"REPORTABLE"

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1236 OF 2006

Ramesh … Appellant

Versus

State of Rajasthan … Respondent

With

Criminal Appeal No. 1235 of 2006

Bharat Kumar @ Bhatia …Appellant

Versus

State of Rajasthan …Respondent

With

Criminal Appeal No. 1237 of 2006

Gordhan Lal …Appellant

Versus

State of Rajasthan …Respondent

J U D G M E N T

V.S. SIRPURKAR, J.

1. This judgment will dispose of Criminal Appeal No. 1236 of 2006 filed by Ramesh @ Gaguda (original accused No. 3), Criminal Appeal No. 1235 of 2006 filed by Bharat Kumar @ Bhatia (original accused No. 2) and Criminal Appeal No. 1237 of 2006 filed by Gordhan Lal (original accused No. 1). We shall refer to the appellants as per their position before the Trial Court. While Ramesh @ Guguda (A-3) is sentenced to death by Trial and appellate Courts, the other two accused being Bharat

Kumar @ Bhatia (A-2) and Gordhan Lal (A-1) are facing the life imprisonment alongwith fines on different counts. That is how the matters have come up before us.

2. Human avarice has no limits nor does it know of any emotions. The present case is the sordid saga of the crime which emanated purely from human avarice.

3. Phalodi is a quiet Taluk place in the State of Rajasthan. Ramlal Lunawat alongwith his wife Shanti Devi was doing business of money lending by pledging gold and silver ornaments and was selling steel utensils. On 5.2.2003, Anil (PW-1) telephoned to Police Station Phalodi that the door of the house-cum-shop of Ramlal was lying suspiciously open and nobody from the house was responding to the calls. Kishan Singh (PW-35) who was the Station House Officer of the Police Station Phalodi, reached the house alongwith some other police personnel. They found that Ramlal and his wife Shanti Devi were lying dead in the pool of blood. The FIR by Anil (PW-1) was recorded and the investigation was commenced for offences under Sections 302 and 457 of the Indian Penal Code (hereinafter called “the IPC” for short). The necessary spot panchnamas were executed and the Material Objects found on the scene were seized. It

was found that both the deceased persons had human hair in their hands. There was a blood-stained needle and syringe found near the dead body of Shanti Devi. Some other materials were collected from the spot to find out the finger prints. The clothes of the deceased persons were also seized. On suspicion, the accused persons were arrested. One other accused Rajesh (original accused No. 4) was also arrested. He stands acquitted by the Courts below. The accused persons gave information under Section 27 of the Indian Evidence Act and the clothes that they were wearing at the time of incident and their shoes were recovered. The ornaments stolen from the house of Ramlal were also recovered. Their hair were also taken for comparing with the sample of hairs founded at the scene of occurrence. The instrument used for melting ornaments was found at the house of Rajesh (A-4), which was allegedly stolen from the house of deceased Ramlal. The materials were sent to the Forensic Science Laboratory (FSL), Jaipur/Jodhpur and the reports were obtained. On the completion of investigation, the chargesheet was filed against four persons.

4. Case of the prosecution is that Gordhan Lal (A-1) had some dealings with Ramlal (deceased) which was evident from the diary found from the pocket of Ramlal. The prosecution alleged that Gordhan Lal (A-1), therefore, decided to commit a robbery at the place of Ramlal, who was a rich person, and conspired with the other accused persons, namely, Bharat Kumar @ Bhatia (A-2), Ramesh @ Guguda (A-3) and Rajesh (A-4). They trespassed into the house of Ramlal by night and looted the house and decamped with the looted ornaments of silver and gold, cash and other articles. It is alleged by the prosecution that certain stolen gold ornaments were melted at the house of Rajesh (A-4) and converted into a nugget (Dhalia). Ramesh (A-3) and Bharat Kumar (A-2) had past criminal background. They were involved in number of criminal cases for offences such as attempt to murder, house trespass, looting etc. The murder weapon 'Jharbad' was recovered from Ramesh (A-3). The chargesheet was filed for offences punishable under Sections 120-B, 302, 201, 404, 414, 457, 460/34 of the IPC as also for the offence punishable under Section 4/25 of the Arms Act against Ramesh (A-3). The evidence was led and as many as 35 witnesses came to be examined

in support of the charge. Prosecution relied on 132 documents and also produced 105 articles (M.Os.).

5. The defence was that of denial and false implication. In addition to that, accused Ramesh claimed that at the time of incident, he was taking part in a Jagran in Pali. Four defence witnesses came to be examined by Ramesh (A-3) while Gordhan Lal (A-1) produced one witness. The accused persons also filed a few documents. The defence did not prevail in case of the present appellants as also Rajesh (A-4). Against Ramesh (A-3), the case was treated to be the rarest of rare case. Ramesh (A-3) was ordered to be hanged. He was also convicted for other offences punishable under Sections120-B, 457, 302, 379, 404, 201 of the IPC. On the first two counts, he was awarded 5 years' rigorous imprisonment and on the others, 1 year's rigorous imprisonment consecutively with fine of Rs.500/- on each count. He was also convicted for the offence punishable under Section 5/25 of the Arms Act and was sentenced with 1 year's rigorous imprisonment with fine of Rs.500/-. Gordhan Lal (A-1) and Bharat Kumar @ Bhatia (A-2) were convicted with the aid of Section 34, IPC but were spared by ordering them to suffer rigorous

imprisonment for life. On the other counts, the identical punishment, as was awarded to Ramesh (A-3), was awarded to them. Rajesh (A-4) was convicted for the offence punishable under Sections 201, 404 and 414 of the IPC and was sentenced to undergo 5 years' rigorous imprisonment on the first count and 1 year's rigorous imprisonment on the other counts with fine of Rs.500/- on each count. Reference was made to the High Court for confirmation of the death sentence of Ramesh (A-3) while the accused persons also filed their appeals. The appeals filed by the present three appellants and Rajesh (A-4) were dismissed by the High Court and the sentences were also confirmed. The present appellants have challenged the judgment of the High Court; however, Rajesh (A-4) has not come before us. The reference was answered in affirmative and the High Court confirmed the death sentence in case of Ramesh (A-3) and that is how the matters have come up before us.

6. Shri Sushil Kumar Jain, learned counsel appearing on behalf of Ramesh (A-3) submitted that, in the first place, there was no evidence to establish theft at the house of the deceased persons and, therefore, there was no question of any motive. The learned counsel also

urged that there was no evidence to show that the articles alleged to have been recovered from the appellant Ramesh were belonging to or otherwise in possession of the deceased persons before their death. The learned counsel pointed out that the arrest and recoveries made from the appellants are doubtful since there are discrepancies in respect of the date, time and place of the arrest and recoveries made. The learned counsel also urged that the prosecution also could not connect the accused persons with the crime on the basis of FSL reports regarding the blood. Even in respect of the weapon, the learned counsel pointed out that the recovery of the murder weapon itself was doubtful. Lastly, the learned counsel urged that at any rate, it was not the rarest of rare case and as such the death sentence was not justified. Shri M.N. Krishnamani, learned senior counsel and Shri Anis Ahmed Khan, learned counsel contended on behalf of Bharat Kumar @ Bhatia (A-2) that the evidence of recovery of clothes and shoes of Bharat Kumar @ Bhatia (A-2) was suspicious and discrepant. They also attacked the alleged recovery of silver and gold ornaments at the instance of this accused. They pointed out that the FSL report was of no consequence against this accused. Similar is the

contention raised by Shri M.L. Lahoty, learned counsel appearing on behalf of Gordhan Lal (A-1). Shri Lahoty pointed out that there was nothing incriminating found against this accused and that the so-called recoveries were farcical and inconsequential. The learned counsel further pointed out that this accused could not be booked on the basis of the FSL reports.

7. All the learned counsel pointed out that the quality of investigation was extremely poor and it was a pre-determined investigation. All the learned counsel, therefore, prayed for rebuttal.

8. As against this, learned counsel appearing on behalf of the State, supported the judgment while pointing out that though this was a case based on circumstantial evidence, the prosecution had fully proved the incriminating circumstances like the recovery of ornaments stolen from the house of Ramlal, their identification and the fact that the accused persons were found in possession of the stolen articles almost immediately after the crime and, therefore, the prosecution could use the presumption under Section 114 of the Indian Evidence Act. The learned counsel also pointed out that the prosecution had proved that Rajesh,

the fourth conspirator, was a receiver of stolen property and had helped in melting of some of the gold items with the machines removed from the house of Ramlal (deceased). It was also pointed out that Gordhan Lal (A-1) was aware of sound financial condition of Ramlal as he was dealing with Ramlal which was clear from the diary found from the pocket of Ramlal's body. The learned counsel also pointed out that there were some clinching circumstances in the prosecution evidence which established that all the four accused persons were working hand-in-glove and had entered into conspiracy to commit robbery at Ramlal's place. The learned counsel, therefore, urged that the accused would be answerable to the charge of murder as they not only had conspired, but had also developed a common intention to commit that crime and had actually committed the crime of robbery and in that process had committed murder of two innocent persons.

9. As regards the sentence, the learned counsel appearing on behalf of the State urged that this was undoubtedly the rarest of rare case, where the accused persons had committed the murder for their avarice with pre-planned mind and in cold blood. The learned

counsel, therefore, justified the death sentence in case of Ramesh (A-3) and life imprisonment in respect of other accused persons.

10. Before we proceed with the matter, it has to be borne in mind that this case depends upon circumstantial evidence and, as such as, per the settled law, every circumstance would have to be proved beyond reasonable doubt and further the chain of circumstances should be so complete and perfect that the only inference of the guilt of the accused should emanate therefrom. At the same time, there should be no possibility whatsoever of the defence version being true. Both the Courts below have held that such circumstances are proved by the prosecution and that the only inference flowing therefrom would be that of the guilt on the part of the three accused persons. The scope for interference in factual findings by this Court is very limited. This Court would, under such circumstances, examine whether the findings are pervert or impossible. Again, this is not a case of a single accused, and, therefore, the incriminating circumstances would have to be individually weighed vis-à-vis each accused and it would have to be seen as to whether such examination justifies

the conviction of the accused as ordered by the Trial Court and the appellate Court.

11. Initially, accused No.4, Rajesh was also tried with the accused persons. He was charged with the offence under Sections 201, 404 and 414, Indian Penal Code. While convicting him, the Trial Court has recorded certain findings convicting him of all the three offences stated above. Basically, it was alleged against Rajesh (A-4) vide Exhibit P-31, that the stolen property of gold ornament was recovered from him. Exhibit P-32 is the site plan of the recovery. Rajesh initially was roped in as the conspirator also. However, it seems that he has been absolved of the charge of conspiracy. In that behalf, it has been held by the Trial Court that he cannot be booked for that offence since it was not proved that he had joined the conspiracy to the house-breaking in the house of Ram Lal. Recording this finding, the Sessions Judge also acquitted him of the offence under Section 302 and Section 120B, IPC. Indeed there could be no offence under Section 302, IPC alleged against him as there was no evidence against him of his having taken part in the actual act of house-breaking and the assault on Ram Lal

and Shanti Devi. It is only on the basis of the discovery by him of ornaments and the machinery to melt gold that he has been booked for the offence under Sections 201, 404 and 414, IPC. The Trial Court as well as the appellate Court have accepted that he voluntarily gave information vide Exhibit P-106 after his arrest on 13.2.2003. Both the Courts below have further held that in pursuance of that, he took the Panchas and the Investigating Officer and discovered ornaments substantial in number. The discovery was supported by the evidence of PW-5, Chandulal and PW-16, Madho Singh while recovery of the ornaments was also supported by the evidence of PW-35, Kishan Singh. The most significant of the articles discovered by this accused is a steel tiffin on which the name of Ramlal Lunawat was engraved. The other ornaments were weighing about 350 gms. of gold. The Courts below have held that the appellant Rajesh was aware of the incident and the circumstance as to how the steel tiffin belonging to Ramlal Lunawat along with ornaments came to his possession was not explained by him. Besides this, the High Court also noted that certain jewels coming out from the ornaments were stuck on the melting apparatus. Therefore, the Courts came to the conclusion that the

appellant knew or had reason to know that the offence had been committed. He not only tried to screen the offence by melting the ornaments but was found in possession of the stolen property like the ornaments and the gold ingots. It was on this basis that Rajesh was convicted for offences under Sections 201 and 404 as also Section 414, IPC. The High Court wrote a finding "*on the basis of the same set of evidence, it can also be safely said that the appellant Rajesh assisted other accused appellants in disposal of the property*". The High Court has specifically held that accused had not given any satisfactory explanation regarding this recovery. He was an ordinary government employee but had kept the gold ornaments in his possession knowing them to be stolen property. The Trial Court, thereafter, gave a finding that it were accused Ramesh and Rajesh together who had melted gold ornaments and prepared dhalias with it, weighing 347 gms. which have been recovered from Ramesh and Rajesh and three ladis ingots weighing 151 gms. Thus, Rajesh had received the ornaments from none-else than Ramesh (A-3) who himself was found in possession of very substantial number of ornaments including 10 dhalias, weighing 1347 gms. It was, therefore, obvious that there was a definite

connection between Rajesh (A-4) and the other accused (A-1) Ramesh. Very surprisingly, the finding regarding the ornaments received by Rajesh coming from Ramesh and fellow accused has not been challenged in any of the appeals. If the ornaments were found to be belonging to Ramlal as they were kept in the tiffin on which the name of Ramlal was engraved and further if Rajesh had given no explanation, it was obvious that the ornaments proceeded from accused Ramesh and his fellow accused to Rajesh with the sole objective of melting the ornaments. Rajesh knew that it was stolen property and had accepted the same. In such circumstances, it was incumbent upon the other accused being A-1, A-2 and A-3 to challenge at least the finding against Rajesh even if Rajesh had not challenged his conviction. The finding given against Rajesh regarding the stolen property having been given to him by accused Ramesh ought to have been challenged. There was no challenge on this major circumstance with the result that it is now the factual situation that the ornaments stolen from Ramlal's house and the other connecting materials like tiffin were passed on to Rajesh.

12. However, that by itself will not be a clinching circumstance against the three appellants. The prosecution had to prove beyond reasonable doubt that these three accused persons entered the house-cum-shop of Ramlal and then committed the murder of the two and, thereafter, decamped with the cash and substantial amount of ornaments.

13. A very strange argument was raised by Shri Sushil Kumar Jain. According to him, the prosecution had not proved that there was any theft at all. This argument was not made even before the Trial Court or the appellate Court. However, the argument must fail on the simple ground that the ornaments found with Rajesh were kept in a tiffin bearing the name of Ramlal. Rajesh could not give any explanation of the huge amount of ornaments melted and other things found in his possession. Secondly, there was also a Katordan which was found by the Investigating Officer with Gordhan (though there is some controversy as to from which accused the said Katordan bearing the name of Ramlal was found). Even if there is such a controversy the fact of the matter is that the Katordan did belong to Ramlal and there is no explanation whatsoever as to how the

Katordan came out of the house of Ramlal. Thirdly, the huge amount of gold which was found with Ramesh being 1347 gms. (some ornaments being intact and some turned into gold ingots for which there was virtually no explanation, as also the ornaments found with accused Gordhan and accused Bharat without any reasonable explanation), therefore, would completely destroy the argument of learned counsel that there was no theft. It does not stand to reason that the police must have collected all these ornaments from the house of Ramlal after the murder and planted the ornaments without any purpose for the obvious weakness of the argument. Therefore, the first argument of Shri Jain on behalf of Ramesh, (A-3) that there was no theft or that the prosecution had not proved any theft having committed at Ramlal's house must fall to the ground.

14. Considering the case of Ramesh (A-3) whose complicity has been held to be proved, Shri Sushil Kumar Jain, learned counsel for the said appellant submitted that there was contradiction with regard to the date, time and place of the discoveries and recoveries. Some minor contradictions were shown which are of no consequence. The learned counsel tried to urge that

though the accused was arrested on 9.2.2003 as per Exhibit P-102A (Rojnamcha of the Police Station Phalodi), according to Inder Singh (PW-10), he was arrested on 10.2.2003. We are not impressed by this argument at all, particularly, in view of the evidence of Inder Singh (PW-10), Mahendra Pal Singh (PW-19) and Nagaram (PW-33). There is nothing wrong if the said accused was arrested somewhere and brought to the Police Station Kotwali. After all, he was carrying the huge amount of ornaments and cash on his person. If that was so, it could not have been weighed in the open market. For that, he was required to be brought to the Police Station Kotwali. Therefore, this argument that there was some contradiction in the versions, does not impress us. Similarly, the learned counsel tried to argue that as per the evidence of Inder Singh, SHO (PW-10), after arresting Ramesh (A-3), they had come straight to Nagorigate Police Station. We do not find much substance in this argument as it is sufficiently proved by the prosecution that when Ramesh (A-3) was arrested, he was having a black bag containing huge amount of gold ornaments. It does not really matter as to whether the proceedings were done at Adharshila or at Nagorigate or even at Kotwali Police Station so long as it is proved

that when apprehended, Ramesh (A-3) was carrying the black bag full of ornaments and cash which has been successfully proved by the prosecution. This is all the more true as there is absolutely no explanation by Ramesh (A-3) for the possession of the huge haul of gold. Therefore, the so-called contradictions in the evidence of Inder Singh (PW-10), Mahendra Pal Singh (PW-19) and Nagaram (PW-33) does not impress us at all. We have already observed that it could not be possible for the police to collect all the gold and to put it against the three accused persons. The learned counsel tried to argue that there is no mention in Exhibit P-44 (Memo of Arrest) of the black bags specifically. That is not correct. A look at Exhibit P-44 is sufficient to show that there was a black bag with Ramesh (A-3). After all, he was not going to carry all these instruments in his shirt pockets and pant pockets. Even if it is not mentioned, that is of no consequence. A good explanation has been given that since the bag was empty, there was no necessity of its being sealed. We accept the explanation. Therefore, we hold that the High Court and the Trial Court were correct in holding that a huge haul of gold was found weighing as much as 1347 gms., which is more than a Kilo of gold. There was also no

explanation for the cash. It is also significant that Ramesh (A-3) did not claim these ornaments as his ornaments. All that the accused is suggesting is that the ornaments were not seized from him. It is impossible to accept this version of the accused.

15. This takes us to a very strong circumstance against Ramesh (A-3) i.e. the presence of human blood on his (Ramesh's) clothes. Recovery Memo (Exhibit P-41) is in respect of clothes and shoes of Ramesh (A-3). That was effected on 15.2.2003. Exhibit P-42 is a site plan of the recovery of clothes and shoes. True it is that Ramesh's house was visited by Kishan Singh (PW-35), the Investigating Officer for recovery of Jharbad. It may be that at that time the concerned police officer did not show the presence of mind by searching the house for recovery of clothes and shoes. However, that by itself will not demolish the prosecution case. It has to be borne in mind that it was in pursuance of Exhibit P-108 that the information was given by the accused regarding the clothes and shoes. While he had given the information about the weapon of offence 'Jharbad' vide Exhibit P-103 dated 12.2.2003, we do accept that the police officer on 12.3.2003 itself, when he seized the

murder weapon i.e. Jharbad, should have taken the search of the whole house. But, failure on the part of the police officer to do that would not by itself wipe out the prosecution case, particularly, in view of the fact that the articles, namely, Jharbad, pant and the shoes were found to be stained with human blood, which is clear from Exhibit P-126. We have minutely seen and examined Exhibit P-126, where it is seen that shirt and shoes of Ramesh (A-3) were stained with human blood, though the blood group could not be detected. However, some explanation was bound to be offered by Ramesh (A-3) as to how the human blood came on the shoes and on the shirt. There is no explanation which is worthy. The murder weapon, however, has been found stained with human blood and even its blood group has been shown to be 'A'. It is to be seen that the clothes of Ramlal were stained with his own blood which was of group 'A'. This is a very weighty circumstance against Ramesh (A-3) and there is absolutely no explanation offered by Ramesh (A-3) of this highly incriminating circumstance. Thus, it is clear from this evidence that prosecution had proved its case against Ramesh (A-3) that he was involved in the robbery which was clear from the human blood detected on his clothes and the murder weapon

which was recovered at his instance. Shri Jain, learned counsel tried to attack the recoveries and the discoveries. However, both the Courts below have accepted the same. In addition to this, Ramesh (A-3) was found to be in possession of huge amount of gold in form of ornaments and ingots and cash, for which he had no explanation. The said articles were seized from his person. It is not understood as to why the gold would be in the form of ingots from the recovery of the gold melting apparatus from Rajesh. It was clear that there was effort to melt the gold. The necessity of melting the gold and the fact that the accused persons like Rajesh made efforts to melt the gold and further accused Ramesh being found in possession of gold ingots which could not have been in that form lends support to the theory that Ramesh was in possession of the stolen property. There is no explanation by Ramesh even for the huge cash. He did not accept the cash belonging to him. He is not shown to be a wealthy person so as to be in possession of 1347 gms. of gold and a huge cash of about Rs. 30,000/-. All this and the further evidence that his clothes and shoes were stained in blood and the Jharbad (weapon) recovered from him was also blood stained with A group of blood would clinch the case

against Ramesh. Shri Jain also very earnestly suggested that discoveries and recoveries were farcical and that in fact, some of the discoveries and recoveries were disbelieved by the Trial Court also but had been accepted by the High Court.

16. We are of the clear opinion that the High Court was absolutely correct in believing the recoveries and discoveries also, particularly, as against the accused Ramesh. There may be some irregularities here and there or some casual investigation by the police, however, we do not think that the investigation in this case was tainted. There was absolutely no reason for the police to falsely implicate Ramesh (A-3) and the other two accused persons. True it is that Phalodi is a small place and there was great tension prevailing on account of the robbery, however, that by itself will not be the reason for police to falsely implicate Ramesh (A-3) and the other two accused persons. Nothing has been brought in the cross-examination of the police officers and, more particularly, the cross-examination of Kishan Singh (PW-35), the Investigating Officer. Before going to the other cited cases, we would consider the case of Gordhan Lal (A-1).

17. In so far as accused Gordhan is concerned, Shri Lahoti, learned counsel appearing for him, led much stress on the fact that there was no blood found on Gordhan's pant and T-shirt. The learned counsel further says that it is obvious that Gordhan was not the participant in the crime. That statement is clearly incorrect. Insofar as his T-shirt is concerned, Exhibit P-126 clearly speaks that human blood was found on his shirt. As if this was not sufficient, his shoes were also found to be stained with human blood. Therefore, Exhibit P-126 would falsify the claim on behalf of accused Gordhan that he was not connected with the crime. It is only his pant which seems to be innocuous in the sense that no blood was found on the same. However, there is no explanation by Gordhan as to how his T-shirt and shoes were found to be stained with human blood. Shri Lahoti attacked the recovery of clothes as well as the ornaments on 9.2.2003. The prosecution has relied on PW-6, Mohan Lal, PW-7, Dev Kumar and PW-11, Ajit Jain. The recovery of clothes was on 9.2.2003, while the ornaments were recovered on 13.2.2003 and 19.2.2003. It was only the gold chain which was recovered on 19.2.2003 from him. Rest of the ornaments were recovered from him and it was found at

the time of recovery that the ornaments were kept in a Katordan. It is specifically mentioned therein that the name of Ramlal was engraved on the said Katordan. The learned counsel very vehemently attacked this so-called recovery which was made on 13.2.2003. The recovery appears to have been made on 09.2.2003 vide Exhibit P-38. It was only on that day that the clothes and the shoes of Gordhan were seized. On 19.2.2003, Gordhan produced the chain. It must be remembered that this was the gold chain which was identified by PW-30 Rajesh in the identification parade by PW-22, Jitendra Kumar Pandey Tehsildar, Phalodi.

18. We have gone through the evidence of identification parade especially of PW-22, Jitendra Kumar Pandey and both the Courts having accepted the evidence about the identification of ornaments which were recovered from Ramesh. We do not find any reason to dis-believe that evidence. Therefore, it is established that Ramesh was undoubtedly in possession of the ornaments which ornaments can be connected with Ramlal. In this behalf, we must refer to the evidence of Rajesh who claimed in his evidence that he identified the chain of his maternal uncle. It is to be seen that Rajesh was the

nephew of deceased Ramlal. He surfaced immediately after it was known that Ramlal and his wife Shanti Devi were murdered. He claimed that he had seen his maternal uncle using the chain and two rings and his Mami i.e. Shanti Devi using four bangles and four rings and ear rings in her ears. He was the one who performed the last rites of Ramlal and Shanti Devi. He also referred to the search taken by police on 8.2.2003 and the Fard prepared therein vide Exhibit P-22. He described that the goods in the shop were lying scattered and there were small *Potlies* containing Rs.17,000/- in cash and some change. On 18.4.2003, he was called for identifying the ornaments. The identification proceedings are to be seen from Exhibits P-24 and P-25. He correctly identified the chain of maternal uncle and also the bangles of his maternal aunt. The learned counsel assailed this evidence vehemently. The mother of Rajesh was the first wife of his father and Ramlal was the brother of his mother who was no more. His claim that he used to stay with deceased Ramlal whenever he was in Phalodi, could not be demolished. It was urged that even Ramlal's first wife had died and Shanti Devi was his second wife, for whose marriage he was not invited. He corrected himself and claimed that though

he was invited, since there was a death of a close relative, he could not come for the marriage from Madras. Even accepting that this witness was not called for the marriage, the fact that he used to stay with the deceased persons whenever he was in Phalodi could not be demolished. The tenor of his evidence shows that he indeed was very closely connected with Ramlal. We are not impressed by the huge and long cross-examination of this witness. Most of the cross-examination was irrelevant. In fact, it is in his cross-examination that it has come that there was a mark of flower and *patia* (leaves) on the gold bangles of his maternal aunt. It cannot be expected that the witness would give a graphic description of the ornaments. Much cross-examination was wasted in showing that he did not know from where the other bangles and chains were brought by the police for the identification purpose. That was absolutely irrelevant. The evidence of Jitender Kumar (PW-22) is extremely important inasmuch as both Ramesh (A-3) and Bharat Kumar (A-2) are connected because of that evidence. The four gold bangles which were identified by Rajesh (A-4) were seized from Bharat Kumar (A-2) while the chain which was identified by him was seized from Gordhan Lal (A-1). This witness

specifically stated that these ornaments were correctly identified. There is hardly any cross-examination which is worthy and can be relied upon and accepted. The cross-examination only consists of some futile suggestions. This witness had no interest against the accused or in favour of the prosecution. He was doing his duty. His evidence connects Gordhan (A-1) and Bharat Kumar (A-2) with the crime. We, therefore, accept the identification. We are also in agreement with the High Court that the recoveries from Gordhan Lal (A-1) and Bharat Kumar (A-2) of the ornaments including the identified bangles and the chain were fully proved. There is hardly any explanation by these two accused persons.

19. We are not impressed by the contention raised that the police have seized the gold chain on 19.2.2003 even when they had visited the same place on 9.2.2003 for recovering the cloths on 13.2.2003 for recovering the other ornaments including the Katordan. It is quite possible that the police were not able to recover all the ornaments in one go. The High Court has given good reasons to set aside the finding of the Trial Court to the effect that this recovery was not proved. In fact,

there is clear cut evidence on record that the ornaments which were recovered on 13.2.2003 were kept in a Katordan. We have already commented that in Exhibit P35 itself, it is clearly mentioned that full name of deceased Ramlal was engraved on the Katordan. The recovery of Katordan would clinch the issue insofar as the identification of the ornaments is concerned. Gordhan had no explanation whatsoever for these ornaments or for the Katordan. Therefore, it is clear that Gordhan was also in possession of the stolen property almost immediately after the theft and was directly connected with the crime since his shirt and shoes were stained with human blood for which there was no explanation. We confirm the finding given by the High Court regarding the recoveries. We have already pointed out earlier that the gold chain which was recovered from accused Gordhan was clearly identified by PW-30, Rajesh. We have closely seen the evidence of PW-7, Dev Kumar and PW-35, Kishan Singh. We have also considered the evidence of DW-5, Chhel Singh. We are, therefore, of the clear opinion that the prosecution has been able to prove the guilt of Gordhan who was not only a participant in the crime but was also found in possession of the gold ornaments including the gold

chain which was clearly identified by witness PW-30,Rajesh. We, therefore, confirm the finding of the High Court in that behalf and hold that the High Court was right in dismissing the appeal of Gordhan. There is some controversy in respect of the Katordan as to whether it was seized from Gordhan or from Bharat Kumar. Considering the oral evidence of PW-6, Mohan Lal as also PW-35, Kishan Singh and further considering Exhibit P-35, we are of the clear opinion that Katordan on which name of deceased Ramlal was engraved was undoubtedly seized from this accused. We are, therefore, of the clear opinion that the High Court was right in dismissing the appeal of this accused.

20. This leaves us with the case of Bharat which is no better than Gordhan's case. It must be remembered that as per Exhibit P-126, Bharat Kumar's T-shirt as well as pant as also his shoes were stained with human blood and further his pant and shirt were found to be stained with blood group A which was the blood group of Ramlal. This circumstance alone is sufficient to clinch the issue against this accused. As if this is not sufficient, there has been the recovery of gold ornaments from Bharat Kumar. He was arrested on 7.2.2003 and vide

Exhibit P-85, he agreed to produce the ornaments vide Exhibit P-105. The ornaments were recovered vide recovery memo being Exhibit P-53. The following ornaments were found with him:

> "Silver Badia weighing 295 gms;
>
> One pair of silver nevra weighing 270 gms;
>
> One pair of silver kadla weighing 430 gms;
>
> Silver 'dhala' weighing 076 gms;
>
> Silver ring, bichhudi, 17 pairs of pech, 14 pech weighing 84 gms;
>
> One silver ingot weighing 205 gms."

This recovery is supported by the evidence of PW-13, Jalim Chand. However, the Trial Court rejected this recovery. The High Court has set aside that finding and has held that the recovery was fully proved. It cannot be forgotten that Bharat gave no explanation about the huge amount of silver ornaments found with him. Again, we fail to follow as to how the silver ingots weighing 205 gms. could be found unless the silver ornaments were turned into the shape of ingots. Secondly, four gold bangles were found vide Exhibit P-114 by way of this discovery. This discovery was proved by PW-11, Ajit Jain and in the identification proceedings vide Exhibit

25, bangles were correctly identified by PW-30, Rajesh. We have already commented about Rajesh and PW-22, Jitender Kumar who held the identification parade. This in fact clinches the issue. A strong argument was advanced by the learned counsel Shri Krishnamani that this was a belated discovery and as such was not liable to be believed. We have already held that the discovery made by the accused and the recovery of the ornaments in pursuance of that are completely credible, seen in the light of other evidence of his blood stained T-shirt and shoes. Shri Krishnamani could not explain the finding of the blood as also the clinching evidence of the recovery of ornaments in pursuance of the discovery statement made by the accused. We are, therefore, of the clear opinion that even this accused would be held liable and would be held guilty for the offence alleged against him.

21. We shall now consider the case law relied upon by the learned counsel for the defence. Shri Jain, learned counsel appearing on behalf of Ramesh (A-3) then relied on the decisions in ***Chandmal & Anr. Vs. State of Rajasthan [1976 (1) SCC 621], Mohd. Aman & Anr. Vs. State of Rajasthan etc. etc., [1997 (10) SCC 44]***,

Mahabir Sao alias Mahadeo Sao Vs. The State of Bihar [1972 (1) SCC 505] and ***Inspector of Police, Tamil Nadu Vs. Bala Prasanna [2008 (11) SCC 645]***. Even as regards the detection of human blood, the learned counsel relied on the decisions in ***State of Rajasthan Vs. Raja Ram [2003 (8) SCC 180]***, ***Yeshwant & Ors. Vs. The State of Maharashtra etc. etc. [1972 (3) SCC 639]***, ***Raghunath Vs. State of Haryana & Anr. etc. etc. [2003 (1) SCC 398]***, ***State of M.P. Vs. Nisar [2007 (5) SCC 658]*** and ***Hardyal Prem Vs. State of Rajasthan [1991 Supp. (1) SCC 148]*** to suggest that mere presence of human blood would not constitute an incriminating circumstance. The other two cases relied upon by the learned counsel are ***Manish Dixit & Ors. Vs. State of Rajasthan etc. etc. [2001 (1) SCC 596]*** and ***Subhash Chand Vs. State of Rajasthan [2002 (1) SCC 702]***.

22. Insofar as the first group of cases is concerned, they are relating to the identification of the ornaments recovered from Ramesh. In ***Chandmal & Anr. v. State of Rajasthan (cited supra)***, this Court held that unless the property in possession of the accused is proved to be a stolen property the prosecution cannot benefit from mere possession of such property. That was a case where the

property was recovered after two years of the murder and the alleged theft and, therefore, the Court held that presumption under Section 114 Illustration (a) of the Indian Evidence Act could not be applicable. The case is quite different on facts. In ***Mohd. Aman & Anr. v. State of Rajasthan etc.etc. (cited supra)*** the question was of the possession of the accused of four silver rings belonging to the deceased's wife. On facts, it was held that the same could not be stolen property as the prosecution had failed to prove that the rings belonged to the deceased's wife. It was further held that even assuming that the rings belonged to the deceased wife, it was not established by the prosecution that the said rings were stolen at the time of commission of murder and not on earlier occasion. The Court had found, on appreciation of evidence, that the recovery of the stolen articles was not established. It was, therefore, that the Court left the said evidence out of the consideration. However, that is not the case here. We have already pointed out that the theft of the articles, more particularly, the melting apparatus machine and the ornaments was fully established. The identification of the property was also established. Hence the ruling is of no consequence.

In ***Inspector of Police, Tamil Nadu v. Bala Prasannas' case (cited supra),*** the Court observed that though the accused persons were found in possession of the gold ingots, the Court went on to hold that because of that it would be hazardous to come to the conclusion that in fact gold jewellery belonged to the deceased. That was a case where the earrings of the deceased remained intact on the body. The case turns on its own facts. In the present case, it is not only the gold which connects the accused with the crime but also the articles like Katordan and tiffin on which the name of the deceased was engraved. The evidence clearly showed that the Katordan was seized with the ornaments in it. Further, some of the ornaments like gold bangles and the chain were actually identified and we have accepted the identification evidence. Such was not the case in the reported decision. That decision would, therefore, be of no consequence.

The last decision relied upon by the learned counsel Shri Jain reported as ***Mahabir Sao @ Mahadeo Sao v. The State of Bihar (cited supra)*** was again on different facts. In this case the description of the stolen property itself differed.

23. The learned counsel then urged, relying on ***State of Rajasthan Vs. Raja Ram (cited supra)***, that merely because the articles and weapons were found with human blood, that by itself would not connect the accused. The contention was raised in respect of the murder weapon Jharbad. The contention is that mere recovery of weapon cannot be a foundation of the prosecution case and the conviction cannot be made merely on the basis of such recovery. It must be stated at this juncture that in this case the conviction of Ramesh is not being based merely on the recovery of weapon. It must be remembered that not only were the clothes blood stained but the Jharbad (weapon) was also found to be stained with blood of the blood group A which was the blood group of deceased Ramlal. We have nothing to say about the principles emanating from this ruling. However, the facts appear to be clearly different. The existence of blood on the clothes was explained in that case on the basis of the possibility of blood being that of the accused himself. Such is not the case here. None of the accused has pleaded that they were injured in any manner nor was any injury found on their person. The ruling is, therefore, of no consequence.

In ***Yashwant's case, (cited supra)*** the facts are quite different. That case turned on account of the identification parade not having been believed. The Court proceeded to hold that though a blood stained *dhoti* was found at the accused's residence, the blood group was not fixed. There was no connection established. It is on that ground that the Court proceeded to give the benefit of doubt. The Court has not held that in all the cases where the blood group is not fixed, the existence of blood on the wearing apparel becomes inconclusive. In this case, the existence of the blood is not the only circumstance on the basis of which the accused has been convicted. We, therefore, find no parity of reasoning in this case.

In ***Raghunath's case (cited supra)*** again, the Court was concerned with the blood stained earth, blood stained muffler and lathis. Since the blood group was not proved, the Court came to the conclusion that the mere fact that the blood was human, was not conclusive evidence. Insofar as some of the accused persons are concerned, even the blood group is fixed and, therefore, this case would be of no consequence.

In ***Hardayal Prem's case (cited supra)***, the prosecution was not able to fix the blood group of blood found on the weapon. Under those circumstances, the prosecution case was not accepted. Such is not the case here. The blood on Jharbad was found to be a blood of blood group of A which was Ramlal's blood group.

In ***Manish Dixit's case (cited supra)*** the only circumstance was that the blood found on the motorcycle of the accused was found to be of the blood group of the deceased. Under the circumstances, this Court declined to convict the accused on that sole circumstance. It is very significant to note the observations made in para 35 *"if there were other circumstances apart from the recovery of some jewellery belonging to the deceased from the possession of this accused, perhaps the aforesaid circumstance (relating to the blood stained found on the motorcycle) would have lent support to an inference against him."* In fact the observations are more helpful to the prosecution than to the defence.

The case of ***Subhash Chand (cited supra)*** is completely different on facts. That was a case where the underwear which was blood stained and on which the semen stain was not shown to be belonging to the accused at all no

connection was established. It was on that basis that the matter was decided. Therefore, this case is also of no consequence.

Some other cases were cited like oft-quoted case of ***Pulukari Kottaiah v. King Emperor*** **[AIR 1947 PC 67]**, ***Mohd. Inayatullah v. State of Maharashtra*** **[1976 (1) 828]**, ***Pohalya Motya Valvi v. State of Maharashtra*** **[1980 (1) SCC 530]** and ***Mohd. Abdul Hafeez v. State of Andhra Pradesh*** **[1983 (1) SCC 143].** There is no question of the principles regarding Section 27, Indian Evidence Act. However, on facts we have found the discoveries of all the three accused persons in this case to be reliable in the peculiar facts of this case. Lastly, the learned counsel relied on ***Ram Pal Pithwa Rahidas v. State of Maharashtra*** **[1994 Suppl. (2) SCC 73]** which speaks about the necessity of a fair investigation. In para 37, the Court has observed as under:

> "37.The quality of a nation's civilization, it is said, can be largely measured by the methods it uses in the enforcement of the criminal law' and going by the manner in which the investigating agency acted in this case causes concern to us. In every civilized society the police force is invested with the powers of investigation of the crime to secure punishment for the criminal and it is in the interest of the society that the investigating agency must act honestly and fairly and not resort to fabricating false evidence or

> creating false clues only with a view to secure conviction because such acts shake the confidence of the common man not only in the investigating agency but in the ultimate analysis in the system of dispensation of criminal justice. Let no guilty man go unpunished but let the end not justify the means! The courts must remain ever alive to this truism. Proper results must be obtained by recourse to proper means- otherwise it would be an invitation to anarchy."

24. We have absolutely no reason to differ on the principle of honesty and fair investigation. However, we do not find any reason here in this case to hold that the investigation was in any way unfair. We have already held that merely because the recoveries were made from the same place which was already visited by the police, that would itself not dispel the evidence of discovery and recovery. This we have held on the basis of the peculiar evidence led in this case. True it is that the investigation officer should have thoroughly searched the premises of Gordhan and Bharat Kumar on 9.2.2003 itself. However, if the accused agreed to discover different things on different dates and those things were actually found in pursuance of the information given by the accused, the discoveries cannot be faulted for only that reason.

25. In short, we are of the opinion, that the appeals filed by the accused persons, namely, Gordhan (A-1) and

Bharat Kumar (A-2) have to be dismissed and they are dismissed. Even accused No.3, Ramesh has been convicted. We confirm the conviction of Ramesh. However, Ramesh has been awarded death sentence. We would, at this juncture, consider as to whether the death sentence is justified in the present case.

26. Both the Courts below have unanimously awarded death sentence to accused Ramesh, treating this to be a rarest of the rare case. The Trial Court has held that it was this accused Ramesh who inflicted injuries on both the deceased Ramlal and Shanti Devi. The Trial Court referred to the reported decision in ***Shri Bhagwan v. State of Rajasthan*** **[2001 (6) SCC 296]** and it is only on that ground that accused Ramesh alone was condemned to death. We are not quite satisfied with the reasoning given by the Trial Court. Before awarding the death sentence, the Trial Court was expected to give elaborate reasons. We have gone through the appellate Court's judgment. The appellate Court's judgment relied on the reported decision in ***Suhil Murmu v. State of Jharkhand*** **[AIR 2004 SC 394]** which observed that a balance-sheet of the aggravating and mitigating circumstances has to be drawn up and further to accord full weightage to the

mitigating circumstances and then to strike just balance between the aggravating and mitigating circumstances before the option is exercised. The appellate Court has quoted paragraph 16 of that judgment and has given four circumstances which may be relevant in awarding the death sentence. They are as under:

> "The following guidelines which emerge from **Bachan Singh case (supra)** will have to be applied to the facts of each individual case where the question of imposition of death sentence arises: -
>
> (i) The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability.
>
> (ii) Before opting for the death penalty the circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'.
>
> (iii) Life imprisonment is the rule and death sentence is an exception. Death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided, the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.
>
> (iv) A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances have to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.

27. In our opinion, none of the four circumstances mentioned is available in the present case. It is no doubt true that the murder of Ramlal and Shanti Devi was cruel. However, that cannot be said to be brutal, grotesque and diabolical nor could it be said that the murder was committed in a revolting manner so as to arise intense and extreme indignation. This was not a case where accused Ramesh was in a dominating position or in a position of trust nor could it be said to be a murder for personal reasons. This is also not a case of bride burning or dowry death which is committed in order to remarry for extracting dowry once again. Though this is a double murder, it cannot be said to be a crime of enormous proportion. Ramesh could not be said to be a person in a dominating position as this is not a murder of an innocent child or a helpless woman or old or infirm person. This was undoubtedly a murder for gains. The High Court has come out with a case that appellant Ramesh was having criminal record. However, we do not find any previous conviction having been proved against Ramesh by the prosecution. It is apparent that the original intention was theft and on account of the deceased having been awakened, the accused persons took the extreme step of eliminating

both the inmates of the house for the fear of being detected.

28. It cannot be said that it was Ramesh alone who has committed the murder only because he was the one who discovered the murder weapon *Jharbad.* It is not clear from the evidence as to who was the actual author of the injuries on Ramlal and Shanti Devi though all the three were participants of the crime. There is no definite evidence about the acts on the part of each of the accused. It will be, therefore, difficult to say that Ramesh alone was the author of injuries on Ramlal as well as Shanti Devi.

29. The learned counsel relied on two decision of this Court, the first being ***Dilip Premnarayan Tiwari v. State of Maharashtra*** **[2010 (1) SCC 775].** The other decisions relied upon is ***Mulla v. State of U.P.*** **[2010 (3) SCC 508]** as also ***Santosh Kumar Shantibhushan Beriyar v. State of Maharashtra*** **[2009 (6) SCC 498]**. In ***Mulla's case*** in paragraph 80 and 81, the Court held as under:

> "80.Another factor which unfortunately has been left out in much judicial decision-making in sentencing is the social-economic factors leading to crime. We at no stage suggest that economic depravity justify moral depravity, but we

> certainly recognize that in the real world, such factors may lead a person to crime. The 48th Report of the Law Commission also reflected this concern. Therefore, we believe, socio-economic factors might not dilute guilt, but they may amount to mitigating factor i.e. the ability of the guilty to reform. It may not be misplaced to note that a criminal who commits crimes due to his economic backwardness is most likely to reform. This Court on many previous occasions has held that his ability to reform amounts to a mitigating factor in cases of death penalty.
>
> 81.In the present case, the convicts belong to an extremely poor background. With lack of knowledge, on the background of the appellants, we may not be certain as to their past, but one thing which is clear to us is that they have committed these heinous crimes for want of money. Though we are shocked by their deeds, we find no reason why they cannot be reformed over a period of time."

The observations are extremely germane to the question before us.

30. There can be no dispute that this was a case in which money was the motive. We have already seen that the accused person do not come from a wealthy background. On the other hand, it has been held that they could not justify the possession of ornaments found with them. It has also been held that they were unlikely to own the ornaments on account of their financial position.

31. Practically, the whole law on death sentence was referred to in ***Santosh Kumar's case***. In paragraph 56, the Court observed "*the court must play a pro-active role to record all relevant information at this stage. Some of the information relating to crime can be culled out from the phase prior to sentencing hearing. This information would include aspects relating to the nature, motive and impact of crime, culpability of convict etc. Quality of evidence is also a relevant factor. For instance, extent of reliance on circumstantial evidence or child witness plays an important role in the sentencing analysis. But what is sorely lacking, in most capital sentencing cases, is information relating to characteristics and socio-economic background of the offenders. This issue was also raised in 48th Report of the Law Commission.* The Court, thus, has in a guided manner referred to the quality of evidence and has sounded a note of caution that in a case where the reliance is on circumstantial evidence, that factor has to be taken into consideration while awarding the death sentence. This is also a case purely on the circumstantial evidence. We should not be understood to say that in all cases of circumstantial evidence, the death sentence cannot be given. In fact

in ***Shivaji @ Dadya Shankar Alhat v. State of Maharashtra*** **[2008 (15) SC 269],** this Court had awarded death sentence though the evidence was of circumstantial nature. All that we say is that the case being dependent upon circumstantial evidence is one of the relevant considerations. We have only noted it as one of the circumstances in formulating the sentencing policy. Further in that case the Court upheld the principles emanating from ***Bachan Singh v. State of Punjab*** **[1980 (2) SCC 684]** where the probability that the accused can be reformed and rehabilitated was held as one of the mitigating circumstances and it was observed that the State should, by evidence prove that the accused does not satisfy these conditions, meaning thereby that the accused is not likely to be reformed. The Court went on to hold that the rarest of rare dictum imposes a wide ranging embargo on the award of death punishment which can only be revoked if the facts of the case successfully satisfy double qualification :

1) that the case belongs to rarest of the rare category and;

2) alternative option of life imprisonment will not suffice in the facts of the case.

32. The Court then observed that the rarest of the rare dictum places an extraordinary burden on the Court. Considering these principles, we do not think that there was no possibility of reformation of the accused persons. True it is that the accused were driven by their avarice for wealth but given a chance there is every possibility of their being reformed. We are also of the clear opinion that in this case it is not established that alternative punishment of life imprisonment will be futile and would serve no purpose. In paragraph 66 of ***Santosh Kumar's case (cited supra)***, the Court observed that life imprisonment can be said to be completely futile only when the sentencing aim of reformation can be said to be unachievable. The Court further went on to say *"therefore, being satisfied the second explanation of rarest of rare doctrine the court will have to provide clear evidence as to why the convict is not fit for any kind of reformative and rehabilitation scheme.*

33. In our opinion, there has been no such exercise taken either by the trial Court or appellate Court nor do we find any discussion about the life imprisonment being rendered futile and serving no purpose.

34. In ***Bachan Singh's case (cited supra)*** the age of accused was held to be one of the mitigation circumstances. Accused Ramesh is a young person. We do not see any reason as to why he cannot be reformed and rehabilitated.

35. We must also take into consideration that this was the first proved offence of accused Ramesh. No other conviction has been proved against him by the prosecution. Since this is his maiden conviction, we do not see as to how accused Ramesh cannot be reformed. Further we do not see this to be an offence by the organized criminals so as to affect the society as a whole.

36. Learned counsel also relied on ***Dilip Premnarayan Tiwari v. State of Maharashtra (cited supra)*** where the accused, who was guilty of three murders, was let off. That was also a case of the accused being of young age. The Court also took into consideration the argument that the deaths in that case were in reality not intended deaths but the dead persons became the victims of the circumstances since the deceased in that case tried to stop the assailants. The situation is somewhat similar here though not identical. We have already mentioned

that if the deceased Ramlal and his wife had not been awakened, the ghastly incident might not have occurred. There are number of other decisions which were relied upon by the learned counsel. However, since we have referred to ***Santosh Kumar's case (cited supra)*** which has considered the whole law on the subject, we find it unnecessary to repeat the same again.

37. It has come in evidence in this case that the deceased Ramlal and Shanti Devi had hair in their hands. The prosecution wanted to point out that it must be during the scuffle that the two dying persons might have pulled the hair of the assailants and this is how hair came in the hands of the deceased persons. It is significant to note that on scientific examination, it could not be established that hair in the hands of the deceased belonged to accused Ramesh. Though there are other clinching circumstances also to hold that Ramesh and the two accused were undoubtedly the assailants. This circumstance would also weigh in our mind in not confirming the death sentence. We say this particularly in the light of the principles emanating from ***Santosh Kumar's case***.

38. Lastly, we must take into consideration that Ramesh who was convicted and awarded the death sentence by the learned Sessions Judge in 2004 is languishing in death cell for more than six years. This also would be one of the mitigating circumstances.

39. In short, we are of the opinion that the death sentence awarded to Ramesh would not be justified and instead we would modify the same to life imprisonment. However, conviction for the other offences as also sentences awarded are confirmed. All the three appeals are accordingly dismissed with the modifications of sentence in Criminal Appeal No.1236 of 2006 filed by Ramesh.

…….J.

[V.S. Sirpurkar]

…….J.

[T.S. Thakur]

New Delhi;

February 22, 2011.