THE HIGH COURT OF SIKKIM : GANGTOK

(Criminal Appellate Jurisdiction)

DATED : 1st JUNE, 2016

SINGLE BENCH : HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

Crl.A. No.34 of 2015

Appellant : Suresh Chettri,
S/o Late Ran Bahadur Chettri,
R/o Phungla Busty,
P.S. Namchi,
South Sikkim.
[Presently residing at Tingley Busty,
Bermoik, Temi P.S., South Sikkim]

versus

Respondent : State of Sikkim

Appeal under Section 374(2) of the
Code of Criminal Procedure, 1973

Appearance

Mr. Jigme P. Bhutia, Legal Aid Counsel for the Appellant.

Mr. Karma Thinlay Namgyal, Additional Public Prosecutor with Mrs. Pollin Rai, Assistant Public Prosecutor for the State-Respondent.

J U D G M E N T

Meenakshi Madan Rai, J.

1. By filing this Appeal, the Appellant seeks to assail the Judgment and Order on Sentence of the Court of the Learned

Sessions Judge, Special Division – II, East Sikkim at Gangtok, dated 31-10-2015 in Sessions Trial Case No.04 of 2015, convicting the Appellant under Section 304 Part II of the Indian Penal Code, 1860 (for short "IPC") and sentencing him to undergo rigorous imprisonment of five years and to pay a fine of Rs.5,000/- (Rupees five thousand) only, with a default stipulation.

2. The Prosecution version is that the Complainant (now deceased), on 06-02-2014 lodged a Complaint before the Officer-in-Charge, Pakyong P.S., informing therein that on 04-02-2014 her husband, the Appellant herein, came home in an intoxicated state, assaulted her, burnt her original documents, verbally abused her mother and broke the door and window to her mother's house. That she was unable to report the matter on the same date due to body ache. The report was recorded as G.D. Entry No.106 of the Police Station and the Complainant forwarded to the Pakyong PHC along with a Police escort, for medical examination. The Medical Officer who examined the victim recorded the injuries to be "Simple" in nature. However, on 08-02-2014, the Complainant was admitted to the Central Referral Hospital, Tadong (for short "CRH") in a critical condition. The District Magistrate and the Medical Officer in charge were requested to record the statement of the victim under Section 32 of the Indian Evidence Act, 1872 (for short "the Evidence Act"). The Police collected her Medical Report on 18-02-2014 from the CRH,

Tadong, where the nature of injuries were recorded as grievous, due to internal bleeding. Consequently, *suo motu* FIR was registered by the SHO as Pakyong P.S. Case No.06/2014, dated 18-02-2014, under Section 325 of the IPC, against the Appellant and endorsed to P.W. 18, the Investigating Officer (for short "the I.O."), for investigation. The Accused was arrested on 19-02-2014 from Tingley, South Sikkim and enlarged on bail by the Police. On 23-02-2014, the victim was discharged from CRH, Tadong and admitted to Nivedita Multispecialty Hospital, Pradhan Nagar, Siliguri, West Bengal, for higher medical treatment, where on 30-03-2014, she passed away. Thereafter, the I.O. converted the offence under Section 325 of the IPC to Sections 302/498'A' of the IPC and on completion of investigation, submitted Charge-sheet against the Appellant under the above Sections of Law, on 20-08-2014. The Appellant was rearrested on 27-08-2014 and released by the Magistrate on 01-12-2014, in terms of Section 167(2) of the Code of the Criminal Procedure, 1973 (for short "Cr.P.C.").

3. Investigation revealed that the victim was a Teacher in the Government Secondary School, Phungla, South Sikkim, where she met the Appellant around the year 2004 and despite opposition, married him. Later, the Appellant obtained employment as a "Safaikaramchari" in the Government Senior Secondary School, Pacheykhani, East Sikkim and they started residing in a rented room

after the victim's transfer from South Sikkim, but regular fights ensued between them, both being drinkers. Complaints of physical assault by the Appellant, on the victim, were resolved by family members and the Area Panchayat. This continued for a prolonged period without the victim initiating any action against the Appellant. On 03-02-2014, the Appellant, reportedly spent the night with the victim's uncle who was unwell, at Pacheykhani PHC, and on 04-02-2014 when the victim and her mother came visiting, the Appellant went to the market and consumed alcohol. Later, all of them including the patient, returned home and the victim entered her room to watch television with P.W.2 and P.W.3 where the Appellant followed and verbally abused her in front of the children while assaulting her with fists and blows. The frightened children ran out from the house but watched the incident through the window of the room, while P.W.3 her nephew, ran to the house of P.W.1, the mother of the victim (his grandmother), located nearby and called her. The victim ran into the kitchen to save herself and P.W.1 on her arrival pleaded with the Appellant to stop the assault, to no avail. The victim escaped and went to the house of P.W.5 at around 8 p.m., where she narrated the incident to her. On 05-02-2014, being too weak to go out of the house, she lodged the Complaint Exhibit 18 at the Police Station only on 06-02-2014, accompanied by P.W.5. On 07-02-2014, the victim complained of severe headache with pain in her abdomen and hands and remained

bed ridden the whole day. The next day, 08-02-2014, she informed P.W.5 that she was going to the Hospital but later villagers informed P.W.5 that the victim was resting in a nearby shed. P.W.5 rushed to the house of P.W.1 and along with her took the victim to CRH, Tadong, where the victim's condition was declared to be critical and she was put on ventilator. On 23-02-2014 she was admitted to a Siliguri Hospital where she died on 30-03-2014.

4. The Learned Trial Court after hearing the Counsel for the parties found *prima facie* materials to frame charge against the Appellant under Section 304 Part I and Section 498A of the IPC, to which the Appellant pleaded "not guilty" and claimed trial.

5. In a bid to prove its case, the Prosecution examined eighteen witnesses. After considering and analysing the entire evidence on record, the Learned Trial Court passed the impugned Judgment and Order on Sentence. The Appellant was acquitted of the offence under Section 498'A' of the IPC.

6. I have heard the rival submissions put forth by Learned Counsel for both parties at length and given anxious consideration to the same. I have also carefully perused the evidence and entire documents on record as well as the impugned Judgment and Order on Sentence. Thus, what falls for consideration before this Court is

whether the Appellant was rightly convicted by the Learned Trial Court in light of the evidence on record.

7. In the first limb of his argument, Learned Legal Aid Counsel for the Appellant before this Court urged that the Learned Trial Court failed to appreciate that the instant case was wrongly registered on *suo motu* basis by the SHO, Pakyong P.S. on 18-02-2014, when the earliest information Exhibit 18 was recorded in GD Entry No.106, dated 06-02-2014 leading to two FIRs in the matter. That, Exhibit 18 does not reveal that the victim was severely beaten up by her husband as sought to be made out by P.W.17 the SHO which P.W.18, the I.O. has also failed to support.

8. Countering this argument the stand of the Learned Additional Public Prosecutor was that on receipt of Exhibit 18 GD Entry was made, Notice issued to the Appellant to report at the Police Station and the victim sent for medical examination. As the injury was recorded as "Simple" no further steps were taken. No formal FIR was drawn up on the basis of Exhibit 18 but the Police deemed it appropriate to make preliminary enquiries as the assault was by her husband. Later, the victim was admitted to CRH, Tadong in a critical condition and on collection of Medical Report by the Police, *suo motu* FIR was registered against the Appellant under Section 325 of the IPC. Hence, Exhibit 21 is the only FIR in the matter, on the basis of which investigation was launched. Relying

on the decision in ***Lalita Kumari*** vs. ***Government of Uttar Pradesh and Others***[1] it was urged by the State-Respondent that the Police have the powers to conduct a preliminary inquiry in matrimonial disputes, after a Complaint is lodged, before embarking on an investigation.

9. Having considered the submissions on this point, it would be appropriate first to refer to Section 154 of the Cr.P.C. which pertains to information in Cognizable offences and, *inter alia*, lays down that every information relating to the commission of a Cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction. Hence, the registration of an FIR is mandatory under Section 154 of the Cr.P.C., if the information so furnished discloses commission of a Cognizable offence. This Section affords no discretion to a police officer to hold a preliminary enquiry. On the heels of this provision, Section 156 of the Cr.P.C. deals with the powers of Police to investigate into Cognizable offences. Under this Section the Police have a statutory right to investigate into any alleged Cognizable offence without any authority from a Magistrate.

10. Section 155 of the Cr.P.C., on the other hand, pertains to information as to Non-Cognizable cases and investigation of such cases and provides that when information is given to an Officer-in-

1. (2014) 2 SCC 1

Charge of a Police Station of the commission within the limits of such station of a Non-Cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer, in such form, as the State Government may prescribe in this behalf and refer the informant to the Magistrate.

11. While bearing the above provisions in mind, we may refer to Exhibit 18, the Complaint filed by the deceased before the Police Station which bears the stamp of the Pakyong P.S. indicating G. D. Entry No.106, dated 06-02-2014. In the first instance, while examining the contents, although the Complainant states that she was beaten up by the Appellant, in the latter portion of the Complaint her prayer roughly translated to English from the Nepali vernacular would be **"***..... the Officer-in-Charge, issue a strict command to the Appellant to go away and not to enter my house, which would thus be beneficial to me***"**. The Police on receipt of Exhibit 18 sent her for medical examination to the Pakyong PHC, the nearest medical support. The Doctor P.W. 12, found no external injuries save tenderness on her back and opined that the injury was "Simple" vide Exhibit 7. Consequently, the offence fell under Section 323 of the IPC, a Non-Cognizable offence. In such a circumstance, reference can be made to Section 155(2) which enjoins upon the Police Officer not to investigate a Non-Cognizable case without the order of a Magistrate having power to try such case or

commit the case for trial. Thus, finding that the offence was Non-Cognizable the Police correctly made a G.D. Entry but did not embark upon an investigation being devoid of such powers without Magisterial directions. In the above situation, relying on the ratio of ***Lalita Kumari*** vs. ***Government of Uttar Pradesh and Others*** [1] *(supra)*, it is clear that the Police can exercise the discretion of holding a preliminary inquiry when the offence is one involving a matrimonial dispute as in the instant case. Subsequently, when the Police learnt that the victim was in a critical condition in CRH, Tadong, Exhibit 21, a *suo motu* FIR, was lodged by the SHO Pakyong P.S. against the Appellant under Section 325 of the IPC duly registered, and endorsed to P.W.18 for investigation. Hence, it is evident that Exhibit 21, which revealed a Cognizable offence, is the only FIR in the matter.

12. The next argument that was placed by the Appellant is that not only are P.W.2 and P.W.3 child witnesses but there are material contradictions in their statements as recorded under Section 161 of the Cr.P.C. and in their evidence in Court, besides which their statements during investigation was recorded by P.W.18, I.O., over the telephone, raising a question on their identities. Before the Court both P.Ws deposed that the Appellant gave a blow on their aunt's stomach, which allegation, however, finds no place in their statement to the Police. It is also contended that P.W.2 has admitted that prior to coming to Court she had a talk with her

grandmother P.W.1, about the case, which is a clear indication that she was tutored. It was, *per contra*, argued that P.W.2 and P.W.3 were not confronted with their Section 161 Cr.P.C. statements in the Court by reading out the relevant portions and, therefore, the witness was unaware as to which statement was sought to be contradicted by the Appellant, besides which there is no proof of tutoring. Hence, this argument of the Appellant was not tenable.

13. In this context, we may refer to the provisions of Section 160 of the Cr.P.C. which is the Police Officer's power to require attendance of witnesses during investigation. Any Police Officer, making an investigation under Chapter XII of the Cr.P.C. may by order in writing, require the attendance before himself of any person who appears to be acquainted with the facts and circumstances of the case and such person shall attend as so required. The Proviso to the Section debars a Police Officer from requiring the attendance of any male person under the age of fifteen years or above the age of sixty-five years or a woman, or a mentally or physically disabled person at any place other than their residence. From the evidence of P.W.3 the minor witness, duly confirmed by the evidence of P.W.18, the I.O. herself, it is clear that the Section 161 of the Cr.P.C. statement of the two minor witnesses were recorded by the I.O. telephonically. It does indeed appear to be a novel method engineered by the I.O. to record statements, duly

circumventing the specific provisions of the Proviso to Section 160 of the Cr.P.C. apparently in a nonchalant and lackadaisical manner scant regard being paid to the consequences, even when the offence was one allegedly under Section 302 of the IPC, by the summation of the Police themselves. Apparently, the I.O. deemed it below her dignity to go to the house of P.W.2 and P.W.3. She has also unabashedly admitted that since she has taken the statement of the two child witnesses over the telephone she could not say for sure as to whether it was the same witnesses who had witnessed the incident in the house of the victim. The only witnesses for the Prosecution, to the alleged assault on the stomach of the victim, by the Appellant, are P.W.2 and P.W.3. Although a statement under Section 161 of the Cr.P.C. is not substantive evidence but it can be used for contradiction, as provided under Section 145 of the Evidence Act hence, the importance attached to it.

14. On perusal of the impugned Judgment, it is evident that the Learned Trial Court has taken into consideration the evidence of P.W.2 and P.W.3 with regard to the assault on the victim. On the touchstone of the admission of the I.O. as reflected hereinabove, would the Prosecution be in a position to vouch confidently on the identity of P.W.2 and P.W.3. When P.W.18 herself is unable to establish the identity of the P.W.2 and P.W.3, would it be just and reasonable for the Court to rely on the evidence of such witnesses?

Where is the guarantee that they are not witnesses manufactured by P.W.1 and P.W.7 for the purposes of this case? Would a reasonable doubt not arise, in the absence of identity, that they never witnessed the incident but were meticulously tutored and furnished as witnesses? In such a circumstance, the alleged ocular evidence of P.W.2 and P.W.3 cannot at all be taken into consideration to the prejudice of the Appellant, their identity being shrouded in mystery, on account of the fact that the I.O. has never seen them. Thus, the Learned Sessions Judge has erred in considering their evidence and has in fact failed to discuss this aspect in his Judgment. It is, therefore, unconscionable for this Court to consider the evidence of P.W.2 and P.W.3 without proof of their identity. There is no option but to throw out their evidence from the purview of consideration.

15. The next argument put forth by the Appellant was that there are different versions in the Medical Reports, viz., Exhibit 7, the first Medical Report of the victim, Exhibit 14, the Wound Certificate issued by the CRH, Tadong on 15-02-2014 after examining the patient on 08-02-2014, and Exhibit 15 prepared by P.W.15. The Doctor, P.W.12 who first examined the victim has opined that the victim only suffered from simple injury as per Exhibit 7, whereas Exhibit 14 records several injuries on the victim and opines that the injuries is grievous, Exhibit 17 issued by the same Hospital endorses the above opinion. Exhibit 15 records that the victim was diagnosed

with severe sepsis and multiple organ dysfunction system. That, thereafter Exhibit 29 clearly indicates that the cause of death was due to "B/L Bronchopneumonia with ARDS Septicaemia" and the manner of death was recorded as "Natural", therefore, not as a consequence of any injury. That it is inconceivable as to how on 06-02-2014 no injuries were recorded in Exhibit 7 but vide Exhibit 14 after two intervening days the victim was found to have sustained grievous injuries. The discrepancies in the medical documents, therefore, raises a doubt with regard to the Prosecution case. The counter argument advanced by Learned Additional Public Prosecutor was that the assault was witnessed by P.W.2 and P.W.3, thus there is no question of there having been no injury on the victim. That it is the right of the Court to act on the testimony of one Doctor and prefer the testimony of the Medical Officer whose evidence accords with the Prosecution version. To buttress this argument, reliance was placed by the Additional Public Prosecutor on ***Makan Jivan and Others*** vs. ***The State of Gujarat***[2].

16. Having considered the arguments of the Learned Additional Public Prosecutor, I have also carefully perused Exhibits 7, 14, 15, 17 and 29. I have to agree with Learned Counsel for the Appellant that it is inconceivable as to how a cut injury over the right hand of the victim, recorded in Exhibit 14 could have escaped

2. (1971) 3 SCC 297

the notice of P.W.12, the first examining Doctor who in fact examined the victim on the third day after the incident. It is also difficult to believe that ecchymosis (discolouration of skin resulting from bleeding underneath) over her right forearm could have been missed by P.W.12. The failure of the victim to inform the Doctor that she was assaulted by her husband and was suffering from any abdominal pain raises another doubt. Exhibit 15, the Report of P.W.15 is reflective of the fact that the victim was admitted in the Siliguri Hospital with a past history of assault about two months back, the details of which he admits were not provided. It cannot be Comprehended as to why the person who accompanied the victim did not provide details of the assault. Exhibit 27 is the "Case Summary" recorded by the CRH, wherein it is, *inter alia*, stated that the patient was brought by P.W.7 (her sister) with an alleged history of physical assault. Surprisingly the name of the assailant has not been disclosed by P.W.7 to the concerned Doctor. The discrepancies in Exhibit 7 and Exhibit 14 are too divergent to ignore, in the backdrop of the fact that the alleged assault took place on 04-02-2014, whereas grievous injury was found only on 08-02-2014, thereby failing to link the injuries to the alleged assault by the Appellant. That apart, there is no proof to substantiate the evidence of P.W.5 that the victim spent the night in her house. No other witness has supported this evidence of P.W.5 neither has the victim herself mentioned this in Exhibit 3, allegedly her dying declaration.

17. Exhibit 26, the sketch map of the place of occurrence reveals that the house of P.W.1 is located close to the victim's house. After such a dreadful assault as claimed by the Prosecution and P.W.1, it is but natural that the protective instincts of P.W.1 as a mother and nurturer comes to the fore, thus the question arises as to why the victim sought to take shelter in the house of a third person, viz., P.W.5, instead of the house of P.W.1, which apart from being her mother's house was also located close by. Another aspect that raises a doubt in the Prosecution case is that P.W.1 deposed of a visit to the PHC on 07-02-2014, along with the victim consequent to which the Doctor of Pakyong PHC referred the victim to STNM Hospital. To the contrary, no records of the Hospital exists to support this, neither are there any referral documents, in addition to which P.W.12, the Doctor at the PHC, does not support this version of P.W.1 as she asserts that she did not examine the victim after 06-02-2014. In this context, it would also be appropriate to refer to Exhibit 1, an apology letter signed by the Appellant on 05-02-2013, in the presence of P.W.1 as well as the Area Panchayat and three independent witnesses. It has been explained by the Learned Additional Public Prosecutor that the date has been wrongly entered in the document as 05-02-2013 but ought to read as 05-02-2014. In the light of the said explanation, the contents of Exhibit P1 are duly perused. This document pertains to an apology by the Appellant for his mistake and an undertaking by him not to break the door and

window to the house of his mother-in-law (P.W.1) or not to use abusive words against her. He also undertakes not to use abusive language or to attack his sister-in-law Sashikala. The letter nowhere reflects the assault on the victim. If P.W.1 was present when Exhibit 1 was prepared it cannot be fathomed as to why she did not insist on including the apology of the Appellant in connection with the assault on the victim, if such assault had indeed taken place. That apart, Exhibits 9, 11 and 13, the Medical Report of the Appellant indicates no external injuries on him.

18. Besides, the above inconsistencies, P.W.1 did not personally know that the victim had gone to the house of P.W.5 after the assault but deposed that on the following day she learnt that the victim had spent the night with P.W.5. It was only on the third day that P.W.5 came to her house and told her that the victim was in a critical condition, the third day being, 07-02-2014, the incident having occurred on 04-02-2014. Being the mother of the victim this situation appears incongruous.

19. Exhibit 14 and Exhibit 17 the Wound Certificates and Exhibit 15 letter addressed to P.W.15 to the I.O., make no mention of the Appellant as the assailant. Assuming that the victim was critical and unable to speak, nothing prevented P.W.1 and the relatives who had accompanied the victim to give the history of the injuries and the reasons thereof but they have refrained from doing so. In such

circumstances, it becomes difficult to accept the Prosecution version in totality that injuries found on the victim were caused by the Appellant. In any event, it is well-settled Law that -

> ***"6.*** *..... The golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The paramount consideration of the court is to ensure that miscarriage of justice is prevented. A miscarriage of justice which may arise from acquittal of the guilty is no less than from the conviction of an innocent. In a case where admissible evidence is ignored, a duty is cast upon the appellate court to reappreciate the evidence even where the accused has been acquitted, for the purpose of ascertaining as to whether any of the accused committed any offence or not.***"***[3]

20. The next leg of the argument of the Learned Counsel for the Appellant was that Exhibit 3, the dying declaration, of the victim allegedly scribed by the victim herself nowhere mentions that the Appellant had caused the injuries. For that matter, Exhibit 18 the alleged Complaint of the victim dated 06-02-2014 also does not indicate that the Appellant assaulted her severely on her stomach. *Per contra* it is the contention of the Learned Additional Public Prosecutor that in the first instance, Exhibit 3 clearly contains the name of the Appellant, who according to the victim, tortured him and that she had no peace. That in addition to Exhibit 3, reliance can be placed on Exhibit 18 *inasmuch* if a Complaint is lodged and

3. Basappa vs. State of Karnataka : (2014) 5 SCC 154

the victim succumbs to her injuries, the Complaint can be treated as a dying declaration. On this point, reliance was placed on ***Babulal and Others*** vs. ***State of M.P.*** [4] and ***Baldev Singh*** vs. ***State of Punjab***[5].

21. Having considered the arguments, I have carefully perused Exhibit 3. The general rule for acceptance of evidence under Section 32 of the Evidence Act is that no better evidence exists. In the first instance the victim appears to have scribed Exhibit 3 in the presence of P.W.10. This witness has clearly admitted that he had not issued any Certificate of Fitness to the effect that the victim was in a fit state of mind at the time of recording her dying declaration but the patient, as per P.W.10, was not administered sedatives at the time of scribing Exhibit 3. Assuming that a Certificate of Mental Fitness is not required nevertheless considering the medical condition of the victim, her injuries, being on ventilator and unable to speak due to the endo tracheal tube inserted in situ for assisted ventilation, one can well imagine the trauma she was undergoing and consequently her mental condition. Under no circumstances would such a person be in a proper frame of mind. This is clearly depicted in Exhibit 3, which is an inchoate document in pidgin English which, however, does not lay the blame of assault on 04-02-2014 at the door of the Appellant. In fact, there is no whisper at all of the incident of

4. (2003) 12 SCC 490
5. (1990) 4 SCC 692

04-02-2014, her constant refrain in Exhibit 3 being that the Appellant had tortured her of which her friends, Panchayat and Police were aware. It is on record that regular fights ensued between the couple. But, she gives no inkling of the incident of assault of 04-02-2014 thereby lending no credence to the Prosecution case by her statement. In fact, in Exhibit 3, she admits to have taken high pressure medicines carelessly, on account of which she had breathing difficulty.

22. Along with Exhibit 3, I also deem it essential to refer to Exhibit 4 to assess the mental condition of the victim. According to P.W.11 another Doctor at CRH, Tadong, on the requisition of the I.O., he preserved the statements scribed by the victim, whenever her condition allowed her, as she was intubated and on medical ventilation support. Exhibit 4, in five pages, are allegedly the statements scribed by the victim. These statements appear to have been recorded by a person who is delirious and probably in a state of hallucination as she has written that while entering her house she heard the sound of hens clucking and was told that there were boys from the village. Needless to add that at the relevant time she was in Hospital. On a careful analysis of Exhibits 3 and 4, I do not consider it either just or reasonable to rely on Exhibit 3 as a dying declaration, being incoherent as it is and secondly making no mention of the relevant incident or blaming the Appellant for the

injuries on her person. Added to all of the above is, the evidence of P.W.7, P.W.17 and P.W.18 stating that after the incident the Appellant was not seen in the locality. This has to be considered along with the fact that the victim was examined on 06-02-2014 and her injury recorded as "Simple". The admission of P.W.1 that in fact a Title Suit was pending between the deceased and her brothers before the Civil Judge, East at Gangtok, is also to be borne in mind.

23. Thus, while summing up the entire matter, I am of the considered opinion that the Prosecution case stands negated on account of all the inconsistencies and doubts raised hereinabove in detail. Hence, I am constrained to opine that the Prosecution has not been able to link the injuries on the victim as having been caused by the Appellant.

24. Resultant, the Prosecution case fails and the impugned Judgment of the Learned Trial Court convicting the Appellant under Section 304 Part II of the IPC and the consequent sentence is set aside. Appellant is acquitted of the charge under Section 304 Part II of the IPC. He be set at liberty forthwith.

25. Appeal is allowed.

26. Fine, if any, deposited by the Appellant in terms of the impugned Order on Sentence, be reimbursed to him.

27. Copy of this Judgment be sent to the Learned Court below for information and compliance along with the records.

Sd/-
(Meenakshi Madan Rai)
Judge
01-06-2016

Approved for reporting : **Yes**

Internet : **Yes**

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