger-prints of accused collected from Palwal Hospital, Palwal and from the iron rod, which were seized vide memo Ex.PW6/C. HC Hemraj, Incharge Cyber Cell,

Superintendent of Police, Palwal, handed over a pen-drive containing the footage of CCTV camera installed at various places from where accused Naresh Dhankar passed with an iron rod, which was seized vide Ex.PW6/M. The CD of the CCTV is Ex.MO/1. The pen-drive was Ex.MO/2. Vinod Kumar, Senior Scientific Officer of Crime Team submitted his report to him. Police Officers ASI Ramdiya, Constable Lukman, ASI Rajesh, HC Sandeep, SPO Har Parshad and Mohammad Illiyas were medico-legally examined at Government Hospital, Palwal as the accused caused injuries to them, when they were trying to apprehend him. Accordingly, offence under Sections 186, 332, 353, 307 of IPC were added. The accused was formally arrested on 02.01.2018. Superintendent of Police, Palwal constituted Special Investigation Team including DSP Abhimanyu, Inspector Devender, Sub-Inspector Ashwani Kumar, Incharge Cyber Cell and the witness himself. On 04.01.2018 and 05.01.2018, he moved applications before the Doctors at Safdarjung Hospital, Delhi but the accused was unfit for statement. On 09.01.2018, accused was discharged from Safdarjung Hospital, Delhi. He was arrested and intimation was given to his wife. He made his disclosure statement Ex.PW6/R. Police remand was sought from the Learned Magistrate. The witness went to Bhiwani for receiving the service record of the accused. On 11.01.2018 accused made second disclosure statement recorded vide memo Ex.PW6/S. On 14.01.2018 he made third disclosure statement Ex.PW6/T and got demarcated the spots where he had murdered Munshi

Ram, Khem Chand, Surender, Sita Ram and Subhash. On 16.01.2018, Sanjay, Photographer handed over the photographs of the deceased and CDs of postmortem vide memo Ex.PW6/Z. He got recorded the statement of witnesses Virender and Mukesh under Section 164 Cr.PC before the Learned Magistrate. On 10.03.2018, he moved an application Ex.PW6/P before the Nodal Officer of Idea and Vodafone for receiving and preserving the CDs, location charts and call details of the phone numbers 9728337859, 9518118498 and 9671326749 of the accused. He collected the documents of discharge of the accused from Army vide Ex.PW6/AB and his certificate of fitness while joining of the Government Service vide Ex.PW6/AC. He identified the blood-stained iron rod Ex.MO/6 recovered from the accused when he was apprehended. He also identified the blood stained clothes of the 6 deceased and the accused. He identified the accused in Court. During cross-examination, he stated that he could not tell about the name of the person, who gave information to the Police Control Room about the first incident at the Palwal Hospital, Palwal. He admitted that there was no eye-witness, who saw the accused assaulting the deceased. He stated that he receiving the opinion of the Doctors of Safdarjung Hospital, in regard to the mental health of the accused on 09.01.2018. The accused was not found to be insane and thereafter, he arrested the accused on 09.01.2018. He was suggested that he did not take care for proper examination of the mental health of the accused from the board of Doctors to ensure whether the offences were committed by him,

on account of unsoundness of mind. The witness denied the same. He was suggested that he had pressurized the Doctors to give the mental fitness report of the accused. The witness denied the same. He admitted that no independent witness was joined during proceedings of demarcation and disclosure statements, as nobody cooperated. He was suggested that the murder of the 6 persons was committed by someone else and not the accused. The witness denied the same. He was suggested that he took the advantage of poor and mentally retarded condition of the accused and falsely arrested him. The witness denied the same.

25. It is pertinent to mention that the witness was recalled for examination vide order dated 10.02.2023 under Section 311 Cr.PC. He further proved the inquest proceedings of the 6 dead bodies and handing over of the dead bodies. During cross-examination, he could not tell the name of the Police Officers, who handed over to him, the iron rod. He was suggested that the accused was mentally unstable and he was implicated by police as there was no clue regarding the blind murders. The witness denied the same.

26. Again the witness was recalled on 21.02.2023. He further proved 3 CDs and 1 pen-drive vide memos Ex.MO/1 and Ex.MO/2, which were the CCTV footage received from the Palwal Hospital and one house at Panchwati Chowk. He identified the accused in the CDs and pen-drive, which was played in Court. He deposed that accused entered at 2:37 AM on 02.01.2018 and exited the hospital at around 2:49 AM. He

was also visible moving with the iron rod at around 1:20 AM. All these CCTV footage were of time period from 1:20 AM to 2:49 AM. He also proved CDRs of the 3 mobile phones of the accused, already exhibited Ex.PW31/D, Ex.PW31/G, Ex.PW48/C. He also proved the location charts of 3 mobile numbers vide Ex.PW6/AAA. He tendered the requisite certificate under Section 65-B of The Indian Evidence Act, 1872. He further deposed that as per the location charts, the accused was present in the close vicinity where the 6 victims were murdered on the intervening night of 01.01.2018/02.01.2018. He was present in the same vicinity from 1:20 AM to 7:37 AM, having a radius of 500 meters at Adarsh Colony, Darbar Kaun, Saraswati School, Agra Chowk, Rasulpur Road, Adarsh Nagar, Arya Nagar, where the 6 persons were murdered. He further deposed that murder was committed in a similar manner by repeated blows of the iron rod. When the accused was arrested, his pants were blood-smearred and iron rod recovered from him was also blood-stained. There was no other complaint against any other person for committing the above-said murders. As per his investigation, all 6 murders were committed by accused Naresh because of the similar nature of injuries, similar manner and since the locations and call records of the accused tallied with the incidents and immediately after the incident the accused was apprehended with the blood-smearred iron rod and blood-smearred clothes. During cross-examination, he was suggested that as per the discharge papers of the accused from the Army Base Hospital, Delhi, he

needed psychiatric treatment on account of psychosis. The witness denied the same. He was suggested that he had collected false evidence against the accused despite the knowledge that he was insane. The witness denied the same and stated that accused was totally sane and was in service at the time of the incident. He had been regularly attending his duties at Bhiwani, where he was posted at the time of incident. He was suggested that the accused was falsely connected with the blind murders by the police, as the police could not trace the real offender(s) and since the accused was insane. The witness denied the same.

27. PW7 ASI Sarwan Kumar, Draftsman proved scaled site-plan of the various scenes of occurrences vide Ex.PW7/A.

28. PW8 Ajmal proved that he identified the dead body of his niece Anjum, at Palwal Hospital, Palwal.

29. PW9 Satish deposed that he identified the dead body of his brother-in-law Khem Chand at Government Hospital, Palwal.

30. PW10 Surender deposed that on 02.01.2018, he identified the dead body of Surender @ *Baba*, who was a hermit and well known to him.

31. PW11 Raj Kumar son of Sita Ram deposed that on 02.01.2018, he identified the dead body of his father Sita Ram at Government Hospital, Palwal.

32. PW12 Nanhey Ram stated that on 01.01.2018 at around 9:00 PM, his brother Munshi Ram had gone to Old GT Road to perform of his

duty of Watchman at Jain Battery. When he did not return in the morning, they inquired and found that his dead body was kept at mortuary of Government Hospital, Palwal. The accused committed the murder of a lady and then his brother Munshi Ram, as he saw his photo in CCTV camera installed in the hospital. He identified the dead body of his brother. He was brutally murdered with assaults on his head with iron rod. Police Officer recorded his statement Ex.PW12/A. He identified the accused present in the Court. During cross-examination the witness stated that the employees of the hospital showed him CCTV footage and then he saw the accused in the Police Station. He admitted that he was not present on the spot when the injury was caused to his brother Munshi Ram. He also admitted that he did not notice anyone committing the murder of any person in the CCTV footage.

33. PW13 Dr. Charan Singh proved the MLR of ASI Ramdiya vide Ex.PW13/C and MLR of Constable Lukman vide Ex.PW13/E.

34. PW14 Arvind stated that on 02.01.2018, he received information that his brother-in-law Subhash @ Shiv Nath has been murdered by an unknown person and his dead body was kept in Civil Hospital, Palwal. He went to the hospital and found that 5-6 other persons also simultaneously murdered. He identified the dead body of Subhash and received the same. He proved his statement Ex.PW14/B. Later, he came to know that Subhash has been murdered by accused Naresh, through CCTV footage. Subhash was murdered by inflicting injuries with

iron rod on his head. During cross-examination, he admitted that he is not an eye-witness to the incident.

35. PW15 EASI Ram Diya stated that on 02.01.2018, he was posted in Police Station Camp, Palwal. He along with Constable Lukman was present near Rasulpur Chowk when the information was received that accused Naresh was wandering in the street after 5-6 murders. He went along with Constable Lukman and overpowered the accused with the help of other police officials. The accused was wearing the blood-smearred pants and he was having an iron pipe in his hand. He attacked the police officials and they received grievous injuries but they escaped from receiving fatal injuries and overpowered the accused. At the time of apprehending the accused, he fell down in the drain (*Nali*) and received injuries. He was taken to Government Hospital, Palwal. First Aid was given and then he was taken to Safdarjung Hospital, Delhi. He attacked HC Sandeep, ASI Rajesh, SPO Ram Prasad, and Constable Lukman also. All of them received injuries in the attack. The witness identified the accused in Court. He proved the recovery memo Ex.PW6/B vide which the iron pipe was recovered. During cross-examination, he stated that he had received video footage of the accused as sent by the SHO, on his mobile phone. 10-15 persons from the public were present on the spot, but they did not help the Police Officer to apprehend the accused. He was suggested that the accused was of unsound mind. The witness replied that he cannot say that he was of unsound mind. He was suggested that the

investigation proceedings were tainted and accused had been falsely implicated, since he was of unsound mind and the actual murderers could not be traced by the police. The witness denied the same.

36. PW16 Prince stated that on 02.01.2018, he identified the dead body of person having a long beard and was aged around 50 years, in the Government Hospital, Palwal. He had gone there for treatment of their father. He identified the dead body as the deceased used to come in his neighbourhood on a tea stall to have tea. He proved the inquest proceedings Ex.PW16/A in regard to the deceased Surender @ *Bhikhari Baba*.

37. PW17 Parvesh Kumar stated that on 01.01.2018, his brother-in-law Subhash @ Shiv Nath had gone for duty at Sohna. In the morning, he tried to contact him on mobile phone but could not connect. He inquired from the Cold Store, Sohna where Subhash used to do work and came to know that he had not returned to duty. Subsequently, he came to know through the news on TV Channels that one unknown person had murdered 5-6 persons including one Chowkidar. On receiving information, he reached Government Hospital, Palwal and found that dead body of Subhash @ Shiv Nath was kept in mortuary. He saw the photograph of the accused in CCTV camera at Government Hospital, Palwal and came to know that his name was Naresh. He identified the dead body of Subhash. During cross-examination, he admitted that incident did not take place in his presence.

38. PW18 Dr. Shiv Shankar, Medical Office, Government Hospital, Palwal proved the MLRs of ASI Rajesh Kumar, HC Sandeep Kumar and SPO Har Parshad vide Ex.PW18/B to Ex.PW18/D. He also proved the OPD Cards of the above-said Police Officers including Mohammad Illiyas.

39. PW19 Shri Kant, technician deposed that he runs the business of installing CCTV camera for last 10 years. On 02.01.2018, he received telephonic call from Palwal Hospital, Palwal and he went to the Hospital and prepared the DVR of the CCTV footage and deposited the same with Sub-Inspector Jai Ram vide Ex.PW6/K, which bears his signatures. The witness identified the hard disk, VGA Cable and DVR produced in the Court. He also identified the accused in photographs Ex.PW19/A to Ex.PW19/G. He identified the accused present in the Court.

40. PW20 Vinod Kumar Singh, Senior Scientific Officer, Scene of Crime Team, FSL Madhuban proved his report Ex.PW20/A, in which, after inspecting the scenes of occurrence, he had directed the Investigating Officer to conduct the photography, take in possession of all the blood stained samples, blood-stained caps, lathi and CCTV footage and called the finger-print expert.

41. PW21 Sanjay Kumar, Photographer proved the photography and videography of the 6 deceased and their post-mortems vide Ex.P1 to Ex.P31.

42. PW22 SPO Har Prasad stated that on 02.01.2018, he was present on Agra Chowk with HC Sandeep, ASI Mohammad Illiyas and ASI Rajesh. They received information that accused was present in the lane of Sukhram Hospital, Palwal. They identified the accused from the photographs viralled on the Whatsapp. He along with the other Police Officers went to the spot. Another PCR-3 was ahead of their vehicle. When the PCR stopped and the Police Officers oped the door of PCR,the accused inflicted iron rod blow on the PCR. Subsequently, all the Police Officers tried to apprehend the accused. The accused started hitting them with the iron rod, horizontally. The witness ducked down and entangled his feet with police danda of fiber. On account of the same, the accused fell down and sustained injury. One ASI from Police Station City, Palwal snatched the iron rod. The accused was apprehended and taken in PCR. The Police Officers could make out that the accused was the killer of the innocent persons as his trousers were blood-stained. All the Police Officers, who apprehended him, received injuries and were medico-legally examined. He proved the recovery memo vide Ex.PW6/B. During cross-examination, the witness stated that, had he not ducked down, he would have been the 7th victim of accused, because he gave a wild and hard blow, horizontally aiming on his head. The accused was not unconscious but he was in complete grip of Police Officers as he was trying to get out of the custody, after he was apprehended. They took the accused to Government Hospital, Palwal.

43. PW23 HC Gurmukh deposed that on 02.01.2018, he was posted as Finger-Print Expert at District Police Office, Palwal. He received the information from SHO, Police Station City, Palwal. He lifted finger-prints from the glasses of ICU of Palwal Hospital, Palwal and from the iron-rod used in the offence. He handed over the finger-prints to Sub-Inspector Jai Ram to be sent to State Crime Bureau, Madhuban for comparison. On 07.03.2018, he was called in the Court of Learned JMIC where the accused was present. Finger-Prints of the accused were taken in the Court. The same were attested. He sealed the same and handed over the same to the Investigating Officer vide memo Ex.PW6/L. He identified the finger-prints vide Ex.MO/X to Ex.MO/Z. During cross-examination, he stated that the iron-rod was not covered and the same was open. He could not tell how many finger-prints were present on the iron-pipe. He stated that on the window of ICU of the Hospital some overlapping finger-prints were also there. However, the finger prints lifted were clear.

44. PW24 Virender stated that on 01.01.2018, he was present in Palwal Hospital, Palwal. He was attending his wife Kiran, who had delivered a baby girl. At about 2:15 AM in the intervening night of 01.01.2018/02.01.2018, he was on the ground floor and his wife was in ICU. At that time, he heard the sound of something falling on the ground of first floor. He along with the staff of the hospital rushed to the first floor and found that one lady was lying on the floor in a blood-pool and blood was oozing out from her head. Zakir, ambulance driver and he

proceeded towards the ICU. When Zakir opened the gate of ICU, the accused, who was hiding behind the first door came out. He was holding an iron-rod and tried to hit Zakir with the iron-rod. Zakir managed to escape. When he tried to escape from there, the accused tried to hit him also with the iron-rod. He ran away from there and reached Government Hospital, Palwal, which is 500 meters away from the Palwal Hospital, Palwal where he met Naim Singh and narrated the entire incident to him. He made call to police helpline number 100 and informed about the incident, which had taken place at Palwal Hospital, Palwal. The police reached the hospital. A lady Anjum died in the incident the accused was holding iron rod at the time of incident. His pants had blood stains. The witness identified the accused in Court. During cross-examination, he was confronted with his statement Ex.DX, made to the police where it was not recorded that accused had tried to hit him or chased him. The witness was suggested that he was a planted witness by the police, in order to solve the case of blind murders. He denied the same. He was also suggested that he identified the accused present in the Court as per the photographs available on social media. The witness denied the same. He was also suggested that he was seen the accused first time in the Court. The witness denied the same.

45. PW25 Zakir stated that he was present in Palwal Hospital, Palwal and was sleeping inside the hospital, near the entrance gate. At around 2:15 AM, he heard sound from first floor of something falling on

the ground. The staff of the hospital woke up and they all rushed to the first floor. He found that a lady was lying on the floor in the pool of blood,. The blood was oozing out from her head. He along with Virender proceeded towards ICU. When he opened the first gate of ICU, the accused who was hiding behind the door came out. He was holding an iron-rod. He tried to hit the witness. However, he escaped and the iron-rod struck the ground. The accused ran away towards the ground floor. After that the police reached there. The whole incident took place in his presence. The accused was holding the iron-rod and his pants were blood stained. During cross-examination, he stated that he was working as Ambulance driver in the Palwal Hospital, Palwal. He admitted that he did not see the accused assaulting the deceased. He was suggested that he had not seen the accused physically but only on social media. The witness denied the same. He was suggested that he was a planted witness by the police to falsely implicate the accused to solve the blind murder cases. The witness denied the same.

46. PW26 Mukesh Kumar, Security Guard, Omaxe City Palwal, deposed that in the intervening night of 01.01.2018/02.01.2018 at around 1:00 AM, the accused Naresh, the owner of Flat No. 583 came down and started going outside. He had some danda-like object in his hand. The witness asked him as to where he was going, but he did not listen to him and went away. The witness called another security guard Laxman on his phone and asked him about Naresh. Then he went back to the guard room.

The witness identified the accused present in Court. During cross-examination, he stated that he does not make entry in the register about the exit or entry of anybody. Police did not take into possession any record of his attendance. He was suggested that he was deposing falsely, on account of tutoring by the police. The witness denied the same.

47. PW27 Sub-Inspector Rameshwar Singh deposed that on 02.01.2018, he was posted as Investigating Officer at Police Station Sadar, Palwal. He remained associated in the investigation of the present case. He along with Sub-Inspector Mohammad Illiyas reached Government Hospital, Palwal where the accused was admitted on account of head injuries. Subsequently, they accompanied the accused while shifting him to Safdarjung Hospital, Delhi. The Doctors gave him the clothes of the accused, which were blood-smeared. The same were deposited by him and Sub-Inspector Mohammad Illiyas to Sub-Inspector Jai Ram, who converted the same into sealed parcel with the seal of 'JRS'. The same was taken into his possession vide seizure memo Ex.PJ. The witness identified the clothes of the accused vide memo Ex.MO/13, which were blood-stained. During cross-examination, he stated that the Doctors did not seal the clothes of the accused and he brought the same from the Hospital in a plastic bag and handed over the same to the Investigating Officer. He had the receipt of the receiving of clothes from the Doctors.

48. PW28 Inspector Ashwani Kumar stated that on 02.01.2018, he was posted as SHO Police Station City, Palwal. He received telephonic

information that one person has caused grievous injuries to someone at Palwal Hospital, Palwal. He went to the Hospital and found that a lady Anjum had died on account of injuries on head and eyes. He started searching the CCTV footage and received the photographs from the same. Subsequently, he circulated the same to all the Police Stations of Palwal for search of the accused. He also proceeded towards market for searching the accused. On 09.01.2048, he along with Sub-Inspector Jai Ram went to Safdarjung Hospital, Delhi. Accused Naresh was discharged from the hospital and was arrested by the Investigating Officer. He suffered disclosure statement in his presence. 2 days police remand was sought. Accused was taken to Police Line. He got demarcated the scene of occurrence at Palwal Hospital, Pawal. On completion of investigation, he submitted the final report. The witness identified the accused. During cross-examination, he admitted that he did not sign the disclosure statement recorded by the Investigating Officer on 09.01.2018. No advice was given to him by the Doctors in regard to the mental condition of the accused. He did not receive any advice from the Doctors in this regard. He further stated that the accused was in a normal state of mind as per his observations and judgment. The witness was suggested that the accused has been scapegoat and 6 blind murders have been planted upon him. The witness denied the same.

49. PW29 HC Sanjay deposed that he remained associated with the Investigating Officer when the accused was demarcated the scene of

occurrence at Palwal Hospital, Palwal vide Ex.PW28/A. On 14.01.2018, accused made disclosure statement Ex.PW6/T and got demarcated the scenes of occurrence vide Ex.PW6/D, Ex.PW6/U, Ex.PW6/W, Ex.PW6/X and Ex.PW6/Y. The witness identified the accused in Court. During cross-examination, he admitted that no independent witness was joined by the Investigating Officer, at the time of demarcation. He was suggested that accused was not in a fit mental condition and the Police Officers implicated him in blind murders. The witness denied the same. He admitted that the various scenes of occurrence were already known to the Police Officers, prior to the demarcation by the accused.

50. PW30 SPO Satbir Singh stated that on 02.01.2018, he along with Sub-Inspector Jai Ram went to Palwal Hospital, Palwal, after Anjum was murdered. They shifted the dead body to Government Hospital, Palwal. Subsequently, 5 other dead bodies were shifted by him and Sub-Inspector Jai Ram to Government Hospital, Palwal. The Investigating Officer made endorsement on the complaint and handed over the same to him for registration of FIR. During cross-examination, he stated that the first information about the dead body was received at around 1-2:00 AM of 02.01.2018.

51. PW31 Parminderjit Singh, Nodal Officer, Vodafone Idea Ltd. proved the customer application form in the name of accused Naresh vide memo Ex.PW31/B. He also proved the certified copy of CDR along with customer application form of mobile No. 9671326749 of the accused from

28.12.2017 to 03.01.2018 vide memo Ex.PW31/C and Ex.PW31/D along with certificate under Section 65-B of The Indian Evidence Act, 1872. He also proved the CDR of mobile No. 9728337859 of accused from 28.12.2017 to 03.01.2018 along with customer application form in the name of accused Naresh Ex.PW31/F. He proved the CDRs vide Ex.PW31/G and certificate under Section 65-B of The Indian Evidence Act, 1872 vide Ex.PW31/E.

52. PW32 Sub-Inspector Manoj Kumar stated that on 09.01.2018 he remained associated with the Investigating Officer. The accused made disclosure statements Ex.PW6/R and Ex.PW6/T and demarcated the scenes of occurrence vide memos Ex.PW6/U to Ex.PW6/Y, on 14.01.2018. During cross-examination, he stated that no independent witness was joined at the time of disclosure statements and demarcations. He was suggested that the accused was falsely implicated in blind murders as he was not in a fit mental condition. The witness denied the same. He was suggested that all the Police Officers knew the scenes of occurrence prior to the demarcation by the accused. The witness denied the same.

53. PW33 ASI Jaiveer Singh stated that on 19.03.2018 on the directions of Investigating Officer, he visited the office of Vodafone and collected the CDRs of mobile No. 9671326749 and 9518118498 of the accused, which were seized by the Investigating Officer vide memo Ex.PW6/AA.

54. PW34 HC Raj Kumar stated that on 02.01.2018, the case property i.e. finger-prints of iron rod and Pulindas of cloths of 6 deceased and one Pulinda regarding accused Naresh were deposited with him as he was Malkhana Mohrar. On 15.02.2018, the same were deposited at FSL, Bhondsi through Constable Prince vide RC No. 103 dated 15.02.2018. The case property remained intact, while the same was in his custody.

55. PW35 Seema wife of accused Naresh stated that she got married to Naresh on 03.02.2007 and they have a son out of the said wedlock. The accused worked in Indian Army from 1999-2002. He was discharged on medical grounds that he was unfit for service in the Army. He joined as ADO in Agriculture Department in the year 2006. He remained under treatment in the year 2009 from some Doctor of Ghaziabad and then received treatment from some Maulvi and a Homeopathic Doctor. His behaviour was not good towards her. He used to quarrel with her. His behaviour was violent in his office. He was demoted from the post of SDO to the post of SMS on account of his behaviour. They got separated in the year 2010. Then, they resided together in the year 2012 for some period. There were several interval for such separations and living together. In the year 2013 they purchased a plot in Omaxe City, Palwal. After 3-4 months, accused turned her out of the said flat. In the year 2015, accused had some fight at a hotel and an FIR was registered against him. He remained suspended after the said FIR. Whenever, he came to her parental house, he abused her and her

family members. In the morning of 02.01.2018 at around 7-7:30 AM, she was present at her parental house at Adarsh Colony, Palwal. She heard a lot of noise from outside the house. Many persons, Police Officers and media persons were present in the street. She does not have any personal knowledge about the present offences. She identified the accused. She was declared a hostile witness. During cross-examination by the Learned Public Prosecutor, she stated that she was B.A., B.Ed.. She was confronted with her statement Ex.PW35/A in which she had stated that on 29.1.2018(wrongly written as 2017, as the witness was narrating incidents just before the occurrences of murders) accused called her and demanded money. On 30.1.2018 (wrongly written as 2017), the accused called her at around 2:00 PM. He told her that he came to the house in the night and has got up just now.. She told him to eat something. He asked her to come to the flat with Anju and his son and bring something to eat. She refused to come. She denied making this statement. She was confronted with her statement Ex.PW35/A in which stated that on 31.12.2018(wrongly written as 2017) at around 1:07 PM, the accused came to the house and brought fruits, ice-cream and cold-drink for his son. He had lunch at her parental house and he got aggressive with her father and her sister Anju. The witness denied making any such statement. She was confronted with her statement, that on 02.01.2018 at 6:00 AM she heard the voices of her husband Naresh from outside her house. She denied the same. Similarly, she denied her statement regarding accused Naresh assaulting their

neighbour Kapil or that she heard from someone that accused had murdered 6 people in the preceding night. She also stated that the accused was quarrelsome and used filthy language since 2008. He used to give beating to her. During further cross-examination by Learned Defence Counsel, she stated that her husband was mentally sick and had been roped in blind murders by the police. The Police did not investigate the matter from the angle that accused was suffering from mental ailment.

56. PW36 HC Sandeep stated that on 02.01.2018, he along with Sub-Inspector Mohammad Illiyas, ASI Rajesh and SPO Har Parshad received information about the accused to be present near Sukhram Hospital. They reached near the place. The accused was having an iron rod. His pants were blood stained. When they tried to apprehend the accused, he attacked them with iron-rod. They received injuries on right shoulder and left leg. At the time of apprehending the accused, he again tried to attack them. When the accused tried to run away from there, he fell down in the drain and received injuries on his head. The Iron-rod was recovered from him and was submitted to the Investigating Officer, who seized the same vide memo Ex.PW6/B and it was counter-signed by the Police Officers. The rod was seized in a plastic pipe. The witness identified the iron-rod in Court. He also identified the accused present in Court. During cross-examination, he was suggested that the accused was falsely implicated in 6 blind murders, since he was a person of unsound mind. The witness denied the same.

57. PW37 HC Hemraj stated that on 02.01.2018, he was posted as Cyber Cell, Incharge, DPO Palwal. He visited the Palwal Hospital, Palwal and obtained CCTV footage and prepared 3 CDs and one pen-drive, which were seized by the Investigating Officer vide memo Ex.PW6/M. The CDs were Ex.MO/1 and the pen-drive was Ex.MO/2. During cross-examination, he stated that he did not prepare any certificate under Section 65-B of The Indian Evidence Act, 1872.

58. PW38 HC Ajay Kumar stated that on 10.03.2018, he went to the office of Idea Cellular Company and obtained CDR of mobile No. 9728337859, of accused and handed over the same to the Investigating Officer, who seized the same vide memo Ex.PW6/E.

59. PW39 Sub-Inspector Mohammad Illiyas stated that on 02.01.2018, he along HC Sandeep, SPO Har Parshad and ASI Rajesh apprehended the accused from the lane of Sukhram Hospital. The accused assaulted them and tried to abscond. The accused had a blood-smeared iron-rod and his pants were also blood-smeared. The rod was snatched from him and it was seized vide recovery memo Ex.PW6/B. On the same day, they took the accused to Safdarjung Hospital, Delhi. Doctors of Safdarjung Hospital handed over blood-stained clothes of the accused to them, which were converted into a sealed parcel by the Investing Officer. The same was sealed with the seal of 'JRS'. He identified the accused present in Court. During cross-examination, he stated that he did not sustain any injury. He could not tell whether the accused was of unsound

mind. He was suggested that the accused was falsely booked to solve the case of 6 blind murders, since he was of unsound mind. The witness denied the same. He also stated that the clothes were brought from Safdarjung Hospital in a plastic bag and converted into parcel by the Investigating Officer.

60. PW40 Constable Prince proved the depositing of the case property at FSL Bhondsi vide RC No. 103 dated 15.02.2018 and depositing of receipt No. 72 received from RFSL Bhondsi to MM Police Station City, Palwal. The case property remained intact while the same was in his possession.

61. PW41 Kamlesh stated that she had rented her house at New Extension Colony, Palwal to accused Naresh, which was vacated by him in the year 2014. On 02.01.2018 at around 7:00 AM, accused knocked the door of their house. The door was transparent and she saw the accused through the door, who was standing outside and was having an iron-rod in his hand. His pants were blood-smearred. The accused asked about her husband. Then he asked her to open the gate for washing his feet. She refused to open the gate and the accused went away. She identified the accused present in Court. During cross-examination, she could not produce any rent-deed about the giving of her house on rent to the accused.

62. PW42 Kapil stated that he is a resident of Adarsh Colony, Palwal. On 02.01.2018 he woke up at around 4:00 AM to answer the call

of nature. He saw that accused Naresh was strolling on the street and there was fog at that time. He again slept and woke up at 6:30 AM. The accused Naresh started abusive language and raising lalkara for his father Azad Singh to come outside. At around 7:00 AM, accused started breaking the gate of his house with an iron-rod. He asked the accused as to why he was making ruckus. The accused calmed down and stated that he felt shivering and requested for a cup of tea. The witness refused. Accused requested him to open the gate. When he opened the gate slightly, the accused tried to hit him with an iron-rod. The same hit on his hand and the accused tried to forcibly open the gate. Witness bolted the gate immediately. Accused started abusing him. He asked him to come outside and threatened to kill him. Then he went away. The witness called his father and told about the incident. He tried to call police but was unable to connect. After sometime, accused Naresh returned back and again started hitting the gate and broke the design part of the gate and then threw the part towards him, however he managed to escape. The witness called his friend Sunil and told him to go to Police Station and arrange telephonic call with the Police. Then he talked to the Police Officers on the phone, who told him that accused had brutally murdered 6 persons. They asked him catch the accused but witness refused because the accused was having an iron-rod and his pants were blood-stained. He requested the Police Officers to come and told that in the meanwhile he will keep an eye on him. Thereafter, accused Naresh proceeded towards the house of

his wife. When the accused saw him on the road, he ran towards him. The witness ran towards the Highway. At that time, 2 police jeeps arrived and the accused hit iron-rod on the police jeep and slipped down in the drain and received injuries. During cross-examination, he stated that they have a cordial relationship with the in-laws of the accused. Accused Naresh was living separately from his wife. He sustained injury but he did not get himself medico-legally examined. The rod of the accused dipped in the drain, in which water was flowing. He was suggested that he prepared a false story at the instance of Police Officers. The witness denied the same.

63. PW43 Devi Ram deposed that he was present at his house at New Extension Colony, Palwal. At around 7:00 AM, accused came to his house and called his son Raju, but he came outside and saw that accused was having an iron rod of around 4 feet. He asked him as to what is the matter. The accused asked him to drop him at Ballabgarh. The witness said that he did not have any vehicle. Then accused went away. The witness did not notice any blood on clothes of the accused. He was suggested that he was deposing falsely at the instance of the police. He denied the same.

64. PW44 Jasdeep Singh, Nodal Officer Vodafone Idea Ltd. proved the CDR Exx.PW31/D, customer application form Ex.PW31/C of the mobile No. 9671326749 of accused. Also, he proved the certificate under Section 65-B of The Indian Evidence Act, 1872 Ex.PW31/B.

65. PW45 Learned JMIC proved the recording of the statement

under Section 164 Cr.PC of witnesses Virender and Zakir vide Ex.PW45/E and Ex.PW45/F, respectively.

66. PW46 ASI Virender Singh stated that on 09.01.2018, he remained associated in the investigation. The accused was brought from Safdarjung Hospital to Police Line Palwal. He made disclosure statement Ex.PW6/R. On 11.01.2018, he made disclosure statement Ex.PW6/S. He got demarcated the all scenes of occurrence. The witness identified the accused present in Court. He admitted that no public witness was joined by the Investigating Officer, at the time of disclosure statements or the demarcations. He was suggested that accused was falsely implicated in blind murders, since he was not in a fit mental condition. The witness denied the same.

67. PW47 Ramesh Chand, Incharge Finger-Print Bureau proved the finger-print report Ex.PW47/A and the comparison chart Ex.PW47/B and Ex.PW47/D. He also proved the photographs of the finger-prints. During cross-examination, he admitted that the no iron-rod or any other object from where the chances prints were allegedly to be lifted, were produced before him.

68. PW48 Sandeep Sharma, Nodal Officer, Reliance Jio proved the CDR of mobile No. 9518118498 of accused Naresh from 28.12.2017 to 03.01.2018 vide Ex.PW48/C. He also proved the customer application form in the name of accused vide Ex.PW48/B and certificate under Section 65-B of The Indian Evidence Act Ex.PW48/A.

69. PW49 Gopi Chand stated that on 02.01.2018, he received information that deceased Surender was having tea at tea stall near Police Station City Palwal, when the accused Naresh killed him like other persons. He identified the dead body of Surender. During cross-examination, he admitted that he did not witness the incident.

70. PW50 Deepak Kumar, Assistant Nodal Officer, Vodafone Idea Ltd. proved location chart of both the mobile numbers vide Ex.PW31/H and Ex.PW31/I. He tendered certificate under Section 65-B of The Indian Evidence Act Ex.PW31/J. It is pertinent to mention that the witness was recalled under Section 311 Cr.PC to prove the location charts.. The location chart of the mobile No. 9728337859 was at Bhiwani till 28.12.2017 and after that there was no call from the said mobile number. The location of mobile No. 9671326749 was at Rasulpur Road, near Jama Masjid, Old GT Road from 2:00 AM to 4:00 AM on the intervening night of 01.01.2018/02.01.2018. From 4:26 AM to 8:33 AM, the location was at Moti Colony, Agra Chowk, New Colony, Rasulpur Road etc. places. The location were as per the calls made from the said mobile numbers.

71. PW51 Anju Bala, Senior Scientific Officer, Serology, RFSL, Bhondsi proved the serology report Ex.PW51/A. As per her report, the clothes of the deceased and the accused were blood-stained and the blood-stains were of human origin. Also, the iron-rod had blood-stains, which were of human origin. During cross-examination, she stated that the blood

groups on the clothes of the deceased were of Group-AB and Group-A whereas the blood on the clothes of accused was of Group-B.

72. PW52 Adesh Chauhan, Nodal Officer, Reliance Jio, Haryana proved the call location charts of mobile No. 9518118498 of the accused vide Ex.PW48/D. He tendered certificate under Section 65-B of The Indian Evidence Act, 1872 Ex.PW48/E. The mobile phone was located at Adarsh Colony, Palwal from 4:40 AM to 6:24 AM. The locations were as per the calls made from the above-said phone number.

73. Court Witness, CW1 Jogender Kumar, Assistant Superintendent, District Jail, Faridabad proved the report of Superintendent District Jail, Faridabad Ex.C1 Report of the Superintendent District Jail, Faridabad, Ex.C2 medical report and Ex.C3 treatment records in regard to the accused, who was lodged in District Jail, Faridabad.

74. Arguments were heard.

75. It has been submitted by Learned Public Prosecutor assisted by Learned Counsel for the Complainant, that in the intervening night of 01.01.2018/02.01.2018 information was received to PW6 Sub-Inspector Jai Ram in regard to murder at Palwal Hospital, Palwal, in front of ICU on first floor of the hospital. The Investigating Officer went to the spot and found that a lady Anjum has expired. Subsequently, her brother-in-law Taslim moved a complaint Ex.P4. He was an eye-witness and identified the accused. He saw the accused immediately after he had

murdered Anjum, his sister-in-law. He also tried to assault PW3 Taslim with an iron rod. He was hiding in the bathroom and when Taslim came there, he came out and struck a blow with iron-rod but Taslim escaped. Similarly, he attacked upon PW 24 Virender, an attendant of a patient, who was present in the Hospital. He also attacked PW 25 Zakir, the Ambulance driver of the hospital. These 3 eye-witnesses have clearly deposed that accused was seen near the dead body of Anjum, which was lying in pool of blood, immediately after the assault. The accused had blood-smearred iron-rod in his hand and his pants were also blood-smearred. PW26 Mukesh, another eye-witness, the Security Guard has deposed that on 02.01.2018 1:00 AM, accused Naresh came down from his Flat No.583 and he was going out of the residential society with a *Danda* like object in his hand. He asked the accused as to where he was going but he did not reply. Then he went to Palwal Hospital, Palwal brutally murdered Anjum and subsequently, committed brutal murders of 5 persons in the vicinity of 500 meters. Then he went in front of house of his in-laws. His wife was residing with her father and both were separated. PW42 Kapil, a neighbor of his wife deposed that he saw Naresh roaming in the street at around 4:00 AM. Then he saw him at around 6:30 AM having a blood-smearred iron-rod in his hand and his pants were also blood-smearred. He hit the Gate of house of Kapil with iron rod and abused him. Subsequently he was pacified and Kapil partly open the gate. Accused inflicted a rod blow on his hand. He again closed

the gate and accused went away after abusing him. He had also gone to the house of PW41 Kamlesh, his earlier landlord. He asked for tea and water to wash his hand and feet. However, Kamlesh refused to open the door. She also saw him holding the blood-smearred iron-rod and his pants were also blood-smearred. At the same time, he also went to the house of Devi Ram, in the same vicinity. He asked Devi Ram to drop him at Ballabgarh, Faridabad, but Devi Ram stated that he did not have any vehicle. The accused went away. There is no cross-examination of defence on this point that the above-said witnesses did not see the accused with blood smearred iron-rod and pants. These facts would be deemed to be admitted by the defence. PW3 ASI Jaiveer Singh collected the call detail records of the mobile phone of accused from Vodafone and JIO. PW34 HC Raj Kumar and PW40 Constable Prince deposed the case property in FSL. They deposed that same remained intact in their custody. The blood stained clothes of the deceased and accused were produced in the Court and proved vide Ex.MO/1 to Ex.MO/3. The blood-smearred iron-rod, which was used in offence was produced in Court and was proved vide memo Ex.MO/6. PW15 EASI Ramdiya, PW22 SPO Har Parshad, PW36 HC Sandeep and PW39 Mohammad Illiyas were among the 6 Police Officers, who apprehended the accused at around 7:30 AM, from Adarsh Colony, Palwal in front of house of his wife. All the Police Officers identified the accused. All of them deposed that he was having blood smearred iron-rod in his hand and his pants were also blood

smearred. He tried to assault them on head with the iron rod, and kill them, but they escaped any fatal blow. All the Police Officers received injuries while apprehending the accused. During apprehension, the accused fell down in the drain and suffered head injury. They proved the recovery of iron rod from accused vide memo Ex.PW6/B. PW4 Dr. Mukesh Sarang and PW5 Dr. Raj Kumar proved the postmortem reports of the 6 deceased namely Anjum, Khem Chand, Surender, Subhash, Munshi and Sita Ram. The cause of death of all the deceased was ante-mortem head injuries, sufficient in ordinary course of nature to death. In fact, all the deceased expired on the spot, on account of multiple injuries on their heads caused by iron-rod, used by the accused. PW13 Dr. Charan Singh and PW18 Dr. Shiv Shankar proved the MLRs of 6 Police Officers, who apprehended the accused and received injuries while apprehending him. The above-said 6 Police Officers have specifically deposed that accused tried to kill them also, by aiming assaults on their head, while they were trying to apprehend him. PW8 to PW12, PW41, PW17 and PW19 are the persons relating to the deceased, who identified the dead bodies. PW31 Parminderjit Singh, PW44 Jasdeep Singh, PW48 Sandeep Sharma, PW50 Deepak Kumar and PW52 Adesh Chauhan, are the Nodal Officers of Vodafone and JIO etc. service providers, who duly proved the call detail records, customer application forms and location charts of 3 mobile numbers of the accused i.e. 9518118498, 9728337859 and 9671326749. They specifically deposed that as per the customer application forms, SIM

Cards were issued in the name of accused. All of them tendered the requisite certificates under Section 65-B of The Indian Evidence Act, 1872. They have proved that the location of the accused 2:00 AM to 7:00 AM was in the same vicinity where all the 6 murders were committed. The same are within a radius of 500 meters. PW47 Ramesh Chand proved his finger-print report Ex.PX as per which the finger-prints on the iron rod, the finger-prints lifted from the glass of the door of ICU and the specimen finger-prints of the accused matched. The said finger-prints were lifted and secured by PW23 HC Gurmukh. PW51 Anju Bala, Senior Scientific Officer Serology proved the serology report Ex.PW51/A, as per which the clothes of deceased, clothes of accused and iron rod had human blood on them. The blood groups on the iron rod could not be matched. She specifically deposed that the same could not be matched, on account of mixing of blood. The reason being blood of 6 dead persons got mixed on the iron-rod. Hence, the blood group remained inconclusive. PW20 Vinod Kumar proved the Scene of Crime Report Ex.PW21/A. As per the report, all the murders were committed by a serial killer in a similar manner by assaulting similarly injuries. PW46 ASI Virender Singh proved the disclosure statements of accused Ex.PW6/R and Ex.PW6/S, as per which, he admitted that he killed the 6 persons and got demarcated all the scenes of occurrence. Similarly, PW39 Sub-Inspector Mohammad Illiyas proved the disclosure statements and the demarcations made by the accused. PW27 ASI Rameshwar received the blood-stained clothes of the

accused. He deposited the same to the Investigating Officer. PW28 Inspector Ashwani deposed that at around 3:00 AM on 02.01.2018, the Investigating Officer called him and told him about the incident in Palwal Hospital, Palwal. He immediately reached there and received photographs of the accused from the CCTV footages of the hospital. The accused was seen roaming with an iron-rod, in the said footages. The SHO immediately viralled the photographs on Whatsapp numbers of all Police Officers. As a result of the same, the accused could be identified after a span of 4 hours because it was time of night and there was dense fog. The visibility was extremely poor. PW29 HC Sanjay also proved the demarcation done by the accused. PW19 Shri Kant, technician proved the Hard Disk and the DVR of CCTV footages, which was collected from the CCTV cameras of the Palwal Hospital, Palwal. PW37 HC Hemraj, Incharge Cyber Cell, District Police Palwal proved that he prepared 3 CDs (Ex.MO/1) and 1 pen-drive (Ex.MO/2), from the above-said CCTV footages, in which the accused is clearly seen entering the Hospital with an iron-rod and returning afterwards and running away from the hospital after the murder of Anjum was committed by him. PW21 Sanjay Kumar proved photographs and videography of the dead bodies and their postmortem proceedings. PW42 Kapil deposed that the earlier accused was abusing him and then he acted to have been pacified. Subsequently when PW Kapil opened the door of his house, he again assaulted and Kapil closed the door. This conduct shows that the accused was

calculative and was of sound mind. The accused was apprehended with the weapon of offence, which was blood-smeared and his clothes were also blood-smeared. The depositions of eye-witnesses corroborate the medical evidence as well as locations of the mobile phone of the accused from 1:25 AM, when the accused came from the society till the time, he was apprehended at around 7-7.30 AM. He was seen by various witnesses along with weapon of offence and blood-smeared clothes. He also committed deadly assault with rod on the heads of Police Officers but they ducked and saved themselves. He attempted to kill them also. Thus, the prosecution proved each and every aspect of the case that the accused Naresh committed 6 murders between 1:20 AM to 7:00 AM within the same vicinity. The prosecution has proved its case beyond any reasonable doubt. The accused deserves to be convicted for the charges levelled against him under for commission of offences punishable under Sections 302, 307, 332, 353, 186 of IPC.

76. Rebutting the above-said arguments, it has been submitted by Learned Defence Counsel, that the entire case of the prosecution is based on circumstantial evidence, as none of the witnesses saw the accused assaulting any deceased. The mobile locations are not sufficient to connect the accused with the offence of murder. The witnesses are planted witnesses. The police was unable to trace the actual murderer and 6 blind murders were falsely planted on the accused because he was as insane person. There is no direct evidence against the accused. Even if the

accused is connected to the murders by way of evidence, the fact that he was insane can be culled out from the evidence led by the prosecution itself, which includes the medical evidence. Even the depositions of the witnesses show that the accused was of unsound mind when they saw him. Ex.PW6/A is the proceedings of police, on the complaint of PW3 Taslim. The same was started at 11:00 AM on 02.01.2018 i.e. after 8 hours of the receiving of information by the Police Officers. The FIR was belated and was registered at 11:00 AM. The said delay of 8 hours has not been explained by the Investigating Agency.

77. PW3 Taslim, the complainant says that he chased the accused at Palwal Hospital, Palwal whereas PW25 Zakir says that accused chased him. Thus, there is contradiction in the testimonies of both the witnesses. In fact, the complaint made by the complainant is tutored by the Police to falsely implicate the accused in 6 blind murders. The Complainant Taslim has admitted in his cross-examination that the fact in the complaint regarding the murders of other 5 persons was written by him as told to him by the police. He also admitted that he saw the accused for the first time, while making deposition in the Court. He could not specify, where the CCTV cameras were installed in the hospital. He admitted that he was not visible in the CCTV footage. He could not comment whether the mental condition of the accused was normal. He did not notice blood on his clothes. No assault on PW3 Taslim is visible in the CCTV footage. Many dogs were also killed in the said night but the witness did not

depose any such fact. The same shows that he is deposing falsely.

78. The PW Dr.Mukesh and PW Dr.Raj Kumar, the Doctors who conducted the postmortem of deceased admitted that no weapon was shown to them by the Police and they did not send the hearts of the deceased for viscera report. PW6 Sub-Inspector Jai Ram, Investigating Officer deposed that medical assistance was provided to the accused by the Doctors. However, there is no such document which bears the signature of any Doctor. As per the deposition of Investigating Officer, he found the 5 dead bodies while searching for the accused. The route of the accused has been deposed from Omaxe City, Palwal to Panchwati Mandir, to Old GT Road, to Rasulpur Chowk, to Mayur Hotel and to GT Road. The same does not tally with the location charts of the mobile phones of the accused. The Investigating Officer also stated that a case of assault was registered against accused Naresh at Police Station Camp, Palwal. The details of the said case have not been proved by the prosecution.

79. PW42 Kapil, the alleged eye-witness has admitted that rod held by the accused dipped in the drain and water was flowing in the drain. In these circumstances, it is not possible that the finger-prints were lifted on the rod. All the Police Officer stated that rod was handed over by ASI Ramdiya to Investigating Officer Jai Ram, the rod was not sealed and 5-6 Police Officers handled it. Thus, it is not possible that the accurate finger-prints were lifted from the rod. In fact, the weapon of offence was

planted on the accused. The alleged demarcation memos of the place of occurrences at the behest of accused did not lead to any discovery of any new fact. Admittedly, all the Police Officers already knew the scenes of occurrences as the Investigating Officer had already made site-plans. PW6 Sub-Inspector Jai Ram has deposed that he inquired about the mental condition of the accused and received his discharge papers from Army Base Hospital. The discharge report running in around 50 pages, clearly shows that accused was suffering from non-organic psychosis. The alleged medical certificate of the accused of joining of Government Service again in the year 2006 is a self-declaration and undertaking and it does not prove that accused was sane at that time. Also, PW6 Sub-Inspector Jai Ram, the Investigating Officer has made unbelievable deposition that accused killed Anjum and left hospital at 2:49 AM and he received the information of other 5 persons at 3:00 AM. It is not possible that the accused killed 6 persons in 11 minutes. In fact, the accused was on the same route on which the Investigating Officer was searching for him, as deposed by the Investigating Officer i.e. Old GT Road. There is no explanation as to why the Investigating Officer could not apprehend the accused when he was close by and on the same street. In fact, the entire story of the prosecution is false. Investigating Officer met the complainant Taslim at 3:00 AM but still no complaint was received by him. The presence of Taslim, the complainant at Palwal Hospital, Palwal is doubtful. Even the Investigating Officer identified the accused from the

photographs seen on Whatsapp, viralled by the SHO after allegedly receiving them from CCTV footages. There was no other clue with the Investigating Officer to identify the accused. At 7:00 AM, when the Police Officers reached the spot, allegedly accused was loudly crying ***Savdhaan*** when the people gathered there. The same shows that the accused was insane. The fact of his insanity can be culled out, from his conduct in judicial lock-up and the manner in which he loudly talked while being produced in the Court and also from the reports from the Army Hospital and the Jail Hospital.

80. None of the eye-witness saw any offence of murder. There were 10-15 persons in the hospital on the ground floor. The accused did not hit anyone. Even if there is no documentary evidence on the file that the accused was insane, the same is proved by the nature of events. The degree of evidence to be led by the accused is of preponderance of probability that he was insane and not beyond reasonable doubt. His conduct and the appearance show that he was insane at the time of the incident. He killed some stray dogs also, in the same night but the Police Officers concealed this fact deliberately, to show that the accused was of sound mind. There is no document to prove that the accused was of sound mind on 02.01.2018. A medical opinion of 09.01.2018 is there but the same is inconclusive. In fact, the accused should have been thoroughly examined on 02.01.2018 itself. Even in the report dated 09.01.2018, the Doctors did not say that the accused was mentally fit. In fact, the accused

was made a scapegoat by the police since he was insane and 6 blind murders were planted on him. There are material contradictions in the deposition of witnesses and there is no evidence connecting the accused with the offences. The Investigating Officer admits that he did not seal the weapon of offence. The location of the accused are also of Moti Colony, Agra Chowk, New Colony, Rasulpur Road etc. where no incident took place. Hence, the version of the prosecution cannot be relied upon. The other persons present at the hospital were not made witnesses for prosecution, which is a major lacuna in the investigation. The Investigating Officer did not receive the CCTV footage along with the requisite certificate under Section 65-B of The Indian Evidence Act, 1872. He did not show the iron-rod to the Doctors, who conducted the postmortem. Since, the Investigating Officer came to know that the accused was suffering from psychosis, he should have got conducted his check-up from a psychiatrist. The same was incumbent upon the Investigating Officer. He should have investigated the case from all angles but he failed to do so. The accused regularly received psychiatric treatment in the Jail, after few days of his lodging there. Also, in the discharge papers of the accused of retirement from Army, it is opined that accused would need psychiatric treatment in future. However, no opinion was received by the Investigating Officer as to whether the psychosis of accused has aggravated or diminished.

81. PW12 Nanhey Ram made his improvements in his deposition

to the effect that he saw the accused committing murder in CCTV camera. No such CCTV footage is available till date. PW13 Dr. Charan Singh and PW18 Dr. Shiv Shankar both deposed that the injuries received by the 6 Police Officers were mostly of complaint of pain. They also admitted that the complaint of pain does not come within the definition of injury.

82. PW15 ASI Ramdiya, who apprehended the accused has clearly deposed that he had fallen down at the time of apprehension by Police Officers and he received head injury. Hence, blood on the pants of deceased could be his own blood. For the said reason, the blood groups on his clothes did not match with the blood groups of deceased. The blood report is inconclusive and cannot be relied upon. PW15 ASI Ramdiya could not say whether the accused was of unsound mind at the time of apprehension. In fact, the Police Officers have concealed the fact of insanity of accused. PW19 Shri Kant stated that he handed over the CCTV footage to the Investigating Officer Jai Ram, whereas the Investigating Officer Jai Ram says that same were received by SHO Ashwani Kumar. The same is a material contraction. PW20 Vinod Kumar, Senior Scientific Officer stated that one blood-stained lathi was also present on the spot. However, the same was not seized. In fact, the said blood-stained lathi may be the weapon of offence. He deposed that SHO seized the lathi in his presence but the same was not seized or produced by the police. It is possible that there may be some unknown person, who used the lathi and committed the murders and the said

murderer could not be traced. PW22 SPO Har Parshad says that the accused committed the assault on them and they overpowered him whereas PW39 Sub-Inspector Mohammad Illiyas and PW15 ASI Ramdiya made a contractory deposition that they overpowered the accused.

83. PW23 HC Gurmuk, who lifted the finger-prints stated that on 02.01.2018, he remained with the Investigating Officer from 10:00 AM to 9:00 PM. When the rod was already dipped in the water, no finger-print could be lifted from the same. He also deposed that he met the accused at 9:00 PM whereas accused was already admitted in Safdarjung Hospital, Delhi at that time. He also stated that the iron-rod was not sealed and the rod was in the hands of Police Officers and it was covered with a cloth. He could not tell whether the said cloth was sealed or not. In these circumstances, multiple finger-prints should have been detected on the rod, but the same were never detected.

84. PW24 Virender has made material improvement in his deposition before the Court to the effect that, he had stated in the complaint that the accused tried to hit him and also chased him. No such fact was mentioned in the complaint. He is an unreliable witness. His version is totally different from the version of other eye-witness PW3 Taslim and PW25 Zakir. The 3 witnesses materially contradicted each other in regard to the occurrence alleged at Palwal Hospital, Palwal. In fact, they are planted witnesses and the accused has been made a

scapegoat in case of 6 blind murders. PW26 Mukesh Kumar could not prove any attendance register or record that he was present on duty at Omaxe City, Palwal on the night of incident. He could not prove any entry or exit record of accused, as alleged by him. PW27 Sub-Inspector Rameshwar Singh stated that he did not seize the clothes of accused at Safdarjung Hospital, Delhi but brought the same in plastic bag. In fact, the Doctors should have sealed the clothes of accused and handed over the same to the Police Officers. Hence, there are chances of tampering with the clothes of the accused as no seizure memo was prepared in regard to the same. Whereas the eye-witness alleged that only pants of the accused were blood-smearred, as per the serology report all the clothes were blood-smearred. The same reflects that tampering of the clothes was done by the Police Officer, to implicate the accused. PW28 SHO Ashwani Kumar stated that he reached the Hospital at 2:45 AM. As per the case of the prosecution, the accused was present at the hospital till 2:49 AM. In these circumstances, the SHO should have apprehended him. The SHO stated that the disclosure of the accused was recorded at Safdarjung Hospital whereas the other witnesses says that disclosure was recorded at Police Line, Palwal. The SHO has wrongly opined that the accused was normal as per his observation and judgment. Some of the Police Officers says that accused had bandage on his head, at the time of disclosure statement whereas the other says that they could not tell the same. Thus, the version of the prosecution is doubtful. PW29 HC Sanjay, the witness of disclosure

statements and demarcation memos, admitted that no independent witness was joined at the time of disclosures and demarcations. Admittedly, all the scenes of occurrence were already known to the Police Officers, prior to the demarcation by the accused. Hence, the demarcation cannot be relied upon. PW30 SPO Satbir Singh stated that the Investigating Officer came to know about the incident at 1/2:00 AM, which is in gross contradiction of deposition of PW6 Sub-Inspector Jai Ram that he came to know of the incident at 3:00 AM.

85. PW32 Sub-Inspector Manoj could not tell about the time of start and end of investigation. He admitted that no witness was joined at the time of demarcation by the accused. He admitted that no Doctor was joined in the investigation.

86. PW35 Seema, the wife of the accused Naresh deposed that accused was suffering from psychiatric problem and he received treatment from some Doctor at Ghaziabad, from a Maulvi and a Homeopathic Doctor. However, police did not investigate about the mental illness of the accused. The medical treatment records were there but the Investigating Officer did not receive the same.

87. PW36 HC Sandeep, one of the officials, who apprehended the accused could not depose whether the accused was of unsound mind. He admitted that an iron-rod was seized from accused but it was sealed afterwards at Government Hospital, Palwal.

88. PW37 HC Hemraj admitted that he did not give any

certificate under Section 65-B of The Indian Evidence Act, 1872 while handing over 3 CDs and 1 pen-drive.

89. PW39 Sub-Inspector Mohammad Illiyas also stated that he did not know whether the accused was of unsound mind. He also corroborated that clothes of the accused were brought from Safdarjung Hospital, Palwal in a plastic bag. The same implies that the clothes were not properly seized.

90. PW41 Kamlesh, the earlier landlord of the accused is a tutored witness.

91. PW42 Kapil, the neighbour of the wife of the accused deposed that the accused started breaking the gate of his house with the iron rod and abused him. He also admitted that there was no enmity of the accused with him. This conduct shows that the accused was insane. He alleged the he received injury on his hand, but no MLR is there. He also deposed the rod of accused dipped in the drain into flowing water. Hence, there is no possibility of lifting of finger-prints from the rod. PW43 Devi Ram another eye-witness did not notice any blood on the rod. The same raises doubts in regard to the version of the prosecution.

92. PW47 Ramesh Chand, the finger-print expert deposed that all the sample photographs of the finger-prints were not returned by him and only one was sent. Hence, his report is unreliable.

93. PW51 Anju Bala, Serology Expert admitted that blood on the iron rod could not be connected to the blood group of any of the deceased.

The blood on the pants of the accused was of blood Group-B. In fact the same was on account of injury received by the accused, while he was being arrested.

94. CW1 Jogender Kumar, Assistant Superintendent, District Jail, Faridabad proved the medical reports of the accused which say that he was disoriented to time, place and person. The same proves that accused is a psychiatric patient. The report dated 28.01.2023 of the Jail says that accused is suffering from bipolar disorder psychiatric disorder. The same has deteriorated. The report also says that he was disoriented to time, place and person. Since the time, the accused has been lodged in Faridabad Jail, he has been regularly receiving psychiatric treatment. Thus, the entire record and the conduct of the accused proves that he was insane at the time of incident. The Army discharge report says that accused would need psychiatric treatment in future. No time period of the future treatment was mentioned in the report. The same implies that the treatment was required for an indefinite period. The summary report of discharge from the Army shows that the accused was irritable, aggressive, violent and suffered from lack of sleep. The report shows that there is a family history of mental illness. The accused was suffering from excitatory psychosis. Thus, it is proved that the accused was falsely implicated in blind murders due to insanity. There is no direct evidence against the accused. He is not visible in any footage while assaulting any victim. No eye-witness saw him committing any assault. The disclosure

of the accused says that he had made up his mind to kill anyone he meets but he did not so as he did not kill everyone he met on that night. Hence, the disclosure statement does not match the conduct of the accused. Though it is not imperative to prove the motive as to why the accused committed the said offence, still it is an admitted fact that the accused did not know any of the deceased, and had no motive to kill them. Concluding the arguments it was submitted that there is no evidence to connect the accused with the alleged offences. Still, if the Court comes to the conclusion that the accused committed the murders, he must be given the benefit of insanity under Section 84 of IPC.

95. Where a previous history of the insanity of the accused is revealed, it is the duty of the investigator to get the accused medico-legally examined immediately and place the evidence before the Court. The accused taking the defence of insanity is to establish his defence only by preponderance of probability, like in a civil proceeding. Where the insanity of the accused at the time of the incident is doubtful, benefit of Section 84 of IPC should be given to him. In these regards, reliance has been placed on **Devidas Loka Rathod v. State of Maharashtra Criminal Appeal No. 814 of 2017, Date of Decision 02.07.2018 (SC)**, **Ghana Gogoi v. State of Assam Crl. Appeal No. 104(J) of 2008, Date of Decision 18.06.2013 (Guhati)**, **Mohan Lal v. State, Through P.P. Criminal Appeal No. 6 of 2020, Date of Decision 27.01.2022 (Rajasthan)** and **Kalam Gulab Patel v. The State of Maharashtra, Criminal Appeal No. 154 of 2014, Date**

of Decision 27.09.2017 (Bombay). With these submissions, it was prayed that the accused deserves to be acquitted of the charges levelled against him.

96. I have heard the Learned Public Prosecutor assisted by the Leaned Counsel for the Complainant and the Learned Defence Counsel and perused the case file carefully.

97. The case of the prosecution is that accused Naresh committed 6 murders in the intervening night of 01.01.2018/02.01.2018 by assaulting the victims on their heads with iron rod and he was apprehended in the morning. On the other hand, two-fold defence have been taken by the accused. The first defence is that the 6 murders were blind murders and the same have been falsely planted upon the accused since the police could not trace the actual murderer(s). The second defence raised by the accused is that he was suffering from insanity at the time of the incidents and he must be given the benefit of insanity under Section 84 of IPC, in case the Court comes to the conclusion that the accused committed the offences.

98. Considering the case of the prosecution and that of defence, the findings of this Court are as under.

Prosecution Evidence

Admitted Facts

99. The admitted facts of the case are that in the intervening night of 01.01.2018/02.01.2018, 6 persons were murdered within a radius of around 500 meters in Palwal City, in an identical manner i.e. repeated assaults on the head with a blunt weapon. The skulls of all the 6 victims were crushed and brain issues were missing. Also, there was fractures on hands and legs of the victims.

Injuries, Weapon and Cause of Death

100. As reflected in the PMRs of the deceased, all injuries were caused by blunt weapon. The injuries of each victim are detailed below.

Injuries of deceased Anjum:

- 1.Lacerated wound right side forehead 5x2 inches x bone deep some part of soft and hard tissue missing.
- 2.Lacerated wound below right eye over cheek 4x1cmxbone deep.
- 3.Lacerated wound over forehead over injury No.1 3x1cmxbone.
- 4.Diffuse swelling over right wrist with a bruise over it.
- 5.Lacerated wound left leg lower 1/3rd with diffuse swelling.
- 6.Contusion 2x2 cm surrounded by a bruise 8x6cm over medial aspect left thigh upper 1/3rd.
- 7.Bruise right thigh lower 1/3rd.
- 8.Abrasion B/L chest with deformity upper 1/3rd.

9. Fracture skull multiple.

10. Fracture frontal bone along with maxilla.

11. Fracture right ulna lower end.

12. Fracture both bone lower and left leg tibia and fibula.

13. Fracture 2, 3 and 4th ribs seen, haemothorax seen.

On dissection of above all injuries found extravasation of blood in the soft tissue with.

Injuries of deceased Subhash:

1. Crush injury left frontotemporoparietal bone with crushing of underlying brain with fracture left zygoma, fracture left maxilla, left eyeball missing from socket, fracture bilateral nasal bones.
2. A 5cm x 3cm lacerated wound over left occipital region.
3. A 2 cm x 1cm lacerated wound over Columbia of upper lip.
4. A 2cm x 1cm lacerated wound over anterior aspect of middle one third left leg.

Injuries of deceased Munshi Ram:

1. Crush injury of skull with fracture of bilateral fronto-temporo-parietal bones with crushing of underlying brain with part of brain missing. Fracture of left maxilla and bilateral nasal bones.
2. A 5cm x 2cm superficial burn left upper thigh anterior aspect.

Injuries of deceased Sita Ram:

1. Crush injury of left frontotemporoparietal bone with crushing of underlying brain tissue with part of brain tissue missing from cranial cavity and its eyeball sunken in.
2. A 5cm x 4cm lacerated wound right temporal area with fracture of underlying right temporal bone.
3. A 3cm x 1.5 cm lacerated wound anterior aspect of middle one third left leg with fracture left tibia present.
4. A 2cm x 2cm lacerated wound over anterior aspect of right leg middle one third with fracture of right tibia present.
5. A 1cm x 1cm lacerated wound over middle one third right forearm, on dissection fracture of both bones right forearm present.

Injuries of deceased Surender:

1. A compound injury over forehead and mid parietal region of skull along with deformity seen, some part of soft and hard tissue missing, brain tissue contused, multiple blood clots seen.
2. Bruise over right forearm along with deformity in middle.
3. Abrasions upper 1/3rd legs and lower 1/3 thigh B/L.
4. Lacerated wound right foot dorsum 6x1 inch x muscle deep.

On dissection of above all injuries found extravasation of blood in the soft tissue along with fracture right both bone i.e. ulna and fibula shaft, lower and of B/L femur and B/L both bone B/L legs upper ends.

Injuries of deceased Khem Chand:

1.Lacerated wound over scalp B/L parietal region 4.5inchx1inchxbone deep, another 5x1inchesxbone deep.

2.Lacerated wound left side of forehead over eyebrow 2cmx1cm and 3x1cmxbone deep respectively.

3.Abrasions right thigh medially 7inchesx1inches approx.

4.Abrasions left thigh lower 1/3rd medially and patteller region 4x2cm approx.

101. On dissection of above all injuries found extravasation of blood in the soft tissue with multiple fracture scalp bones, some parts of soft and hard tissue missing, brain tissue contused and multiple clots seen.

102. Cause of death in all cases was shock and hemorrhage as a result of ante-mortem head injuries, sufficient in ordinary course to cause death. All the victims expired on the spot and instantly.

Information and search

103. The information of the first murder was received to the Investigating Officer PW6 Sub-Inspector Jai Ram, at around 3 AM, when he was on crime patrol duty. He reached Palwal Hospital, Palwal, where

Anjum, the attendant of ICU patient was found to be murdered by some unknown person. The Sub-Inspector informed SHO Police Station City, Palwal, who immediately came to the spot and checked the CCTV cameras and he took the photographs of the accused, who was seen roaming with an iron rod, in the hospital and he was also seen chasing a few persons in the Hospital corridor, with an iron-rod in his hand. The SHO took the screen shots of the photographs of the assailant and circulated the same on Whatsapp of the Police Officers and all the Police Stations of Palwal. The Police Officers started searching for the accused. Before the first body could be taken to mortuary, 5 similar dead bodies of victims murdered in an identical manner, were found in the same vicinity, of Deceased; Munshi Ram, Surender @ *Bhikhari Baba*, Subhash, Sita Ram and Khem Chand. The search for the accused continued during the night, which was admittedly a dense foggy night and visibility was extremely poor i.e. up to 5-10 feet only, as deposed by several witnesses.

Eyewitness accounts and CCTV Footages

104. To prove that the accused Naresh committed the said murders, the prosecution has got examined 3 eye-witnesses from Palwal Hospital, Palwal namely PW3 Taslim, who moved the Complaint in the morning, PW25 Zakir and PW24 Virender. These 3 eye-witnesses have stated that around 2:38 AM in the intervening night of

01.01.2018/02.01.2018, they were present on the ground floor of hospital when they heard something falling on the ground. They rushed to the first floor and saw that Anjum was lying on the floor in a blood pool. Accused Naresh, who was hiding in the bathroom, suddenly came out and attacked them with an iron-rod. They ran and saved themselves and the accused ran away. All the 3 eye-witnesses have corroborated material aspects of this incident. Their version is further corroborated by the CCTV footages proved vide Ex.MO/1,CDs and Ex.MO/2, Pen-Drive which were retrieved from the CCTV system of Palwal Hospital, Palwal. The same was retrieved by Shri Kant, Technician, from the CCTV system. PW37 HC Hemraj converted the CCTV footages in 3 CDs and 1 pen-drive, which were received by the Investigating Officer PW6 Jai Ram and seized and sealed. The original DVR of the CCTV footages along with the hard-disk and adapter of VGA were produced in the Court vide Ex.MO/5. The CCTV footage was played in Court and the Investigating Officer identified the accused, who was clearly seen in the CCTV footage. That the accused facing trial is the same person has also been deposed by PW3 Taslim, eyewitness and complainant, PW12 Nanhey Ram, who also saw the CCTV footage, PW24 Virender, eyewitness and attendant, PW25 Zakir, eyewitness and Ambulance driver of Hospital, PW19 Shri Kant, Technician and PW28 SHO Ashwani Kumar. Thus, from the testimonies of the eye-witnesses and the CCTV footage, which has been duly proved as detailed above, it is proved beyond reasonable doubt that the accused

was present in the Palwal Hospital, Palwal, when the murder of Anjum took place. He entered the hospital at 2:37 AM with the iron-rod and was roaming in the hospital and was seen running out of the hospital after trying to assault the 3 eyewitnesses, Taslim, Virender and Zakir, at 2:49 AM.

Last Seen Theory

105. The evidence led by the prosecution is not only circumstantial evidence that the accused was present with a blood-stained iron-rod near the deceased Anjum, immediately after the murder but this evidence was also corroborated by direct and scientific evidence of CCTV footage and eye-witnesses accounts of 3 eye-witnesses, when the accused tried to kill them, immediately after the murder of Anjum and absconded. It is pertinent to mention that these 3 eyewitnesses Tahir, Virender and Zakir were present on the ground floor when they heard something falling on ground, on first floor of the hospital. They rushed to the first floor on hearing the sound and at the most they reached the first floor through staircase, within 15-20 seconds. The accused was present there, close to the body of Anjum which was lying in pool of blood. The time duration of 15-20 seconds is so less that there is no possibility that anyone else committed the offence, except the accused present there with blood-smearred iron rod and clothes. As held by the Honorable Supreme Court in

the case of *Ramanand v. State of Himachal Pradesh*, 1981 AIR 738(SC) that '*Perfect proof is seldom to be had in this imperfect world and absolute certainty is a myth*'. The concept of circumstantial evidence arises because in each case the direct evidence could not be found so the Court has to rely on circumstantial evidence for deciding upon the matter. The last seen theory is also based on the same lines as in some criminal cases when there is no direct or tangible evidence regarding how the offence has been committed or who committed the offence then the last resort for deciding the case is this theory based on circumstances of the case. According to this theory, if a person is the last seen with the deceased just before his death or within a reasonable period of his death that no other person could have intervened in between them then the presumption can be taken that he (the person who was last seen) is the author of the crime. And thus the burden of proof shifts on him to negate this fact and if he is not able to give a lucid and sufficient explanation about his innocence then the presumption becomes even stronger. If the last seen theory is to be established then the duration of the accused and deceased last seen together and the recovery of the dead body should be minimal. So that the possibility of another person interfering could be ruled out and the possibility of the accused being the author of the crime could be established. Thus only Accused was found present near the Victim Anjum, within 15-20 seconds of the murder, alongwith the weapon of murder which was blood-stained and his clothes were blood-

stained.

Eye-witnesses

106. After the accused left the premises of Palwal Hospital, Palwal at 2:49 AM. He was seen in front of the house of his wife Seema by a neighbour PW42 Kapil at 4:00 AM, where he was strolling on the street. At 6:30 AM. Accused started abusive language and tried to break the gate of the house of PW42 Kapil. Admittedly, they were known to each other. PW42 Kapil asked him to calm down and the accused requested him to give a cup of tea to him and let him inside the house. When he tried to open the gate, accused struck a rod blow which hit his hand. Kapil closed the gate and informed the police through his friend Sunil and also kept eye on the accused. After sometime, 6 Police Officers arrived in 2 vehicles and apprehended the accused at around 7-7:30 AM. Out of the said 6 Police Officers, the prosecution has examined PW15 ASI Ramdiya, PW22 SPO Har Parshad, PW36 HC Sandeep and PW39 Sub-Inspector Mohammad Illiyas. All of them have corroborated that the accused had an iron-rod in his hand, which was blood-smearred. The pants of the accused were blood-smearred. When they tried to apprehend him, the accused inflicted murderous blows on them by aiming the blows on their heads, with the iron-rod. SPO Har Parshad has specifically stated that the accused inflicted blow on his head but he escaped by sitting down

and he entangled feet of the accused with his fiber stick. The accused was overpowered and the iron-rod was snatched from him by the Police Officers.

107. 5 out of the 6 Police Officers received injuries and they were medico-legally examined. Their MLRs have been proved by PW13 Dr. Charan Singh and PW18 Dr. Shiv Shankar. The iron-rod was submitted to the Investigating Officer. Since the accused had received injuries, he was taken to Government Hospital, Palwal and was medico-legally examined. He was further referred to Safdarjung Hospital, Delhi for receiving the treatment of the head injury. His blood-stained clothes were also seized by the police, from Safdarjung Hospital, Delhi.

Injured Police officials as witnesses

108. PW15 ASI Ramdiya, PW22 SPO Har Parshad, PW36 HC Sandeep and PW39 Sub-Inspector Mohammad Illiyas received injuries in the apprehension of the accused. Their injuries are proved by PW13 Dr. Charan Singh and PW18 Dr. Shiv Shankar. The injuries suffered by the Police Officers as reflected in their MLRs/OPD Card are detailed below.

Injuries of ASI Ramdiya

1. A bluish discoloration on nasal bridge and both nostril Adv-X-ray Face ENT opinion surgeon opinion.
2. Complaint of pain right thigh on upper anterior aspect Adv-X-ray

right thigh ortho opinion.

3. Complaint of pain around umbilical (no tenderness) Adv-USG whole Abdomen surgeon opinion.

4. Complaint of pain on right shoulder Adv-X-ray right shoulder chest X-ray ortho opinion.

Injuries of ASI Rajesh Kumar

1. Complaint of pain right hand thumb base. Adv-X-ray right hand AP Lateral, ortho opinion.

2. Complaint of pain whole bodyache.

Injuries of SPO Har Parshad

1. Swelling present over left leg. Adv-X-ray left leg AP Lateral, ortho opinion.

2. Swelling present over right arm. Adv-X-ray right arm AP Lateral, ortho opinion.

3. Complaint of pain upper back pain, redness present.

4. Complaint of pain abdomen. Adv-USG whole abdomen, surgeon opinion.

Injuries of HC Sandeep

1. Swelling with redness present over right shoulder. Adv-X-ray right shoulder AP view, ortho opinion.

2. Swelling with redness present over left leg. Adv-X-ray left leg AP Lateral, ortho opinion.
3. Complaint of pain. Adv-CXR PA view, surgeon opinion.

Injuries of SI Mohammad Illyas

1. Complaint of pain lower back.
2. Complaint of pain chest.
3. Redness on left thigh.

Injuries of Constable Lukman

1. Complaint of pain over right shoulder Adv-X-ray shoulder ortho opinion.
2. Complaint of pain and slight bluish discoloration over right side of chest on anterior aspect Adv-Chest X-ray ortho opinion surgeon opinion.
3. Complaint of pain upper abdomen (no tenderness). Adv-USG Whole Abdomen surgeon opinion physician opinion.

109. The Police Officers have corroborated the case of the prosecution that the accused was arrested at 7:00AM which blood-stained clothes and weapon and he tried to escape the apprehension. Their credibility has not been impeached by the defence in any manner. They are public servants and are presumed to be performing their duties sincerely, and not under a motive of false implication of a an allegedly

insane person, leaving an actual serial killer. In **Rohtash Kumar vs State Of Haryana, (2013) 14 SCC 434(SC)** it was held, “*that the evidence of police officials cannot be discarded merely on the ground that they belonged to the police force, and are either interested in the investigating or the prosecuting agency. However, as far as possible the corroboration of their evidence on material particulars, should be sought. Thus, a witness is normally considered to be independent, unless he springs from sources which are likely to be tainted and this usually means that the said witness has cause, to bear such enmity against the accused, so as to implicate him falsely. In view of the above, there can be no prohibition to the effect that a policeman cannot be a witness, or that his deposition cannot be relied upon.*”

Other Independent Eye-witnesses

110. PW26 Mukesh, Security Guard of the Omaxe City, Palwal where the accused used to live has also deposed that the accused is the owner of Flat No. 583. In the intervening night of 01.01.2018/02.01.2018, he came down with a *Danda* like object in his hand. It was a very foggy night. He asked accused Naresh as to where he was going but the accused did not respond and went away.

111. The prosecution has also got examined PW41 Kamlesh, who resided in the same vicinity where the wife of the accused resided with

her father. She also deposed that at around 7:00 AM, accused knocked the door of her house. He had an iron-rod in his hand. His pants were also stained with blood. He asked her to open the gate and give him water to wash his hand and feet but she refused and told that her husband was not at home. Similarly, PW43 Devi Ram, who also lives in the vicinity stated that at around 7:00 AM, accused Naresh came in front of his house and called his son Raju. When he went outside, the accused asked him to drop him at Ballabgarh, Faridabad. Accused was having an iron-rod in his hand. However, the witness told him that he did not have any vehicle and the accused went away. The above-said testimonies of 1 security guard of Omaxe City, Palwal, 3 eye-witnesses of the Palwal Hospital, Palwal, 3 neighbours of the wife of the accused and 4 Police Officers proved beyond any reasonable doubt that the accused went out of his flat at around 1:00 AM in the intervening night of 01.01.2018/02.01.2018 with an iron-rod, went to the Palwal Hospital, Palwal and murdered Anjum lying in front of the ICU, then tried to assault Taslim, Zakir and Virender. Subsequently, he assaulted PW Kapil, soon before his arrest and 6 Police Officers, who apprehended him before his arrest. Also, he tried to wash his blood-stained hand and feet and tried to go to another District i.e. Faridabad. It is also proved from the testimonies that he tried to escape from the custody of the police, at the time of arrest and even caused injuries to the police officers in the said attempt to escape.

Subsequent Conduct of Accused

112. The subsequent conduct of accused of attacking the 3 eye-witnesses, with the iron-pipe, which is clearly captured in the CCTV footage, of Palwal Hospital, duly proved as detailed above, is an inculcating conduct among other circumstances.

113. The asking of accused for water from PW Kamlesh, at around 7 AM to wash his blood-stained hand and feet are an inculcating circumstance, which shows his guilty mind and attempt to hide the genesis.

114. The asking of accused to PW Devi Ram, at around 7 AM, to leave him at Ballabhgarh, Faridabad after the murders, is yet another inculcating circumstance against him.

115. Also the conduct of the accused of assaulting the Police Officers as detailed above is an inculcating circumstance.

Section 8 Indian Evidence Act, Preparation and subsequent conduct.

The Section 8 of The Indian Evidence Act, 1872 says,

8. Motive, preparation and previous or subsequent conduct.

“Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact. The conduct of any party,

or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

Illustration

(i) A is accused of a crime. The facts that, after the commission of the alleged crime, he absconded or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.”

116. In the present case the accused came prepared with a deadly weapon i.e. a 4 feet long iron-pipe, to commit the offences and subsequently tried to abscond. The very fact of preparation and attempt to abscond is an incriminating circumstance against the accused.

117. As held in **A.N.Vekatesh and Another vs State of Karnataka(2005) 7 SCC 714(SC)**, when the accused attempts to escape on seeing the police party, the same is a relevant and admissible circumstance against the accused.

Section 27 and Discovery of location of accused

118. 5 similar dead bodies were found in the said period i.e. between 3:00 AM and 5:00 AM of Munshi Ram in front of the Welfare Society near Geeta Bhawan, Surender @ *Bhikhari Baba* in front of Geeta Park Sohan Road, Subhash near Mayur Hospital Old Sohna Road, Sita Ram near Hanuman Mandir Wali Gali Arya Nagar Palwal and Khem Chand near Rasulpur Road. In the morning the accused was arrested with the iron-pipe and since he received head injury while trying to escape, he was admitted in Safdarjung Hospital Delhi. After the accused was discharged from Safdarjung Hospital, Delhi. He made disclosure statement Ex.PW6/R on 09.01.2018. He suffered two more disclosure statements, Ex.PW6/S on 11.01.2018 and Ex.PW6/T on 14.01.2018. The accused stated that in the intervening night of 01.01.2018/02.01.2018, he was present at his flat at Omaxe City, Palwal. He got enraged on account of some family issues. He took an iron-pipe of *Nalka* (Tap) kept in the flat and came out of the house. He came out with the intention that he would kill any person, who would meet him in the way. He disclosed that he went to Palwal Hospital, Palwal and killed a lady, who was lying on a bench, then he killed another person near a Petrol Pump. The said person was having a lathi in his hand. He thought that the person might apprehend him and thus he killed him with blows of iron-pipe on his head. Then he went to Sohna Road and killed another person standing there, in the similar manner. Then he started moving on Sohna road and

he saw a person going, he killed him also in a similar manner. Then he went towards Rasulpur road, *Ganda Nala*. A person was sitting near a bonfire. He killed him also, in a similar manner. Then he went to Rasulpur Road, a person was going towards Bus Stand and he killed him also. Then he went to the house of his wife at Adarsh Colony and created ruckus and a person came out and he tried to hit him also and then he fell down and received injuries and became unconscious. When he regained his consciousness, he found himself Safdarjung Hospital, Delhi. Subsequently, accused the got demarcated all the spots of occurrence in pursuance of the disclosure statements. Since the disclosure statement was recorded in the custody of the Police Officers, only those facts which were discovered in consequence of information would be admissible. Since the scenes of occurrence were already known to the police, it cannot be said that they were discovered on account of disclosure of the accused. Only that part of the disclosure statement can be admissible which leads to discovery of some fact which is confirmed subsequently, as held in **Pulukuri Kottaya vs King-Emperor, AIR (34) 1947 Privy Council 67,**

“9. Section 27, which is not artistically worded, provides an exception to the prohibition imposed by the preceding section, and enables certain statements made by a person in police custody to be proved. The condition necessary to bring the section into operation is that the discovery of a fact in consequence of information received from a person accused of any offence in the custody of a Police officer must be

deposed to, and thereupon so much of the information as relates distinctly to the fact thereby discovered may be proved. The section seems to be based on the view that if a fact is actually discovered in consequence of information given, some guarantee is afforded thereby that the information was true, and accordingly can be safely allowed to be given in evidence.”

119. Also, as held in **Deoman Upadhyaya vs State, AIR 1960 All 1(Allahabad)**,

1 “The section is based on the doctrine of Confirmation by subsequent facts e.g. that so much of the confession as relates distinctly to the fact discovered by it may be given in evidence because this part at least of the confession cannot have been False. [Sections 25 and 26](#) bar the proof of a confession but [Section 27](#) makes an exception in favour of that part of a confession made by an accused person in custody which is confirmed to be true by subsequent discovery.”

120. After the disclosures were recorded, the only fact which was discovered in pursuance of the disclosure statements was that the accused was present at the scenes of occurrence, at the time of occurrence. The said fact was confirmed by the location charts of the mobile phones of the accused which were received subsequent to the disclosure statements. As per the location charts he was present in the same vicinity of 500 metres from around 2:21 AM to 7.30 AM on the intervening night of

01.01.2018/02.01.2018, i.e. at Rasulpur Road, Jama Masjid, Old GT Road, Adarsh Nagar, Moti Colony, Agra Chowk, Rasulpur Road and finally at Adarsh Colony, from where he was arrested.

121. He also made calls in the above-said period. From his mobile number 9671326749 he made 3 calls at 2:21 AM, 1 call at 4:04 AM, 1 call at 4:26 AM, 1 call at 4:40 AM, 1 call at 7:01 AM and 1 call at 7:23 AM.

122. He also made calls from his mobile No. 9518118498 at 4:48 AM to 4:42 AM (2 calls), 5:21 AM to 5:41 AM and 6:24 AM, when he was situated at Adarsh Colony, Palwal i.e. where his wife used to reside.

123. The said locations of the above-said 2 mobile phones were proved by the Nodal Officers of the service providers, PW50 Deepak Kumar and PW52 Adesh Chauhan. It was also proved that the accused was the registered owner of the mobile No. 9518118498 as proved by deposition of PW48 Sandeep Sharma, Nodal Officer vide customer application form Ex.PW48/B. It was also proved that the accused was the registered owner of the mobile No. 9671326749 as proved by deposition of PW50 Sandeep Sharma, Nodal Officer vide customer application form Ex.PW31/C. The above-said witnesses from the service providers tendered the requisite certificates under Section 65-B of The Indian

Evidence Act, 1872. The accused has not denied the ownership of the said mobile or the locations of the accused at the above-said points where murders were committed. No cross-examination was done at this point and this fact is deemed to be admitted that the accused was present on the 6 scenes of occurrence as well as the scene of his apprehension by the police officers. The same is proved by scientific evidence and has not been denied by any evidence or by way of any cross-examination.

Forensic Reports

124. From the serology report Ex.PW51/A duly proved by Ms. Anju Bala, Senior Scientific Officer Serology, it is proved that the Exhibits No.2 to 7 are the clothes of the 6 deceased, Exhibit No.8 are the clothes of accused and Exhibit No.1, is the blood smeared iron rod. All had blood-stains of human origin. Even if the blood group on the iron rod could not be matched with the blood group of deceased, since it was reported inconclusive, the same was explained by the expert. She has submitted that the human blood on iron rod was of inconclusive blood group, on account of mixing of blood of different blood groups. She has also stated that it may be also on account of less quantity of blood. It is pertinent to mention that she examined the iron rod after 13 days of the incident and some blood must have dried and evaporated also. It is sufficient that iron rod was smeared with human blood and so were the clothes of the

deceased and accused.

125. In addition to the above-said ocular, scientific and forensic evidence, the Finger Print Expert PW 47, Ramesh Kumar, Incharge, Finger Print Bureau proved his report Ex. PW47/A, proved that the finger prints on the iron rod and the glass door of ICU matched the finger prints of accused Naresh. The finger prints of his Right middle finger, left thumb, and right index finger, on the iron pipe and glass door matched with specimen finger prints taken in Court. Thus from the finger print science also it is proved that the accused had used the blood smeared rod and was also present on Palwal Hospital, in the night of the incident. It is well settled that finger print science is perfect and each individual has a unique finger print.

126. There is no merit in submission that, as per the observation of the PW42 Kapil, the iron-pipe got washed in the drain. The 6 eyewitnesses, the police officers present nearby the accused, do not say so. Rather PW Kapil was standing at a considerable distance near the Highway and police officers can give a better eyewitness account of apprehension of the accused.

Striking Similarity Test

127. As proved by the PW 20, Vinod Kumar, Senior Scientific

Expert vide his report Ex.PW20/A, which he prepared after immediately inspecting the 6 murder scenes, the murders were strikingly identical and possibility of serial killer is there. At the end of the report he concluded that

“(vii) A series of homicidal attacks, all conducted in a similar manner upon unarmed common people who were easily available at night and involving their same body part ie the head/skull, by a serial killer cannot be ruled out in this case. Hence, investigate accordingly.”

128. The cause of death, in the 6 PMRs of the victims was also same i.e. ante-mortem head injuries, which were multiple injuries on the skull.

129. As held in the case of a serial killer in **Chandrakant Jha vs State on 27 January, 2016, (Delhi)** Criminal Appeal No. 216/2015 & CRL. M. A. 10421/2015.

“Similar Fact Evidence

6. The legal issue which must be first answered is whether, when and to what extent similar fact evidence is relevant and would be admissible? Similar fact evidence principle is an exception to the dictum that evidence of mere propensity to commit a crime of a certain nature is inadmissible and should not be allowed to be adduced. Simply put, a likelihood or proclivity to commit an offence is forbidden and should not form a part of the chain of reasoning in a judgment. An accused's other

misconduct which could reflect mere tendency by itself, should be excluded from consideration. Presumption of innocence should be preserved. This dictum, resonant and known to the Common Law has exceptions, similar fact evidence', being one. Similar fact evidence as a Common Law term, refers to evidence that may, because of the degree of similarity in two or more events where the accused is common to each event, show improbability of coincidence i.e. this evidence would elucidate and help in determining, whether the facts alleged were intended/deliberate, or accidental. This principle can be extended, as noticed below, to show the identity of the culprit and his involvement in the actus reus.

*7. Similar fact evidence' secured legitimacy way back in 1894 in **Makin Vs. Attorney General of New South Wales [1894] AC 57 at 65**, wherein the following principle was propounded:*

It is undoubtedly not competent for the prosecution to adduce evidence tending to show that the accused has been guilty of criminal acts other than those covered by the indictment, for the purpose of leading to the conclusion that the accused is a person likely from his criminal conduct or character to have committed the offence for which he is being tried. On the other hand, the mere fact that the evidence adduced tends to show the commission of other crimes does not render it inadmissible if it be relevant to an issue before the jury, and it may be so relevant if it bears upon the question whether the acts alleged to constitute the crime charged

in the indictment were designed or accidental, or to rebut a defence which would otherwise be opened to the accused. In this case, John Makin and his wife were arraigned for murder of an infant, who could not be identified due to lack of proof. However, this did not negate their conviction for causing murder of an infant, informally adopted on payment. In addition to the circumstantial evidence, the prosecution had adduced and relied on evidence of other mothers, who had placed babies with the perpetrators. Evidence that bodies of 13 babies were found in different premises occupied at various times by the persons charged was led. This evidence was held admissible as to corroborate the circumstances evidencing, the actus reus and the requisite mens rea required for the crime charged.

*8. Subsequently in 1975, the **House of Lords in Boardman Vs. DPP [1975] AC 421** preferred to adopt the striking similarity test. The test was described by Lord Salmon in the following words:-*

It has never been doubted that if the crime charged is committed in a uniquely or strikingly similar manner to other crimes committed by the accused the manner in which the other crimes were committed may be evidence upon which a jury could reasonably conclude that the accused was guilty of the crime charged. The similarity would have to be so unique or striking that common sense makes it inexplicable on the basis of coincidence.

9. As per aforesaid test, evidence must meet the threshold of

being strikingly similar to the case at hand, before being admissible. The said somewhat stringent test underwent a recast and in DPP Vs. P [1991] 2 AC 447, the shift was to emphasise on relevance i.e. the relevance of the evidence to the matter in issue. The striking similarity test, it was observed, would be one of the criterion on satisfaction of which similar fact evidence' could be led. The test of striking similarities' is based on the nature of the crimes, i.e. the signature or special feature of the crimes and the modus operandi of the separate incidents, which should be clearly established. On the other hand, the relevancy test balances degree of relevancy with proportionate prejudice. Evidence would be admitted if its probative value is substantially greater and out-weighs the prejudicial effect. Both principles are predicated and applied on the basis of practical experience and common sense.

10. The significant development made by the above case law, enables similar fact evidence to be tendered as admissible to prove the identity of the perpetrator, to establish the actus and not merely to demonstrate mens rea of the offence charged. The similar fact evidence rule, as evolved and perfected, states that evidence of similar facts is often irrelevant, unless it is admissible under the exceptions, i.e. it is relevant and the probative value out-weighs the prejudicial effect; striking similarity test is satisfied; or requisite mental state is in issue. A pragmatic and a practical approach stands applied and adopted....

17. Generally, the law precludes evidence of previous offences or convictions and such evidence is inadmissible. Similar facts are, therefore, ordinarily inadmissible to prove the main fact, a part of the transaction, or the identity or connection with the accused, as they would only show a general disposition or habit. However, Sections 14 and 15 of the [Evidence Act](#) do stipulate and covenant exceptions to this axiom. 'Similar fact evidence' is admissible if it bears on the question whether the acts alleged to constitute a crime were designed or mere accidents and thereby to rebut defences alleging an innocent state of mind. This rule applies when mental condition of the person with reference to a particular act is in issue.

18. Similar fact evidence can be led when there is a nexus between the similar fact and the main fact in issue. Apposite, when several distinct offences demonstrate a continuity of action, evidence of previous or subsequent acts would, common sense states, become relevant. For in such cases proof of cumulative facts may aid in proving the main fact in a case. A series of transactions or acts are relevant when they seek to bring about a certain result and obtain certain object. The best way to apply the similar evidence test' is to ascertain the facts to be proved (*factum probus*) and ascertain whether there is sufficient and reasonable connection or a common link with the evidentiary fact. When there is a significant and particular connection of the facts to be proved with the evidentiary fact, i.e., *factum probandum*, 'similar fact evidence' is

admissible. Mere similarity is not sufficient and is not a common link, but a pre-existing plan or design and where one transaction forms a part of a series designed to bring about certain result with a certain object, the connection envisaged above exists.”

130. In the present case also the manner in which murder of first victim Anjum is proved to have been committed by the repeated assaults of the iron-pipe on the skull, the next 5 murders committed in the same vicinity were committed with same modus operandi and would give rise to strong presumption against the accused that all the murders were committed by him, with same intention and same modus operandi and the similarity was not a coincidence or accident, rather the same was intentional.

Circumstantial Chain of Events

131. From the above-said evidence, it is proved that the accused came out from his flat at around 1:00 AM, committed the 6 murders and was apprehended in front of the house of his wife at around 7:30 AM. He came out of his flat with an iron-pipe in the night and when he was apprehended in morning his pants were blood smeared and iron-pipe was also blood-smeared. His mobile phones were seized from him on the scene of occurrence vide Fard Jamatalshi Ex.PW6/AT, which has been proved by PW Sub-Inspector Jai Ram, PW Constable Lukman, PW SHO

Ashwani and PW ASI Ramdiya. Also, the iron-pipe was seized from the accused when he was apprehended, which has been proved vide Ex.PW6/B, duly proved by PW Sub-Inspector Jai Ram, PW HC Sandeep, PW ASI Ramdiya, PW Constable Lukman and PW Sub-Inspector Mohammad Illiyas.

132. As held in **Sharad Birdhi Chand Sarda vs State Of Maharashtra 1984 AIR 1622(SC)**

“...the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say. they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency.

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.”

133. The Circumstances proved by cogent evidence, which unfailingly point to the guilt of accused, and no one else but the accused, are summarized below.

1. The Accused is proved to be going out of his flat at Omaxe Society at the dead of night at 1:00 AM in the intervening night of 1.1.18/2.1.18, with an iron-pipe in his hand.

2. The accused is proved to be entering Palwal Hospital, Palwal at 2:37 AM with an iron pipe in his hand and he exited at 2:49 AM and he was the only person seen with deceased Anjum, lying on floor in a pool of blood within 15-20 seconds of assault on her. His clothes and iron-pipe in his hand were smeared in blood. Then he absconded after trying to assault the other persons present in the Hospital.

3. The accused is proved to be present at all the 6 spots of 6 identical murders from 2:37 AM till 5 AM, as per his mobile phones' locations and phone calls. The mobile phones were seized from his possession, at the time of apprehension. He has not alleged or proved that he was not using the phones that night. He has not denied his locations on and around of scenes of murders at the time of murders. The same is also a deemed admission on account of no cross-examination on this point.

4. The accused was apprehended by police officers at around 7:00 AM with blood-smeared iron-pipe and blood-stained clothes, with blood of human origin. The blood was already present on iron-pipe and clothes before he was apprehended and before his falling on ground, excluding

the possibility of blood-stains of his own blood after falling down.

5. The accused tried to wash his blood stained hands and feet before he was apprehended.

6. The accused tried to escape by going to another District, before he was arrested.

7. The accused tried to escape the arrest and assaulted the police officers in the said process.

8. Finger Prints of accused matched the finger prints on iron-pipe and glass door of the Palwal Hospital, Palwal.

9. All the killings were strikingly similar as the first murder of Anjum, which is proved to be done by the accused, beyond any reasonable doubt.

10. All the murders were in the same vicinity, of similarly situated helpless and innocent victims, totally off the guard.

Statement under Section 313 Cr.PC and No Explanations under Section 106 Evidence Act, 1872

134. All the incriminating evidence including the presence of accused at Palwal Hospital, Palwal and all the scenes of 6 murders proved by CCTV footage and his mobile phones' location chart as well as the recovery of blood-stained weapon from him including his blood-stained clothes at the time of apprehension, were put to him. The accused did not offer any explanation in this regard. The same completes the

circumstantial chain against him. As held in **Ravirala Laxmaiah vs State Of A.P** (2013) 9 SCC 283(SC)

“15. It is a settled legal proposition that in a case based on circumstantial evidence, where no eye-witness’s account is available, the principle is that when an incriminating circumstance is put to the accused and the said accused either offers no explanation for the same, or offers an explanation which is found to be untrue, then the same becomes an additional link in the chain of circumstances to make it complete.”

135. After the prosecution proved its case by leading best ocular, scientific, medical, forensic evidence that the accused came out of his house with an iron-pipe and went to Palwal Hospital and murdered Anjum and then went to the other 5 spots of murder, in the dead of night and was subsequently apprehended with blood-smearred iron-rod and blood smearred clothes and his location was that of the scenes of occurrence as per the telephonic calls made by him, it was for the accused to explain what he was doing in these places at the dead of night between 1:00 AM to 5:00 AM, when the murders took place. It was admittedly a very cold night and densely foggy. It was for the accused why he was not present at his residential house between 2:00 AM to 7:00 AM, but rather he was present at the scenes of 6 murders and was subsequently apprehended with an iron-pipe, the weapon of offence smearred with blood, why his clothes were smearred with blood. The accused must explain these

circumstances as envisaged under Section 106 of The Indian Evidence Act, 1872. As held in **Trimukh Maroti Kirkan vs State Of Maharashtra (2006) 10 Supreme Court Cases 681(SC)**

*“12. If an offence takes place inside the privacy of a house and in such circumstances where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence, as noticed above, is insisted upon by the Courts. A Judge does not preside over a criminal trial merely to see that no innocent man is punished. A Judge also presides to see that a guilty man does not escape. Both are public duties. (See *Stirland v. Director of Public Prosecution* 1944 AC 315 quoted with approval by Arijit Pasayat, J. in *State of Punjab vs. Karnail Singh* (2003) 11 SCC 271). The law does not enjoin a duty on the prosecution to lead evidence of such character which is almost impossible to be led or at any rate extremely difficult to be led. The duty on the prosecution is to lead such evidence which it is capable of leading, having regard to the facts and circumstances of the case.”*

“Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a

comparatively lighter character. In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.”

“El Dorado of absolute proof being unattainable, the law, accepts for it, probability as a working substitute in this work-a-day world. The law does not require the prosecution to prove the impossible. All that it requires is the establishment of such a degree of probability that a prudent man may, on its basis, believe in the existence of the fact in issue. Thus, legal proof is not necessarily perfect proof; often it is nothing more than a prudent man's estimate as to the probabilities of the case.”

“Since it is exceedingly difficult, if not absolutely impossible for the prosecution to prove facts which are especially within the knowledge of the opponent or the accused, it is not obliged to prove them as part of its primary burden.”

136. In this case, the best evidence which was possible was lead by the prosecution, of 6 independent as well 6 official eyewitnesses, right from the point accused started armed from his home, his assault at Palwal Hospital by eyewitness account and CCTV footage, his vicinity at all the

6 spots of murder by call location charts, apprehension and attempt to escape with blood-stained weapons and finger-print and serological reports. Since the remaining 5 murders after Palwal Hospital murder, were conducted at around 2AM to 5 AM, in dark and foggy night of January, with very poor visibility as proved, the prosecution cannot be insisted to bring eyewitness account of each murder along with exact time. The same is not humanly possible. Needless to say, that prosecution led the best evidence and there is no contradiction in it and the chain of circumstances is complete and the same is singularly pointing towards the guilt of the accused. The entire evidence is clinching and cogent in nature.

Discrepancies pointed out by Defence

137. There is no merit in the submission that the iron-pipe was not seized properly. The same was seized and sealed in plastic pipe with the seal of 'JRS' by PW6 Sub-Inspector Jai Ram as reflected in Ex.PW6/B, after the finger-prints on the same were lifted by PW HC Gurmukh.

138. Similarly, the clothes of the accused were received from Safdarjung Hospital, Delhi and seized by the Investigating Officer vide seizure memo Ex.PW6/J duly proved by PW Sub-Inspector Jai Ram, PW ASI Rameshwar, PW Sub-Inspector Mohammad Illiyas. If the Doctors of the Hospital gave the clothes of accused in a plastic bag and the same was immediately converted into Pulinda by the Investigating Officer, the same

is not a material irregularity in the investigation. The same is reflected in Ex.PW6/J.

139. It has also been contended by the defence that a blood-stained bamboo lathi was recovered from the scene of occurrence. It can be the weapon of weapon and actually murderer may someone else. It is pertinent to mention that as reflected in scene of crime team report Ex.PW20/A, when the expert went to the second scene of occurrence near Geeta Bhawan Trust and 6th scene of occurrence at Rasulpur Mod, he found blood-stained lathis along with the dead bodies of both the victims namely Munshi Ram and Khem Chand. These deceased were working as Chowkidars. The Chowkidars usually keep a bamboo lathi. It was natural that the lathis which were kept beside the Chowkidars would get smeared in blood, as in all the murders the skulls of the deceased were crushed and there was a pool of blood around them, and also on their feet and clothes etc. Hence, all the clothes of deceased including their other belongings were all smeared with blood. Hence, 2 blood-stained lathis were found and there is no presumption that they were used as a weapon. Rather the weapon of offence was carried by accused and recovered from him. Also, the nature of injuries caused of multiple fracture of skulls, hands and legs of the deceased and the death of the injured, show that the same were committed by an iron rod, rather than a bamboo lathi. In most of the cases the pieces of bones were found near the body, and brain matter was scattered too, as reflected in Scene of Crime Report EX PW 20/A and the

postmortem reports ExPW4/B to PW4/D and PW5/B to PW5/D. Hence there is no merit in submission that the bamboo lathi may have been used in offence by some other accused.

140. There is no merit in the contention of Defence that the accused was not thoroughly checked up after the incident to ensure his mental health. As per the documents on record, the accused was medico-legally examined by the Doctors of Government Hospital, Palwal on 2.1.2018, then he remained admitted in Safdarjung Hospital Delhi till 9.1.2018. On 9.1.2018, again 2 Doctors were appointed for his medical care namely Dr. Yatender and Dr. Shiv. On 11.1.2018, he was again medico-legally examined and was opined to be conscious and oriented. None of the Doctors in these hospitals observed any psychiatric disease or symptoms of insanity in the accused. No Jail Doctor or the Doctors of BK Hospital Faridabad has ever detected any trace of insanity in the accused.

141. The non-matching of blood group on on the clothes of 6 deceased and the weapon of offence and clothes of accused does not give any strength to defence, since the blood on all these was proved to be of human origin.

As held in **Balwan Singh vs The State Of Chhattisgarh** (2019) 7 SCC 781](SC),

“In the case of [John Pandian v. State Represented](#) by

Inspector of Police, Tamil Nadu, (2010) 14 SCC 129, this Court, on facts, observed that the evidence of recovery of weapons was credible. The Forensic Science Report (FSL) report had disclosed that the blood was of human origin. The Court proceeded to conclude that since the evidence of recovery of weapon was proved to the satisfaction of the Court, it was sufficient that the prosecution had proved that the bloodstains were of human origin, even though the blood group could not be ascertained.

*12. The cases discussed above highlight the burden that the prosecution would ordinarily have to discharge, depending on the other facts and circumstances of the case, for the evidence relating to recovery to be considered against the accused. At the same time, as mentioned above, we are conscious of the fact that it may not always be possible to inextricably link the bloodstains on the items seized in recovery to the blood of the deceased, due to the possibility of disintegration of bloodstains on account of the time-lapse in carrying out the recovery. For this reason, in [Prabhu Dayal v. State of Rajasthan](#), (2018) 8 SCC 127, where one of us (Mohan M. Shantanagoudar J.) had the occasion to author the judgment, this Court, relying on *Teja Ram* (supra), had held that the failure to determine the blood group of the bloodstains collected from the scene of offence would not prove fatal to the case of the prosecution. In *Prabhu Dayal* case (supra), although the FSL report could not determine the blood group of the bloodstains on account of*

disintegration, the report clearly disclosed that the bloodstains were of human origin, and the chain of circumstantial evidence was completed by the testimonies of the other witnesses as well as the reports submitted by the Ballistic Expert and the Forensic Science Laboratory regarding the weapon used to commit murder.

13. From the aforementioned discussion, we can summarise that if the recovery of bloodstained articles is proved beyond reasonable doubt by the prosecution, and if the investigation was not found to be tainted, then it may be sufficient if the prosecution shows that the blood found on the articles is of human origin though, even though the blood group is not proved because of disintegration of blood. The Court will have to come to the conclusion based on the facts and circumstances of each.”

Admissions of Defence

142. The testimony of the above-said Police Officers has not been impeached in any manner, by the defence, rather the presence of the accused and his apprehension, has been admitted as it has been contended in defence that the blood-stains on the pants of the accused could be his own blood, on account of injury received by him, while he was being apprehended. Thus, the defence admitted that the accused was present with the blood-smearred iron-rod at Adarsh Colony, Palwal at 7:00 AM.

143. Also the defence suggested to PW3 Taslim that the accused killed certain many street dogs that night. Though the witness denied any knowledge about that, the same amounts to an admission that the accused was outside his home that night and killed many street dogs.

144. Another suggestion was put by Defence to the PW6, Jai Ram,SI, the Investigating officer that he did not take proper steps for medical examination regarding mental health of the accused, to ensure that the offences were committed by him on account of insanity.This suggestion of defence amounts to admission that the accused committed the murders, though on account of insanity.

145. Thus, the prosecution led positive evidence including the eye-witnesses accounts, scientific evidence of CCTV footage, call location charts, recovery of weapon of offence and blood-stained clothes from the accused, to the effect that he committed the 6 murders in the intervening night of 01.01.2018/02.01.2018 and when he was apprehended by the police, he assaulted them also and they received several injuries. He tried to kill PW Taslim, PW Zakir, PW Virender, PW Kapil and 6 Police Officers. The chain of circumstantial evidence corroborated by the scientific call location charts and CCTV footages leads to singular hypothesis, that the accused committed the said murders.

146. To rebut the case of the prosecution, the defence has raised 2 contradictory pleas, one is that the accused did not commit the murders and he has been falsely implicated as the murders could not be solved by the Police Officers. The other defence is that the accused committed the murders but he was insane at that time. Both the defences are mutually destructive and self-contradictory. However, since the accused has a right to take as many defences as possible, both the defences shall be appreciated as per the evidence and circumstances.

Defence of False Implication in Blind Murders

147. The defence of false implication on account of blind murder proves to be baseless in view of the eye-witnesses account of PW Taslim, PW Zakir, PW Virender, PW Kapil, PW Kamlesh and PW Gopi Chand. all of whom are public persons and not Police Officers. It is not believable that the above-said 6 citizens, who admittedly had no enmity with the accused would make false depositions to implicate the accused as the blind murders were not solved by the Police. It is not believable that PW3 Taslim would make false complaint against accused at the behest of the Police and leave out the actual culprit who murdered his sister-in-law. It is also not possible that the CCTV footage were manipulated by the hospital persons, technician and the Police Officers. In fact, there was no time to

do so, as around 3:00 AM, after a few minutes of the incident, CCTV footage was secured and the photographs of the accused were viralled. Subsequently, he was arrested in the presence of eye-witnesses, including 6 Police Officers and PW Kapil, the neighbour of his wife. All the witnesses have corroborated that he had a blood-smeared iron-rod in his hand. There was no motive for these witnesses to falsely implicate the accused. The Police Officers could not have manipulated the call locations and the calls made from his mobile phones by the accused during the intervening night of 01.01.2018/02.01.2018, since all the above-mentioned calls were made before the accused was apprehended and no one had access to the mobile phone of the accused, before the incident. No such allegation had been made by the defence. It would be absurd to suggest that the Police Officers in connivance with the service providers manipulated the telephonic call records of the accused, which were made at the time of the incident. Thus, theory of false implication of accused in the blind murders proves to be entirely baseless.

Defence of Insanity

148. The plea of insanity has been taken in a very shady manner and as a last resort because the accused knows that there is sufficient evidence to connect him with the offences. He has not stated that he committed the murders under insanity. He has stated that somebody else

committed the murders and he has been falsely booked as he was an insane person. However, if the Court finds him guilty he may be given the defence of insanity and acquitted.

149. The complicated defence of insanity, has been raised in such a contradictory manner and without admitting that the accused committed the offences under insane condition that the defence should be rejected, still it is the duty of the Court to consider the same. It is well settled law that whenever a plea of insanity is taken, it is the duty of the Court to consider all the circumstances and ensure that the accused is not punished, if he was of unsound mind when the occurrence took place, as per Section 84 of IPC.

150. Section 84 in The Indian Penal Code says

“Section 84. Act of a person of unsound mind.—Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.”

151. The above-said provision is to be read with Section 105 of The Indian Evidence Act, 1872, which says,

“Section 105. Burden of proving that case of accused comes within exceptions.—When a person is accused of any offence, the burden

of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code, (45 of 1860), or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances. Illustrations

(a)A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act. The burden of proof is on A.

152. The defence of insanity is based on **M Naughton's case (1843) 4 St. Tr. (NS) 847**. The defence of the insanity has been one of the favourite defences in cases of multiple murders, as in the present case. It is also well settled law that the defence of insanity is to be proved by accused and the degree of evidence required is of preponderance of probability like in civil cases and not beyond reasonable doubt like in criminal case. It is also well settled law that accused is to prove that he was of unsound mind, at the time of incident. As held in **Sudhakaran vs State Of Kerala, (2010) 10 Supreme Court Cases 582(SC)**.

*“9. The trial court thereafter considered the defence pleaded by the appellant under **Section 84 IPC**. Upon examination of the entire medical evidence, the trial court concluded that there is no material to indicate that at the time of the commission of the offence or immediately before the occurrence of the incident, the appellant was suffering from*

any mental illness. Although he had taken some treatment in the year 1985 for mental illness but he had fully recovered from that. Subsequently, long after that he had married the deceased. Even though they were living a disturbed married life, a child was born out of the wedlock. The child was 8 months old at the time when the crime was committed. The trial court also noticed that, although the appellant was irregular, he used to take on casual jobs for his sustenance. The trial court concluded that even after taking note of the evidence produced by the defence, the conclusion was that the appellant was capable of understanding the nature of the act and the consequences thereof.

17.....The medical profession would undoubtedly treat the appellant herein as a mentally sick person. However, for the purposes of claiming the benefit of the defence of insanity in law, the appellant would have to prove that his cognitive faculties were so impaired, at the time when the crime was committed, as not to know the nature of the act.....A bare perusal of the aforesaid section would show that in order to succeed, the appellant would have to prove that by reason of unsoundness of mind, he was incapable of knowing the nature of the act committed by him. In the alternate case, he would have to prove that he was incapable of knowing that he was doing what is either wrong or contrary to law.....It is also a settled proposition of law that the crucial point of time for ascertaining the existence of circumstances bringing the case within the purview of [Section 84](#) is the time when the offence is committed. We may

notice here the observations made by this Court in the case of Ratan Lal Vs. State of Madhya Pradesh [1970 (3) SCC 533] In Paragraph 2 of the aforesaid judgment, it is held as follows:-

"It is now well-settled that the crucial point of time at which unsoundness of mind should be established is the time when the crime is actually committed and the burden of proving this lies on the appellant."

20. The High Court on examination of the evidence before it, came to the conclusion that the appellant had failed to prove that he was suffering from such mental illness that would enable him to take benefit of [Section 84 IPC](#).

21. The High Court took into consideration the totality of the circumstances and came to the conclusion that there was no evidence indicating that appellant was suffering from mental illness at the crucial time. The only evidence placed on record shows that the appellant had been treated in a Psychiatric Hospital for 13 days in the year 1985 even at that time the doctor had diagnosed the disease as psychotic disorder. The record did not indicate that the patient was suffering from such mental disability which incapacitated him to know the nature of the act that he had committed. The High Court further observed that there was no evidence to indicate that the appellant suffered from mental illness post 1985. The High Court, in our opinion, rightly concluded that the appellant was capable of knowing the nature of the act and the consequences thereof on the date of the alleged incident."

153. Similarly in **Surendra Mishra vs State Of Jharkhand (2011) 11 SCC 495(SC)** it was held that,

“7. From a plain reading of the aforesaid provision it is evident that an act will not be an offence, if done by a person who, at the time of doing the same by reason of unsoundness of mind, is incapable of knowing the nature of the act, or what he is doing is either wrong or contrary to law. But what is unsoundness of mind? This Court had the occasion to consider this question in the case of Bapu alias Gujraj Singh v. State of Rajasthan, (2007) 8 SCC 66, in which it has been held as follows:

"The standard to be applied is whether according to the ordinary standard, adopted by reasonable men, the act was right or wrong. The mere fact that an accused is conceited, odd, irascible and his brain is not quite all right, or that the physical and mental ailments from which he suffered had rendered his intellect weak and had affected his emotions and will, or that he had committed certain unusual acts in the past, or that he was liable to recurring fits of insanity at short intervals, or that he was subject to getting epileptic fits but there was nothing abnormal in his behaviour, or that his behaviour was queer, cannot be sufficient to attract the application of this section."

8. The scope and ambit of the [Section 84](#) of the Indian Penal Code also came up for consideration before this Court in the case of [Hari](#)

Singh Gond v. State of Madhya Pradesh, (2008) 16 SCC 109 = AIR 2009

SC 31 in which it has been held as follows:

"Section 84 lays down the legal test of responsibility in cases of alleged unsoundness of mind. There is no definition of 'unsoundness of mind' in IPC. The courts have, however, mainly treated this expression as equivalent to insanity. But the term 'insanity' itself has no precise definition. It is a term used to describe varying degrees of mental disorder. So, every person, who is mentally diseased, is not ipso facto exempted from criminal responsibility. A distinction is to be made between legal insanity and medical insanity. A court is concerned with legal insanity, and not with medical insanity."

9. In our opinion, an accused who seeks exoneration from liability of an act under Section 84 of the Indian Penal Code is to prove legal insanity and not medical insanity. Expression "unsoundness of mind" has not been defined in the Indian Penal Code and it has mainly been treated as equivalent to insanity. But the term insanity carries different meaning in different contexts and describes varying degrees of mental disorder. Every person who is suffering from mental disease is not ipso facto exempted from criminal liability. The mere fact that the accused is conceited, odd, irascible and his brain is not quite all right, or that the physical and mental ailments from which he suffered had rendered his intellect weak and affected his emotions or indulges in certain unusual acts, or had fits of insanity at short intervals or that he was

subject to epileptic fits and there was abnormal behaviour or the behaviour is queer are not sufficient to attract the application of [Section 84](#) of the Indian Penal Code.

10. Next question which needs consideration is as to on whom the onus lies to prove unsoundness of mind. In law, the presumption is that every person is sane to the extent that he knows the natural consequences of his act. The burden of proof in the face of [Section 105](#) of the Evidence Act is on the accused. Though the burden is on the accused but he is not required to prove the same beyond all reasonable doubt, but merely satisfy the preponderance of probabilities. The onus has to be discharged by producing evidence as to the conduct of the accused prior to the offence, his conduct at the time or immediately after the offence with reference to his medical condition by production of medical evidence and other relevant factors. Even if the accused establishes unsoundness of mind, [Section 84](#) of the Indian Penal Code will not come to its rescue, in case it is found that the accused knew that what he was doing was wrong or that it was contrary to law. In order to ascertain that, it is imperative to take into consideration the circumstances and the behaviour preceding, attending and following the crime. Behaviour of an accused pertaining to a desire for concealment of the weapon of offence and conduct to avoid detection of crime go a long way to ascertain as to whether, he knew the consequences of the act done by him. Reference in this connection can be made to a decision of this Court in the case of [T.N.](#)

Lakshmaiah v. State of Karnataka, (2002) 1 SCC 219, in which it has been held as follows:

"9. Under the Evidence Act, the onus of proving any of the exceptions mentioned in the Chapter lies on the accused though the requisite standard of proof is not the same as expected from the prosecution. It is sufficient if an accused is able to bring his case within the ambit of any of the general exceptions by the standard of preponderance of probabilities, as a result of which he may succeed not because that he proves his case to the hilt but because the version given by him casts a doubt on the prosecution case.

10. In State of M.P. v. Ahmadull, AIR 1961 SC 998, this Court held that the burden of proof that the mental condition of the accused was, at the crucial point of time, such as is described by the section, lies on the accused who claims the benefit of this exemption vide [Section 105](#) of the Evidence Act [Illustration (a)]. The settled position of law is that every man is presumed to be sane and to possess a sufficient degree of reason to be responsible for his acts unless the contrary is proved. Mere ipse dixit of the accused is not enough for availing of the benefit of the exceptions under Chapter IV.

11. In a case where the exception under [Section 84](#) of the Indian Penal Code is claimed, the court has to consider whether, at the time of commission of the offence, the accused, by reason of unsoundness of mind, was incapable of knowing the nature of the act or that he is doing

what is either wrong or contrary to law. The entire conduct of the accused, from the time of the commission of the offence up to the time the sessions proceedings commenced, is relevant for the purpose of ascertaining as to whether plea raised was genuine, bona fide or an afterthought."

11. In the background of what we have observed above, we proceed to consider the facts of the present case. The first evidence in regard to the unsoundness of mind as brought by the appellant is the medical prescription dated 18th October, 1987 (Ext. A-1) in which symptom of the appellant has been noted as psychiatric with paranoid features and medicine was advised for sleep. Other prescriptions are dated 9th January, 1988 (Ext. A) and 5th of September 1998 in which only medicines have been prescribed. Other prescriptions (Exts. A-5 to A-7) also do not spell out the disease the appellant was suffering but give the names of the medicines, he was advised to take. The occurrence had taken place on 11th of August 2000. From these prescriptions, the only inference one can draw is that the appellant had paranoid feeling but that too was not proximate to the date of occurrence. It has to be borne in mind that to establish that acts done are not offence and come within general exception it is required to be proved that at the time of commission of the act, accused by reason of unsoundness of mind was incapable of knowing that his acts were wrong or contrary to law. In the present case the prosecution has proved beyond all reasonable doubt that immediately after the appellant had shot- dead the deceased, threatened

his driver PW.1, Vidyut Kumar Modi of dire consequences. Not only that, he ran away from the place of occurrence and threw the country-made pistol, the weapon of crime, in the well in order to conceal himself from the crime. However, it was recovered later on. The aforesaid conduct of the appellant subsequent to the commission of the offence clearly goes to suggest that he knew that whatever he had done was wrong and illegal. Further, he was running a medical shop and came to the place of occurrence and shot dead the deceased. Had the appellant been a person of unsound mind, it may not have been possible for him to run a medical shop. We are of the opinion that the appellant though suffered from certain mental instability even before and after the incident but from that one cannot infer on a balance of preponderance of probabilities that the appellant at the time of the commission of the offence did not know the nature of his act; that it was either wrong or contrary to law. In our opinion, the plea of the appellant does not come within the exception contemplated under [Section 84](#) of the Indian Penal Code.”

154. In **Jai Lal vs Delhi Administration, 1969 AIR 15(SC)**, it was held

“We may briefly notice the evidence bearing on the plea of insanity. Since 1958 the appellant was an employee in the Stores Branch of the Northern Railway Headquarters in Baroda House, New Delhi. In 1958 and 1959 he had altercations with other clerks in the office. On May 20, 1959 his superior officer observed that he was prone to, lose temper in

no time. In his moments of excitement he became dangerous and used to hit his colleagues with anything that he could lay his hands on. But at the time of his greatest excitement he could distinguish between right and wrong. After May 1959 he worked at his desk as a normal man. In March 1960 he again quarrelled with another clerk. He was suspended and sent for medical examination. At this stage he was suffering from mental illness. On October 12, 1960 he was examined by a psychiatrist who found that he exhibited symptoms of acute schizophrenia and showed disorder of thought, emotion and perception of external realities. The psychiatrist said that he was harbouring certain delusions. The nature of the delusions is not stated. It is not proved that the appellant suffered from any particular delusion or hallucination. The appellant was put on a drug named largactil and was given convulsive electrotherapy treatment. On January 12, 1961 he was cured of his illness and was advised to join his duties. On resuming his duties the appellant worked in the office in the normal manner. There is some evidence that on the morning of November 25, 1961 and the preceding night, the appellant complained that he was unwell and took medicine. But on the morning of November 25, he went to his office as usual. He was late in attendance and was marked absent. He applied in writing for one day's casual leave stating that he had an urgent piece of work at home. Nobody noticed any symptoms of mental disorder at that time. He left the office at about 11.30 a.m. and returned home alone. At 1.45 p.m. he stabbed Leela, Parbati and Raghubir with a

knife. He concealed the knife and a search for it has proved fruitless. At 2.45 p.m. the investigating officer arrived on the spot, arrested the appellant and interrogated him. He was then found normal and gave intelligent answers. On the same date he was produced before a Magistrate. His brother was then present but the Magistrate was not informed that he was insane. On November 27, he was interrogated by an Inspector. It does not appear that he was then insane. On November 30, the appellant's brother filed an application before the committing magistrate stating that the appellant was insane at the time of the occurrence. The appellant was later remanded to judicial custody. On receipt of another application from his brother he was kept under medical observation from December 16 to December 23. On December 19 the medical officer noted that the appellant was indifferent to his surroundings and personal cleanliness, preoccupied in his thoughts muttering to himself, making meaningless gestures, losing track of conversations, given to delayed and repetitive answers and unable to give detailed account of incidents leading to his arrest. On December 23, he was declared to be a lunatic though not violent. The psychiatrist noted that the appellant had a relapse of schizophrenia and was suffering from disorder of thought, emotion and loss of contact with realities. From his attitude and manner of talk he was found to be aggressive. On September 6, 1962 the psychiatrist reported that the appellant was cured and was in a position to understand proceedings in court. The commitment order was

made on January 4, 1963. The trial started in February 1963. The appellant was sane at the time of the trial. The group of ailments dubbed schizophrenia is discussed in James D. Page's Abnormal Psychology, Ch. XI, pages 236 to 261 and Modi's Medical Jurisprudence and Toxicology, 14th ed., pages 349 to 401. Schizophrenia is a general term referring to a group of severe mental disorders marked by a splitting or disintegration, of the personality. The most striking clinical features include general psychological disharmony, emotional impoverishment, dilapidation of thought processes, absence of social rapport, delusions, hallucinations and peculiarities of conduct. The question is whether the appellant is criminally responsible for the acts done on November 25, 1961. [Section 84](#) of the Indian Penal Code says :-

"Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law."

To establish that the acts done are not offences under sec. 84 it must be proved clearly that at the time of the commission of the act the appellant by reason of unsoundness of mind was incapable of either knowing that the acts were either morally wrong or contrary to law. The question is whether the appellant was suffering from such incapacity at the time of the commission of the acts. On this question, the state of his mind before and after the crucial time is relevant. There is evidence of a

medical character that between October 12, 1960 and January 12, 1961 he was suffering from schizophrenia. He was completely cured of this disease, on January 12, 1961 when he resumed his normal duties. He had another attack of this disease in the middle of December 1961. The attack lasted till September 1962 when he was found to be normal again. But it is to be observed that the defence witnesses do not say that even during these two periods the appellant was incapable of discriminating between right and wrong or of knowing the physical nature of the acts done by him.

After the appellant was cured of the disease on January 12, 1961 he was found to be normal. He had a highly strung temperament and was easily excitable. But there is positive evidence that even at the moment of his greatest excitement he could distinguish between right and wrong. From January 12, upto November 24, 1961 he attended his office and discharged his duties in a normal manner. On the morning of November 25, 1961 his mind was normal. He went to and from his office all alone. He wrote a sensible application asking for casual leave for one day. At 1.45 p.m. he stabbed and killed a child and soon thereafter he stabbed two other persons. On his arrest soon after 2.45 p.m. he gave normal and intelligent answers to the investigating officers. Nothing abnormal in him was noticed till December 16, 1961.

The thing in favour of the appellant is that though he had a motive for attacking Baburam, no clear motive for attacking the child

Leela or Parbati is discernible. But there is clear evidence to show that he knew that his act of stabbing and killing was wrong and contrary to law. He concealed the weapon of offence. The knife could not be recovered in spite of searches. He bolted the front door of his house to prevent arrest. He then tried to run away by the back door. When an attempt was made to apprehend him he ran back to his house and bolted the door. He then tried to disperse the crowd by throwing brickbats from the, roof. His conduct immediately after the occurrence displays consciousness of his guilt. He knew the physical nature of stabbing. He knew that the stabbing would kill and maim his victims. On a comprehensive review of the entire evidence the two courts below concurrently found that the defence of insanity under sec. 84 was not made out. We are unable to say that the verdict of the courts below is erroneous.”

155. Also it was held in **Siddhapal Kamala Yadav vs State Of Maharashtra (2009) 1 SCC 124(SC)**

*“10. [Section 84](#) embodies the fundamental maxim of criminal law, i.e., *actus non reum facit nisi mens sit rea*” (an act does not constitute guilt unless done with a guilty intention). In order to constitute an offence, the intent and act must concur; but in the case of insane persons, no culpability is fastened on them as they have no free will (*furios is nulla voluntas est*).*

11. The section itself provides that the benefit is available

only after it is proved that at the time of committing the act, the accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or that even if he did not know it, it was either wrong or contrary to law then this section must be applied. The crucial point of time for deciding whether the benefit of this section should be given or not, is the material time when the offence takes place. In coming to that conclusion, the relevant circumstances are to be taken into consideration, it would be dangerous to admit the defence of insanity upon arguments derived merely from the character of the crime. It is only unsoundness of mind which naturally impairs the cognitive faculties of the mind that can form a ground of exemption from criminal responsibility. Stephen in 'History of the Criminal Law of England, Vo. II, page 166 has observed that if a person cuts off the head of a sleeping man because it would be great fun to see him looking for it when he woke up, would obviously be a case where the perpetrator of the act would be incapable of knowing the physical effects of his act. The law recognizes nothing but incapacity to realise the nature of the act and presumes that where a man's mind or his faculties of ratiocination are sufficiently dim to apprehend what he is doing, he must always be presumed to intend the consequence of the action he takes. Mere absence of motive for a crime, howsoever atrocious it may be, cannot in the absence of plea and proof of legal insanity, bring the case within this section This Court in [Sherall Walli Mohammed v. State of](#)

Maharashtra: (1972 Cr.LJ 1523 (SC)), held that the mere fact that no motive has been proved why the accused murdered his wife and child or the fact that he made no attempt to run away when the door was broken open would not indicate that he was insane or that he did not have necessary mens rea for the offence. Mere abnormality of mind or partial delusion, irresistible impulse or compulsive behaviour of a psychopath affords no protection under Section 84 as the law contained in that section is still squarely based on the outdated Naughton rules of 19th Century England. The provisions of Section 84 are in substance the same as that laid down in the answers of the Judges to the questions put to them by the House of Lords, in M Naughton's case (1843) 4 St. Tr. (NS) 847.

156. *Behaviour, antecedent, attendant and subsequent to the event, may be relevant in finding the mental condition of the accused at the time of the event, but not that remote in time. It is difficult to prove the precise state of the offender's mind at the time of the commission of the offence, but some indication thereof is often furnished by the conduct of the offender while committing it or immediately after the commission of the offence. A lucid interval of an insane person is not merely a cessation of the violent symptoms of the disorder, but a restoration of the faculties of the mind sufficiently to enable the person soundly to judge the act; but the expression does not necessarily mean complete or perfect restoration of the mental faculties to their original condition. So, if there is such a restoration, the person concerned can do the act with such reason,*

memory and judgment as to make it a legal act ; but merely a cessation of the violent symptoms of the disorder is not sufficient.

12. The standard to be applied is whether according to the ordinary standard, adopted by reasonable men, the act was right or wrong. The mere fact that an accused is conceited, odd irascible and his brain is not quite all right, or that the physical and mental ailments from which he suffered had rendered his intellect weak and had affected his emotions and will, or that he had committed certain unusual acts, in the past or that he was liable to recurring fits of insanity at short intervals, or that he was subject to getting epileptic fits but there was nothing abnormal in his behaviour, or that his behaviour was queer, cannot be sufficient to attract the application of this section.”

157. In **Paramjeet Singh vs State** on 4 January, 2013 CrI. Appeal No. 586/2012(Delhi), it was held that,

“17. Every man is presumed to be sane, till contrary is established. Insanity or unsoundness of mind of the type stipulated in [Section 84 IPC](#) is an exception. Illustration (a) to [Section 105](#) of the Evidence Act, quoted above, casts burden on the accused to show that the exception carved out under [Section 84 IPC](#) is applicable and burden is on the accused to prove insanity at the time when the offence was committed. However, the burden on the accused to prove insanity is not higher than that upon a party in civil proceeding i.e. the principle of preponderance of probability applies. It is not for the accused to establish conclusively or

beyond doubt that he was insane to get benefit of [Section 84 IPC](#) but he is entitled to claim insanity, if he is able to raise a doubt regarding his sanity. To decide on the question of insanity, the Court should examine the behavior and antecedents of the accused before, during and subsequent to the event, to the extent they are relevant to record a finding on the mental condition of the accused. However, while doing so the act itself or absence of motive is not consequential and determinative.....

XXXX XXXX

46. A crime is not excusable under the law whether done under an insane impulse or not unless it satisfies the grounds on which alone it can be excused. Those grounds are optimised in [Section 84, Penal Code](#). In everyday life terms like, mental illness/disorder, behaviour disorder/abnormality, psychological disorder etc. are used loosely and applied to behaviour which is highly unusual, specially when an individual indulges in aggression in speech/conduct or physical violence. Cause of aggression/violence, as per modern social psychologists, is not programmed/attributed to a single factor but is triggered by a wide range of input variables which influence arousal, affective stages and cognitions. (General Affective Aggression Model proposed by Anderson in 1996/1997. Also see the Glossary of Mental Disorder and glossary published by World Health Organisation and other institution/organization. [Section 84 IPC](#) provides immunity in limited category of cases, i.e., unsound mind which has the stipulated

consequences. The term "unsoundness of mind" in Section 84 IPC is not a medical term but a legal concept. Crimes are often committed or are a result of mental disorder/abnormality as in the cases of a serial killers like David Berkowitz but the test of "insanity" as a legal term is restrictive and more precise. The legal test is that the accused because of disease of mind should be crippled by defect of reason from knowing the nature and quality of the act he was doing or if he did know it, then he did not know that it was wrong (morally) or was contrary to law. (Questions of sympathetic treatment in punishment or grant of probation, when permissible, are separate aspects).

29. We have scrupulously examined the evidence placed before the Court to prove that the appellant was not of sound mind (non compos mentis) when he committed the said offence. From the statement of various defence witnesses which are to the effect that the appellant used to remain mentally disturb and do not establish that he was insane as defined in Section 84 IPC. The witnesses have merely testified that the appellant was quarrelsome, adamant and used to become angry when stressed or when he faced difficult times. It becomes apparent that he was under treatment for the said purpose, when we read DD No.17, Ex.DW 2/A recorded on 17th March, 2004, the complaint of PW-1. Relevant portion of which reads as under:-

"Smt. Balwinder Kaur has produced me an application bearing the statement that she had made a telephone call to Police after an

exchange of hot words with her husband on domestic tiffs. My husband is under mental problem for past long time and he is under treatment in a hospital and he use to become adamant due to his stubborn attitude. Now I am taking him to the hospital with the help of his brother Surjeet Singh and his sister Bhupinder Kaur."

30. A reading of the aforesaid statement elucidates that the appellant was mentally disturbed and had quarrelsome nature, but it cannot be said that he was incapable of understanding the nature and character of his acts and consequences thereof qua to him and others. He knew the nature and quality of the act which he was committing and that what he had done was wrong. It cannot be said that the appellant was incapable of distinguishing right or wrong or not knowing the nature, consequences and effect of the acts done by him. This becomes clear from his conduct at the time of the incident. From the statement of PW-1 and PW-2, it is clear that the appellant tried to prevent the PW-2 from reaching out for help. In fact, in order to prevent PW-2 from reaching the door, the appellant inflicted injuries on PW-2's ears. It was only when PW-1 caught hold of the appellant that PW-2 could run out and get help. Therefore, he was not ignorant of what he was doing. The fact that he was mentally disturbed did not mean that he was in the state of confusion or suffering from mental debility to the extent required and mandated by [Section 84 IPC](#).

31. It has been clarified in [Elavarasan v. State\(2011\) 7 SCC](#)

110 that the mere fact that the appellant had assaulted his immediate family members was not ipso facto suggestive of his being an insane person. It further held that:

"38. So, also the fact that he had not escaped from the place of occurrence was no reason by itself to declare him to be a person of unsound mind incapable of understanding the nature of the acts committed by him. Experience has shown that different individuals react differently to same or similar situations. Some may escape from the scene of occurrence, others may not while some may even walk to the police station to surrender and report about what they have done. Such post-event conduct may be relevant to determine the culpability of the offender in the light of other evidence on record, but the conduct of not fleeing from the spot would not in itself show that the person concerned was insane at the time of the commission of the offence."

158. Keeping in view of the above-said precedents, the accused is not proved to be of insane mind at the time of incident. It is only proved that prior to the present incident on 01.01.2018/02.01.2018, the accused suffered from psychosis in the year 2001, as reflected in his discharge report from Army Ex.PW6/AB. Subsequently, he was medico-legally fit and he joined government service as SDO in Agriculture Department, Haryana. His medical fitness certificate, issued by Civil Surgeon, Faridabad, at the time of his joining the second service in 2006 is

Ex.PW6/AC. He married in the year 2007 and continued working as a Government Officer till the date of incident. He regularly attended his job for next 12 years and there is no record of any ailment in the said period. It is pertinent to mention that 3 times the accused was thoroughly got diagnosed by this Court to ensure about his physical and mental condition and that he received the requisite treatment. The entire treatment record was submitted by the Superintendent District Jail, Faridabad vide Ex.C1. The accused was lodged in the prison on 15.01.2018. After the same, he mentioned about the psychiatric problem on 07.02.2018 and was given Becosules and then he complained of sleep disorder on 15.02.2018. Subsequently, he complained of epilepsy and the regular psychiatric treatment was started from 27.04.2018 i.e. between the period from 2001 to 07.02.2018 i.e. 17 years prior to the incident and one month after the incident, there is no record of any psychiatric illness of the accused. The Court cannot presume that the accused was insane simple because the murders was barbaric, brutal and without any motive. As per the reports submitted by the Superintendent District Jail, Faridabad vide Ex.C1 to Ex.C3, duly proved by CW1, the general condition of the accused was normal and he was suffering from psychosis from 07.02.2018 i.e. one month after the present incident.

Much ado about the motive

159. The prosecution is not required to prove the motive of the accused, as held in a similar case where defence of insanity was taken, and also plea of absence of any proven motive was taken in **Sidhdhapal Kamala Yadav's case (supra)**,

“ Mere absence of motive for a crime, howsoever atrocious it may be, cannot in the absence of plea and proof of legal insanity, bring the case within this section This Court in [Sherall Walli Mohammed v. State of Maharashtra: \(1972 Cr.LJ 1523 \(SC\)\)](#), held that the mere fact that no motive has been proved why the accused murdered his wife and child or the fact that he made no attempt to run away when the door was broken open would not indicate that he was insane or that he did not have necessary mens rea for the offence.”

160. Also as held in a similar case where absence of motive was pleaded in **Baswantrao Bajirao Vs. Emperor, 1949 Cri.L.J., 181(Bombay)**,

“In [Beg v. Haynes, \(1859\) 1 P and P 666 : 175 B. Rule 898](#) Bramwell B. in summing up to the jury, said:

As to the defence of insanity, it has been urged for the prisoner that you should acquit him on the ground that, it being impossible to assign any motive for the perpetration of the offence, he must have been acting under what is called a powerful and irresistible influence, or homicidal tendency. But I must remark as to that that the circumstances of an act being apparently motiveless is not a ground from which you can safely infer the existence of such an influence. Motives

exist unknown and innumerable which might prompt the act. A morbid and restless (but resistible) thirst for blood would itself be a motive urging to such a deed for its own relief. But if an influence be so powerful as to be termed irresistible, so much the more reason is there why we should not withdraw any of the safeguards tending to counteract it.”

161. The accused in the present case may be frustrated on account of matrimonial discord as disclosed by him in his disclosure statements which was subsequently confirmed in the statement and also deposition of PW Seema, the wife of the accused. She had also stated before police that the accused had fight with her father and sister on 31.12.2018, 2 days prior to the incident and he had to go away, after the fight. Admittedly he was separated from his wife. Or the accused may be a case of societal maladjustment, or he had some grudge against some person at Palwal Hospital and he killed someone else, or may be wanted to take revenge from his wife and father in law whose house he visited in the end or he wanted to create an atmosphere of terror and wanted revenge from society as a whole, for not giving him what he had expected in life. Motive is relevant but the Court of Law is not preoccupied with motive. It is mens rea ie guilty mind and actus reus ie consequent illegal act which matters in law. If a man deliberates and intends to commit a crime and commits it, the same is sufficient to inculcate him, irrespective of the absence of proof of any motive or enmity against the victim. He cannot claim that since he had no motive to kill a person, he may be acquitted on this

ground.

162. It may well be asked as to what is the motive or enmity of a habitual thief or a rapist and killer just like Nirbhaya Case where after commission of rape, unspeakable cruelty was inflicted on the victim. What was the motive of the serial killers in Nithari Case of (in 2005-2006) where the killers, murdered 19 children and then committed rape on dead bodies and then ate their body parts, or in the case of Cyanide Mohan who killed 20 women (in 2005-2009) who were looking for a life partner , or in the case of Cyanide Mallika (1999-2007) who killed 6 women in temple to loot their jewellery or Thugh Behram (1790-1840) who was proved to have killed 125 people and suspected to have killed 931 people, by strangulation with a Rumaal (handkerchief) for the purpose of robbing them or in the case of Psycho Shankar (2008-2011) who raped and murdered 19 women or in the case of Renuka Shinde and Seema Gavit (1990-1996) who kidnapped 13 children and killed 5 of them for the purposes of begging and theft, or in the case of Chandrakant Jha who killed 18 people (1998 -2007) after befriending them as they needed jobs, helping them in finding small jobs, letting them stay in his own house, then fighting over trivial matters with them, then losing his temper, and killing them. He used to kill his victims and dumped them outside Tihar, an Indian prison, leaving a note on the corpse, saying he wanted to challenge the police.

163. The only motive which one can find in such like criminals is

irresistible criminal impulse and tendency. All these serial killers did not have any enmity with the victims, still they intended to commit barbaric crimes and committed the same and were accordingly punished by the Courts of Law. They had a guilty mind and they committed the crimes and the same was sufficient to punish them. None of these criminals can be said to have a healthy mind. Every brutal murder, rapist or one committing bestiality has an abnormal impulse to commit crimes to satisfy a hunger for lust, anger, greed and violence. Similarly in the present case the accused cannot claim to be acquitted, as he did not know the 6 helpless and innocent victims, who were brutally murdered by him. He had a criminal intent to commit extreme violence, and he committed it.

164. Even if the motive of the accused is not proved nor any previous enmity is proved, the same would be inconsequential. The two essential elements of his culpability ie mens rea (guilty mind or intent) and actus reus (criminal act), both are proved beyond reasonable doubt to the effect that the accused intended to kill the victims and he killed them. It is proved that the accused gave multiple blows of iron-pipe on the head of each victim, repeatedly so as to break open their skulls, and they immediately died shows that his one and only intention was to kill the victim, as per Section 3009 firstly) of IPC, which says,

“Section 300. Murder.—Except in the cases hereinafter

excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—“

165. The very act of inflicting repeated blows with iron-pipe on the skulls of the victims proves that the accused intended that the deaths of the victims are caused and the deaths were immediately caused. Thus he is guilty of offence punishable under Section 302(1) of IPC.

166. As held in **Jai Lal vs Delhi Administration (supra)**,

“The ‘intention’ and ‘knowledge’ of the accused are subjective and invisible state of mind and their existence has to be gathered from the circumstances, such as the, weapon used, the ferocity of attack, multiplicity of injuries and all other surrounding circumstances.”

167. Thus, the intention of the accused is proved from the manner in which he inflicted the blows with iron-pipe, that he committed the act with the intention of killing the victims.

168. In **Sudhakaran's case (supra)**, **Surendra Mishra's case (supra)**, **Jai Lal's case (supra)** and **Siddhapal Kamala Yadav's case (supra)** The Hon'ble Supreme Court of India held that even if the accused had suffered from insanity or psychiatric decease much prior to the incident or after the incident, the same does not prove that he was insane at the time of commission of offence. It was also held that where the accused prepared for the offences, committed it meticulously and then tried to escape, he is not legally insane. In the present case, the accused came prepared with a 4 foot long and 1 inch thick iron-pipe from his house, meticulously selected

the victims, who were defenseless, helpless and vulnerable which included 2 persons, who were sleeping, 2 security gaurds and 2 persons who were going on their jobs. He silently attacked them from behind, murdered them and then absconded. He tried to abscond to another District by asking PW Devi Ram at 7:00 AM to leave him at Ballabgarh, District Faridabad. He tried to wash of his blood-stained hand and feet as he requested PW Kamlesh for water, for the said purpose. Also as deposed by 6 Police Officers, he tried to escape and assaulted them in the process.

Case Law relied upon by Defence

169. The defence has relied upon the precedents laid down in **Devidas Loka Rathod v. State of Maharashtra Criminal Appeal No. 814 of 2017, Date of Decision 02.07.2018 (SC), Ghana Gogoi v. State of Assam Crl. Appeal No. 104(J) of 2008, Date of Decision 18.06.2013 (Guhati), Mohan Lal v. State, Through P.P. Criminal Appeal No. 6 of 2020, Date of Decision 27.01.2022 (Rajasthan) and Kalam Gulab Patel v. The State of Maharashtra, Criminal Appeal No. 154 of 2014, Date of Decision 27.09.2017 (Bombay).**

170. The case law relied by the Defence in is not applicable to the facts of the case as the accused in those cases were proved to be legally

and medically insane, they could not lead normal lives and had to be tied and some even defecated in their clothes, whereas the present accused has never been legally or even medically insane. The accused in those cases were poor and could not maintain the records of medical treatment where as in the present case the accused is a Government Officer and was well to do. In those cases the accused did not try to escape where as in the present case the accused not only attempted escape, but also caused injuries to 6 policemen in the process and could only be apprehended with great difficulty.

Well-planned execution

171. The accused assaulted all 6 victims in the dead of night and when no one was around. Such sort of calculated offences and attempt to escape are not done by the insane persons, as opined in **A Textbook of Medical Jurisprudence And Toxicology by Rai Bahadur Jaising P. Modi**, Chapter XIX (6th Edition,1940). The relevant parts of the Chapter on insanity are produced as under.

Chapter - Insanity And Its Medico-Legal Aspects

The Absence of Secrecy.—The murderer, if he happens to be

insane, does not try to conceal the body of his victim, nor does he attempt to evade law by destroying evidence of his crime or by running away from the scene of the murder.

.....Lastly, handwriting will show the mental confusion, the misspelling, the omission of letters or phrases and the muscular tremor, if an educated insane person is asked to write.

FEIGNED INSANITY

There is always some motive for feigning insanity. For instance, a criminal pretends insanity to escape punishment for his offence, especially when he is placed on trial. In civil practice an individual feigns insanity to try and avoid the results of business transactions or deeds, which he may have executed. Policemen, soldiers and sailors do so, when they wish to leave the service and are not allowed to do so, or when they know that they are likely to be punished very severely for some gross neglect of duty.....

...The following are the distinguishing features between feigned and true insanity:

1. Feigned insanity always comes on suddenly, and not without some motive. True insanity may rarely develop all of a sudden but, in that case, some predisposing or exciting cause will be evident, if a

careful history of the case is taken.

2. In feigned insanity there is no peculiarity in the facial expression, which is generally observed in the fully developed forms of insanity.

3. In feigned insanity the individual tries to pass off as insane by putting forward incoherent maniacal symptoms, especially when he knows that he is under observation. There is a total remission of all the symptoms, when he thinks that he is alone and unobserved.

4. In feigned insanity the symptoms are not uniform, indicating any particular type of insanity. Malingerers usually mix up the symptoms of one or two distinct types of insanity. Such a condition, may, however, exist in true insanity.

5. In feigned insanity violent exertion occasioned by imitating maniacal frenzy (which is generally imitated by impostors) will bring on exhaustion, perspiration and sleep, but a really insane person can stand such exertion for many days without sleep and fatigue.

6. A malingerer is not, as a rule, dirty and filthy in his habits. He may smear his room with faeces and other filth, if he has seen a true lunatic doing so. He will, however, keep a clear space for sleeping and will spare his person.

7. The dry, harsh skin and lips, the furred tongue, constipation, want of appetite and insomnia are, very often, physical manifestations of true insanity. These are, as a rule, absent in feigned

insanity, as they cannot possibly be imitated by a malingerer.”

172. The accused in the present case has been feigning insanity, if seen from the parameters laid above by Modi's Jurisprudence. It has been specifically mentioned in the abovesaid classic on medico-legal jurisprudence that insanity is feigned by the undertrials to escape the punishment of the offences. As per the reports of the Jail Superintendent, the accused remained normal in jail and his general condition was normal, where as he talked loudly in the judicial lock-up. Also he has always remained neat and tidy unlike the insane persons, which is a case of feigning of insanity as held in **Modi's Medical Jurisprudence and Toxicology (supra)**. It is also specifically mentioned by the great Author Modi that insanity is often feigned by a soldier or policeman, to seek discharge from service, when he is unable to perform his duties, as in the present case when accused sought discharge from his duties, which was a hard training in Ghatak Platoon, where the Officers are to live with soldiers under tough circumstances. The accused sought such discharge from Army in 2001-2002 and then joined Government service in 2006 and regularly performed it for next 12 years. It is also pertinent to mention that the handwriting of the accused while marking his presence in Court has always been clear and without any smudging or mis-spelling. He himself wrote the dates below his signatures, as reflected in the case file, for a large number of times. Thus, he is not proved to be insane as there is

no missing or wrong date, recorded by the accused while signing his presence in the Court. He has written an application for his release on psychiatric grounds. The application is dated 17.3.23. It has been placed on case file. The application is detailed and elaborate, giving every description of his Army serial number, his village and even the village where Courts are situated. The entire application is neatly written without any spelling mistake. The application has been written in his own handwriting as told by him. The same corroborates the feigned insanity detailed by Modi's Jurisprudence.

173. Even otherwise, the accused has been regularly doing his job for last 12 years and there is no document on record that he was insane at any point of time. Also, as discussed above bi-polar psychosis does not amount to insanity. The same is a mental condition of phases of depression excitement.

174. As per Press Release of GBD India Mental Disorders Paper, issued by Indian Council of Medical Research, Ministry of Health and Family Welfare, Government of India, on 23.12.2019, 197.3 million Indians are suffering from mental issues on account of frustration, depression, anxiety, stress, sleeplessness, over-eating, psychosis and aggression etc. Out of the same 77 lacs people are suffering from psychosis, as the accused is told to be suffering. Exculpating the accused, on account of the said psychiatric treatment, 77 lacs people in India would be given a licence to kill on account of insanity and a much large number

on account of depression etc. disorder. In fact, these are common disorders and they cannot be termed as insanity.

175. From the above-said discussion, it is proved that defence taken by the accused of insanity is proved to be a false defence. He is not proved to be of unsound mind at the time of the offences committed by him.

176. In view of the above discussion, it is proved that the accused Naresh Dhankar committed the murders of Anjum, Subhash, Sita Ram. Munshi Ram, Khemchand and Surender, in the intervening night of 01.01.2018/02.01.2018 with an iron-pipe and committed the offence punishable under Section 302 of IPC. Also, he attempted to kill the Police Officers ASI Rajesh, Sub-Inspector Mohammad Illiyas, HC Sandeep, ASI Ramdiya, Constable Lukman and SPO Har Parshad and committed the offence punishable under Section 307 of IPC. It is also proved that he obstructed their official duties, caused hurt to them with intent to prevent them from discharging their duties and used criminal force in the process, and thus he committed offences punishable under Sections 332, 353, 186 of IPC.

177. Hence, accused Naresh Dhankar is hereby convicted for commission of offences punishable under Sections 302, 307, 332, 353, 186 of IPC.

178. Now to come upon **21.03.2023** for hearing the convict Naresh Dhankar on the quantum of sentence.

State v. Naresh Dhankar
: 150 :

Pronounced in open Court:
17th March 2023.

(Prashant Rana)
Additional Sessions Judge,
Palwal. (UID No.HR0195).
17.03.2023.

Note: Certified that this judgment contains 150 pages and all the pages of this judgment have been checked & signed by the undersigned.

(Prashant Rana)
Additional Sessions Judge,
Palwal. (UID No.HR0195)
17.03.2023.

Virender Kumar

(Prashant Rana)
Additional Sessions Judge,
Palwal (UID No.HR0195)
17.03.2023.