REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 445 OF 2009
(Arising out of SLP (Crl.) No.3895 of 2006)

Santosh Devidas Behade and Ors. ...Appellants

Versus

State of Maharashtra ...Respondent

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the judgment of a Division Bench of the Bombay High Court, Nagpur Bench, upholding the conviction of the appellants for offences punishable under Sections 147, 148, 302 read with

Section 149 of the Indian Penal Code, 1860 (in short the 'IPC'). By the impugned order two Criminal Appeals i.e. Criminal Appeal Nos. 314/2001 and 346/2001 were disposed of. Accused persons are Namdev (A-1), Santosh (A-2), Mangal (A-3), Subhash (A-4) and Sudam (A-6). The High Court by the impugned judgment dismissed the appeals.

3. Background facts in a nutshell are as follows:

The Complainant-Chandrakalabai widow of Bharat Kharat was a resident of Village Dharkanha. At the time of incident, she was residing with her husband Bharat Mukinda Kharat (hereinafter referred to as the 'deceased') and two sons in the house situated in the village Dharkanha. It is the case of the prosecution that Shivcharan (PW6), son of the Complainant Chandrakala (PW2) as well as Taqnaji, son of Shakuntaiabai, the keep of deceased Bharat and Shakuntalabai were residing in the said house. On the day of incident, Shakuntala was not present as she had gone to Pusad. At that time, work of uprooting the groundnut crop was in progress in the field of deceased Bharat and several persons from village Londhari were working in his field. There was a pit dug in front of the house of Bharat for construction of one room.

On 7th June, 1998, at about 1.00 p.m., deceased Bharat and one Tulshiram Vadar had gone to Pusad and returned home at about 7.00 p.m. After that, deceased Bharat was taking meal in his house and Tulshiram went to sleep in front of the house. After some time, at about 8.00 p.m. accused Namdev Tarpe came to the house of the complainant and told Bharat that persons from village Yehala were coming to beat him and he should run away from the spot, or release the dogs. When Bharat came out of the house, five to six persons encircled Bharat in the courtyard of his house and started beating him. They were armed with axes, sticks, crowbars and beat Bharat with the said weapons. When Bharat was being assaulted, he shouted for help loudly saying "Chandrakala, I am dying." The complainant -Chandrakala went to Tulsiram and awakened him. Tulshiram tried to rescue Bharat from the clutches of the accused; but the accused did not allow him to help the deceased. The complainant Chandrakala thereafter went towards the persons of village Londhari and stayed there along with her sons. The assailants also came there and threatened them not to disclose the incident and asked them to leave. The persons from village Londhari thereafter left the place. The accused persons also left the place.

The complainant Chandrakala along with her sons went near her husband deceased Bharat and noticed injuries on his person, who had already succumbed to those injuries on the spot. The complainant asked her son Shivcharan (PW-6) the names of the assailants. Shivcharan told her that the assailants were from village Yehala and gave their names as "Namdeo Tarpe, Shamrao Behade, Subhash Behade, Santosh Behade, Sahebrao and one unknown person to whom he knew by face."

The complainant along with her sons thereafter went to the house of Police Patil of village Dharkanha and narrated the incident. The complainant stayed there for the night and on the next day, she went to Police Station, Pusad (Rural) and lodged a report. In the report, she mentioned the names of five accused persons and one unknown person. She also stated in the report that accused persons assaulted her husband because one year before the incident, there were murders of one Atmaram and Laxman of village Yehala and in the said crime, her husband deceased Bharat was arrested and, therefore, the assailants for taking revenge of the said murders, and had assaulted Bharat in the incident in question. On the basis of the report lodged by the complainant investigation was undertaken.

After completion of investigation charge sheet was filed and as the accused persons i.e. seven in number in two Criminal Appeals before High Court pleaded innocence, trial was held.

It is to be noted that A-1 was absconding and therefore separate charge sheet was filed against him. The trial Court placed reliance on the evidence of Chandrakala (PW-2) and Shivcharan (PW-6) and found the accused persons guilty.

In appeal, the primary stand of the accused persons was that PWs 2 and 6 being related to the deceased their evidence should not be acted upon particularly when Tulshiram and the younger son of the deceased were not examined. Additionally, it was submitted that in the Test Identification Parade (in short the 'TI Parade') held on 3.8.1998 only two accused persons Sudam and Mangal were identified. Further, the evidence of Shivcharan (PW-6) only relates to accused Shamrao and, therefore, Section 149 has no application. It was also submitted that PW-2 cannot be believed as she did not know the names of the accused persons and the names were told to her by PW-6. The trial Court did not analyse their evidence and held that merely because PWs 2 and 6 were the wife and son of the deceased that did not

render their evidence suspect. Additionally, the TI parade was held only in respect of two accused appellants Sudam and Mangal and not in respect of other accused persons as they were allegedly known to the prosecution witnesses.

Stand of State was that as others were known, there was no need for TI Parade. The fact situation clearly shows that Section 149 IPC has application.

4. In support of the appeal the stands taken before the High Court are re-iterated by learned counsel for the appellants and for the State.

5. A plea which was emphasized by the appellant relates to the question whether Section 149, IPC has any application for fastening the constructive liability which is the sine qua non for its operation. The emphasis is on the common object and not on common intention. Mere presence in an unlawful assembly cannot render a person liable unless there was a common object and he was actuated by that common object and that object is one of those set out in Section 141. Where common object of an unlawful assembly is not proved, the accused persons cannot be convicted with the

help of Section 149. The crucial question to determine is whether the assembly consisted of five or more persons and whether the said persons entertained one or more of the common objects, as specified in Section 141. It cannot be laid down as a general proposition of law that unless an overt act is proved against a person, who is alleged to be a member of unlawful assembly, it cannot be said that he is a member of an assembly. The only thing required is that he should have understood that the assembly was unlawful and was likely to commit any of the acts which fall within the purview of Section 141. The word 'object' means the purpose or design and, in order to make it 'common', it must be shared by all. In other words, the object should be common to the persons, who compose the assembly, that is to say, they should all be aware of it and concur in it. A common object may be formed by express agreement after mutual consultation, but that is by no means necessary. It may be formed at any stage by all or a few members of the assembly and the other members may just join and adopt it. Once formed, it need not continue to be the same. It may be modified or altered or abandoned at any stage. The expression 'in prosecution of common object' as appearing in Section 149 have to be strictly construed as equivalent to 'in order to attain the common object'. It must be immediately connected with the common object by virtue of the nature of the object.

There must be community of object and the object may exist only up to a particular stage, and not thereafter. Members of an unlawful assembly may have community of object up to certain point beyond which they may differ in their objects and the knowledge, possessed by each member of what is likely to be committed in prosecution of their common object may vary not only according to the information at his command, but also according to the extent to which he shares the community of object, and as a consequence of this the effect of Section 149, IPC may be different on different members of the same assembly.

6. 'Common object' is different from a 'common intention' as it does not require a prior concert and a common meeting of minds before the attack. It is enough if each has the same object in view and their number is five or more and that they act as an assembly to achieve that object. The 'common object' of an assembly is to be ascertained from the acts and language of the members composing it, and from a consideration of all the surrounding circumstances. It may be gathered from the course of conduct adopted by the members of the assembly. For determination of the common object of the unlawful assembly, the conduct of each of the members of the unlawful assembly, before and at the time of attack and thereafter, the

motive for the crime, are some of the relevant considerations. What the common object of the unlawful assembly is at a particular stage of the incident is essentially a question of fact to be determined, keeping in view the nature of the assembly, the arms carried by the members, and the behaviour of the members at or near the scene of the incident. It is not necessary under law that in all cases of unlawful assembly, with an unlawful common object, the same must be translated into action or be successful. Under the Explanation to Section 141, an assembly which was not unlawful when it was assembled, may subsequently become unlawful. It is not necessary that the intention or the purpose, which is necessary to render an assembly an unlawful one comes into existence at the outset. The time of forming an unlawful intent is not material. An assembly which, at its commencement or even for some time thereafter, is lawful, may subsequently become unlawful. In other words it can develop during the course of incident at the spot co instanti.

7. Section 149, IPC consists of two parts. The first part of the section means that the offence to be committed in prosecution of the common object must be one which is committed with a view to accomplish the common object. In order that the offence may fall within the first part, the

offence must be connected immediately with the common object of the unlawful assembly of which the accused was member. Even if the offence committed is not in direct prosecution of the common object of the assembly, it may yet fall under Section 141, if it can be held that the offence was such as the members knew was likely to be committed and this is what is required in the second part of the section. The purpose for which the members of the assembly set out or desired to achieve is the object. If the object desired by all the members is the same, the knowledge that is the object which is being pursued is shared by all the members and they are in general agreement as to how it is to be achieved and that is now the common object of the assembly. An object is entertained in the human mind, and it being merely a mental attitude, no direct evidence can be available and, like intention, has generally to be gathered from the act which the person commits and the result therefrom. Though no hard and fast rule can be laid down under the circumstances from which the common object can be called out, it may reasonably be collected from the nature of the assembly, arms it carries and behaviour at or before or after the scene of incident. The word 'knew' used in the second branch of the section implies something more than a possibility and it cannot be made to bear the sense of 'might have been known'. Positive knowledge is necessary. When an

offence is committed in prosecution of the common object, it would generally be an offence which the members of the unlawful assembly knew was likely to be committed in prosecution of the common object. That, however, does not make the converse proposition true; there may be cases which would come within the second part but not within the first part. The distinction between the two parts of Section 149 cannot be ignored or obliterated. In every case it would be an issue to be determined, whether the offence committed falls within the first part or it was an offence such as the members of the assembly knew to be likely to be committed in prosecution of the common object and falls within the second part. However, there may be cases which would be within first part, but offences committed in prosecution of the common object would be generally, if not always, be within the second part, namely, offences which the parties knew to be likely committed in the prosecution of the common object. (See Chikkarange Gowda and others v. State of Mysore: AIR 1956 SC 731.)

8. In State of U.P. v. Dan Singh and Ors. (1997 (3) SCC 747) it was observed that it is not necessary for the prosecution to prove which of the members of the unlawful assembly did which or what act. Reference was

made to Lalji v. State of U.P. (1989 (1) SCC 437) where it was observed that:

> "while overt act and active participation may indicate common intention of the person perpetrating the crime, the mere presence in the unlawful assembly may fasten vicariously criminal liability under Section 149".

9. This position has been elaborately stated by this Court in Gangadhar Behera and Ors. v. State of Orissa (2002 (8) SCC 381 and Shivjee Singh and Ors. v. State of Bihar (SLP (Crl.) No.1494/2004 disposed of on 30.7.2008)

10. Merely because the eye-witnesses are family members their evidence cannot per se be discarded. When there is allegation of interestedness, the same has to be established. Mere statement that being relatives of the deceased they are likely to falsely implicate the accused cannot be a ground to discard the evidence which is otherwise cogent and credible. We shall also deal with the contention regarding interestedness of the witnesses for furthering prosecution version. Relationship is not a factor to affect credibility of a witness. It is more often than not that a relation would not conceal actual culprit and make allegations against an innocent person.

Foundation has to be laid if plea of false implication is made. In such cases, the court has to adopt a careful approach and analyse evidence to find out whether it is cogent and credible.

11. In Dalip Singh and Ors. v. The State of Punjab (AIR 1953 SC 364) it has been laid down as under:-

> "A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily a close relation would be the last to screen the real culprit and falsely implicate an innocent person. It is true, when feelings run high and there is personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often a sure guarantee of truth. However, we are not attempting any sweeping generalization. Each case must be judged on its own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts."

12. The above decision has since been followed in Guli Chand and Ors. v. State of Rajasthan (1974 (3) SCC 698) in which Vadivelu Thevar v. State of Madras (AIR 1957 SC 614) was also relied upon.

13. We may also observe that the ground that the witness being a close relative and consequently being a partisan witness, should not be relied upon, has no substance. This theory was repelled by this Court as early as in Dalip Singh's case (supra) in which surprise was expressed over the impression which prevailed in the minds of the Members of the Bar that relatives were not independent witnesses. Speaking through Vivian Bose, J. it was observed:

> "We are unable to agree with the learned Judges of the High Court that the testimony of the two eyewitnesses requires corroboration. If the foundation for such an observation is based on the fact that the witnesses are women and that the fate of seven men hangs on their testimony, we know of no such rule. If it is grounded on the reason that they are closely related to the deceased we are unable to concur. This is a fallacy common to many criminal cases and one which another Bench of this Court endeavoured to dispel in – 'Rameshwar v. State of Rajasthan' (AIR 1952 SC 54 at p.59). We find, however, that it unfortunately still persists, if not in the judgments of the Courts, at any rate in the arguments of counsel."

14. Again in Masalti and Ors. v. State of U.P. (AIR 1965 SC 202) this Court observed: (p. 209-210 para 14):

> "But it would, we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses.....The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to failure of justice. No hard and fast rule can be laid down as to how much evidence should be appreciated. Judicial approach has to be cautious in dealing with such evidence; but the plea that such evidence should be rejected because it is partisan cannot be accepted as correct."

15. To the same effect is the decisions in State of Punjab v. Jagir Singh (AIR 1973 SC 2407), Lehna v. State of Haryana (2002 (3) SCC 76) and Gangadhar Behera and Ors. v. State of Orissa (2002 (8) SCC 381).

16. The above position was also highlighted in Babulal Bhagwan Khandare and Anr. v. State of Maharashtra [2005(10) SCC 404], Salim Saheb v. State of M.P. (2007(1) SCC 699), Sonelal v. State of M.P. (SLP (Crl.) No.3220 of 2007 disposed of on 22.7.2008) and Mohabbat and Ors. v. State of M.P. (SLP (Crl.) No. 3251 of 2008)

17. As was observed by this Court in Matru v. State of U.P. (1971 (2) SCC 75) identification tests do not constitute substantive evidence. They are primarily meant for the purpose of helping the investigating agency with an assurance that their progress with the investigation into the offence is proceeding on the right lines. The identification can only be used as corroborative of the statement in court. (See Santokh Singh v. Izhar Hussain (1973 (2) SCC 406). The necessity for holding an identification parade can arise only when the accused are not previously known to the witnesses. The whole idea of a test identification parade is that witnesses who claim to have seen the culprits at the time of occurrence are to identify them from the midst of other persons without any aid or any other source. The test is done to check upon their veracity. In other words, the main object of holding an identification parade, during the investigation stage, is to test the memory of the witnesses based upon first impression and also to enable the prosecution to decide whether all or any of them could be cited as eyewitnesses of the crime. The identification proceedings are in the nature of tests and significantly, therefore, there is no provision for it in the Code of Criminal Procedure, 1973 (in short the 'Code') and Indian Evidence Act, 1872 (in short 'Evidence Act'). It is desirable that a test identification parade should be conducted as soon as after the arrest of the accused. This becomes

necessary to eliminate the possibility of the accused being shown to the witnesses prior to the test identification parade. This is a very common plea of the accused and, therefore, the prosecution has to be cautious to ensure that there is no scope for making such allegation. If, however, circumstances are beyond control and there is some delay, it cannot be said to be fatal to the prosecution.

9. It is trite to say that the substantive evidence is the evidence of identification in Court. Apart from the clear provisions of Section 9 of the Evidence Act, the position in law is well settled by a catena of decisions of this Court. The facts, which establish the identity of the accused persons, are relevant under Section 9 of the Evidence Act. As a general rule, the substantive evidence of a witness is the statement made in Court. The evidence of mere identification of the accused person at the trial for the first time is from its very nature inherently of a weak character. The purpose of a prior test identification, therefore, is to test and strengthen the trustworthiness of that evidence. It is accordingly considered a safe rule of prudence to generally look for corroboration of the sworn testimony of witnesses in Court as to the identity of the accused who are strangers to them, in the form of earlier identification proceedings. This rule of prudence, however, is subject to exceptions, when, for example, the Court

is impressed by a particular witness on whose testimony it can safely rely, without such or other corroboration. The identification parades belong to the stage of investigation, and there is no provision in the Code which obliges the investigating agency to hold or confers a right upon the accused to claim, a test identification parade. They do not constitute substantive evidence and these parades are essentially governed by Section 162 of the Code. Failure to hold a test identification parade would not make inadmissible the evidence of identification in Court. The weight to be attached to such identification should be a matter for the Courts of fact. In appropriate cases it may accept the evidence of identification even without insisting on corroboration. (See Kanta Prashad v. Delhi Administration (AIR 1958 SC 350), Vaikuntam Chandrappa and others v. State of Andhra Pradesh (AIR 1960 SC 1340), Budhsen and another v. State of U.P. (AIR 1970 SC 1321) and Rameshwar Singh v. State of Jammu and Kashmir (AIR 1972 SC 102).

10. In Jadunath Singh and another v. The State of Uttar Pradesh (1970) 3 SCC 518), the submission that absence of test identification parade in all cases is fatal, was repelled by this Court after exhaustive considerations of the authorities on the subject. That was a case where the witnesses had seen the accused over a period of time. The High Court had found that the

witnesses were independent witnesses having no affinity with deceased and entertained no animosity towards the appellant. They had claimed to have known the appellants for the last 6-7 years as they had been frequently visiting the town of Bewar. This Court noticed the observations in an earlier unreported decision of this Court in Parkash Chand Sogani v. The State of Rajasthan (Criminal Appeal No. 92 of 1956 decided on January 15, 1957), wherein it was observed :-

> "It is also the defence case that Shiv Lal did not know the appellant. But on a reading of the evidence of P.W. 7 it seems to us clear that Shiv Lal knew the appellant by sight. Though he made a mistake about his name by referring to him as Kailash Chandra, it was within the knowledge of Shiv Lal that the appellant was a brother of Manak Chand and he identified him as such. These circumstances are quite enough to show that the absence of the identification parade would not vitiate the evidence. A person who is well-known by sight as the brother of Manak Chand, even before the commission of the occurrence, need not be put before an identification parade in order to be marked out. We do not think that there is any justification for the contention that the absence of the identification parade or a mistake made as to his name, would be necessarily fatal to the prosecution case in the circumstances."

11. The Court concluded:

> "It seems to us that it has been clearly laid down by this Court, in Parkash Chand Sogani v. The State of Rajasthan (supra) (AIR Cri LJ), that the absence of test identification in all cases is not fatal and if the accused person is well-known by sight it would be waste of time to put him up for identification. Of course if the prosecution fails to hold an identification on the plea that the witnesses already knew the accused well and it transpires in the course of the trial that the witnesses did not know the accused previously, the prosecution would run the risk of losing its case."

12. In Harbhajan Singh v. State of Jammu and Kashmir (1975) 4 SCC 480), though a test identification parade was not held, this Court upheld the conviction on the basis of the identification in Court corroborated by other circumstantial evidence. In that case it was found that the appellant and one Gurmukh Singh were absent at the time of roll call and when they were arrested on the night of 16th December, 1971 their rifles smelt of fresh gunpowder and that the empty cartridge case which was found at the scene of offence bore distinctive markings showing that the bullet which killed the deceased was fired from the rifle of the appellant. Noticing these circumstances this Court held:-

> "In view of this corroborative evidence we find no substance in the argument urged on behalf of the

> appellant that the Investigating Officer ought to have held an identification parade and that the failure of Munshi Ram to mention the names of the two accused to the neighbours who came to the scene immediately after the occurrence shows that his story cannot be true. As observed by this Court in Jadunath Singh v. State of U.P. (AIR 1971 SC 363) absence of test identification is not necessarily fatal. The fact that Munshi Ram did not disclose the names of the two accused to the villages only shows that the accused were not previously known to him and the story that the accused referred to each other by their respective names during the course of the incident contains an element of exaggeration. The case does not rest on the evidence of Munshi Ram alone and the corroborative circumstances to which we have referred to above lend enough assurance to the implication of the appellant."

13. It is no doubt true that much evidentiary value cannot be attached to the identification of the accused in Court where identifying witness is a total stranger who had just a fleeting glimpse of the person identified or who had no particular reason to remember the person concerned, if the identification is made for the first time in Court.

14. In Ram Nath Mahto v. State of Bihar (1996) 8 SCC 630) this Court upheld the conviction of the appellant even when the witness while deposing in Court did not identify the accused out of fear, though he had

identified him in the test identification parade. This Court noticed the observations of the trial Judge who had recorded his remarks about the demeanour that the witness perhaps was afraid of the accused as he was trembling at the stare of Ram Nath -accused. This Court also relied upon the evidence of the Magistrate, PW-7 who had conducted the test identification parade in which the witness had identified the appellant. This Court found, that in the circumstances if the Courts below had convicted the appellant, there was no reason to interfere.

15. In Suresh Chandra Bahri v. State of Bihar (1995 Supp (1) SCC 80), this Court held that it is well settled that substantive evidence of the witness is his evidence in the Court but when the accused person is not previously known to the witness concerned then identification of the accused by the witness soon after his arrest is of great importance because it furnishes an assurance that the investigation is proceeding on right lines in addition to furnishing corroboration of the evidence to be given by the witness later in Court at the trial. From this point of view it is a matter of great importance, both for the investigating agency and for the accused and a fortiori for the proper administration of justice that such identification is held without avoidable and unreasonable delay after the arrest of the accused. It is in

adopting this course alone that justice and fair play can be assured both to the accused as well as to the prosecution. Thereafter this Court observed:-

> "But the position may be different when the accused or a culprit who stands trial had been seen not once but for quite a number of times at different point of time and places which fact may do away with the necessity of a TI parade."

16. In State of Uttar Pradesh v. Boota Singh and others (1979 (1) SCC 31), this Court observed that the evidence of identification becomes stronger if the witness has an opportunity of seeing the accused not for a few minutes but for some length of time, in broad daylight, when he would be able to note the features of the accused more carefully than on seeing the accused in a dark night for a few minutes.

17. In Ramanbhai Naranbhai Patel and others v. State of Gujarat (2000 (1) SCC 358) after considering the earlier decisions this Court observed:-

> "It becomes at once clear that the aforesaid observations were made in the light of the peculiar facts and circumstances wherein the police is said to have given the names of the accused to the witnesses. Under these circumstances, identification of such a named accused

only in the Court when the accused was not known earlier to the witness had to be treated as valueless. The said decision, in turn, relied upon an earlier decision of this Court in the case of State (Delhi Admn.) v. V. C. Shukla (AIR 1980 SC 1382) wherein also Fazal Ali, J. speaking for a three-Judge Bench made similar observations in this regard. In that case the evidence of the witness in the Court and his identifying the accused only in the Court without previous identification parade was found to be a valueless exercise. The observations made therein were confined to the nature of the evidence deposed to by the said eye-witnesses. It, therefore, cannot be held, as tried to be submitted by learned Counsel for the appellants, that in the absence of a test identification parade, the evidence of an eye-witness identifying the accused would become inadmissible or totally useless; whether the evidence deserves any credence or not would always depend on the facts and circumstances of each case. It is, of course, true as submitted by learned Counsel for the appellants that the later decisions of this Court in the case of Rajesh Govind Jagesha v. State of Maharashtra (AIR 2000 SC 160) and State of H.P. v. Lekh Raj (AIR 1999 SC 3916), had not considered the aforesaid three-Judge Bench decisions of this Court. However, in our view, the ratio of the aforesaid later decisions of this Court cannot be said to be running counter to what is decided by the earlier three-Judge Bench judgments on the facts and circumstances examined by the Court while rendering these decisions. But even assuming as submitted by learned Counsel for the appellants that the evidence of, these two injured witnesses i.e. Bhogilal Ranchhodbhai and Karsanbhai Vallabhbhai identifying the accused in the Court may be treated to be of no assistance to the prosecution, the fact remains that these eye-witnesses were seriously injured and they could have easily seen the faces of the persons assaulting them and their appearance and identity would well within imprinted in their minds especially when they were assaulted in broad daylight. They could not be said

> to be interested in roping in innocent persons by shielding the real accused who had assaulted them."

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18. These aspects were recently highlighted in Malkhansingh and Others v. State of M.P. (2003 (5) SCC 746) and Munshi Singh Gautam (dead) and Ors. v. State of M.P. (2005 (9) SCC 631)

19. If the background facts are considered in the light of the legal principles set out above, the inevitable conclusion is that the appeal is without merit, deserves dismissal which we direct.

…….J.
(Dr. ARIJIT PASAYAT)

…….J.
(ASOK KUMAR GANGULY)

New Delhi,
March 06, 2009