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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010627892024

+ **CRL.A. 887/2024**
SUNIL RAJAN JAAT

.....Appellant

Through: Ms. Cauveri Birbal, Mr. Harshit
Deshwal, Mr. Yash Sharma,
Ms. Pareksha Gaur, Adv.

versus

STATE OF NCT OF DELHIRespondent

Through: Mr. Aman Usman, APP with
Mr. Manvendra Yadav, Adv

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **18.08.2026**

CRL.M.A. 25723/2025

1. This application has been filed by the appellant under Section 432 of the Bharatiya Nagarik Suraksha Sanhita, 2023 “BNSS” (Section 391 of the Code of Criminal Procedure, 1973 “Cr.P.C”) praying for accepting the additional evidence in form of a newspaper report dated 03.05.2017 titled “MANS HALF-BURNT BODY FOUND IN TIKONA PARK” published on India Today website with the following URL: <https://www.indiatoday.in/pti-feed/story/mans-half-burnt-body-found-in-tikona-park-919779-2017-05-03> .

2. The learned counsel for the appellant submits that the additional evidence in the form of the above article is necessary to prove the defence of the appellant. He submits that the same came to the



knowledge of the appellant only post his conviction by the impugned order passed by the learned Special Judge.

3. On the other hand, the learned APP opposes this application by contending that the alleged news article cannot be taken into evidence without its proof. He further submits that this would reopen the trial and would, therefore, not be in the interest of justice. He submits that the newspaper publication, at the highest, establishes the fact that a particular report was published, however, it does not by itself establish the truth of the contents of the report. He submits that neither the reporter who prepared the article nor any person from the Press Trust of India (“PTI”) or India Today having actual knowledge of the source of information that has been stated in the said article, has been examined by the learned Trial Court. The learned APP also hands over a copy of his written submissions which are taken on record.

4. We have considered the submissions of the learned counsels for the parties.

5. The case of the prosecution has been succinctly captured by the learned Special Judge in the impugned order, which is reproduced as under:

2- The facts germane from the prosecution case succinctly necessary for disposal of the present case are that on Case of the prosecution is that on 02.05.2017, a PCR call regarding burnt dead boy was received as PS Civil Lines vide DD No.198A. Thereupon, Sub-Inspector Abhijit Kumar alongwith Constable Vipin reached the spot i.e. inside Shri Narsingh Giri Udyan (Tikona park), in front of Swami Narayan Mandir, Ring Road, Civil Lines, Delhi. At the spot one male dead body was found at the spot in partially burnt



condition and hands and mouth of the deceased were tied. Dead body was unidentified. Crime Team and FSL Team also reached the spot and inspected and photographed the scene of crime. Exhibits were seized and dead body was sent to Subzi Mandi Mortuary for postmortem examination. The deceased could not be identified. On the basis of PCR call, spot inspection etc. it is found that offence under section 302 and 201 of the IPC is made out and therefore, tehreer/ruqqa was sent to police station. On the basis of said tehreer/rukka, **FIR No. 0118/2017** was registered at **Civil Lines Police Station** for the offences punishable under sections 302 and 201 of the IPC on 02.05.2017 against the unknown person.

3. After registration of FIR, investigation was handed over to Inspector Karan Singh Rana, who was the Station House Officer of said police station. During investigation on 06.05.2017, one eye witness of the incident namely Ravi was found to the Investigating Officer, who stated that on 29.04.2017 at around 3-4 pm, he was sleeping on footpath in front of Tikona Park, however, on hearing voice of quarrel, he woke up and saw Sunil @ Jaat, Kalia and Jeevan were quarrelling. He heard that Kalia was demanding his money from the duo and threatening him to kill them with stone when the sleep. After saying that Kalia went on the other side of the road near Gaushala. Jeevan and Sunil also chased him and both of them dragged Kalia at the opposite side of road and went inside Tikona Park. The accused Jeevan tied hands, legs and mouth of Kalia. Thereafter Sunil hit a big stone on the face of Kalia, Sunil also hit saria in the stomach of deceased Kalia. Thereafter, both of them strangled Kalia. Both the accused dragged the Kalia under a peepal tree near the wall of park and covered his body with raw leaves and clothes and burnt his body and both of them fled away. Statement of Ravi Kumar under section 164 of the CrPC was



recorded by the learned Magistrate on 06.05.2017. Both the accused persons were arrested on 07.05.2017 by the Investigating Officer at the instance of eye witness Ravi Kumar Jha. The disclosure statement of both the accused persons were recorded by the Investigating Officer. On 08.05.2017, accused Sunil got recovered one iron rod and one stone piece from the pile of the garbage which were taken into possession through seizure memo separately and thereafter, deposited in the malkhana. The exhibits were sent to FSL, Rohini vide FSL No.2017/BIO-5128 dated 12.07.2017 and FSL No. 2017/CHE-5222, dated 12.07.2017 for analysis and expert opinion.”

6. From the above, it would be evident that it is the case of the prosecution that the dead body, which was recovered on 02.05.2017, remained unidentified till 06.05.2017, when the eyewitness Ravi (PW-1) came and disclosed that on 29.04.2017, after hearing voices of a quarrel, he had woken up and had seen the appellant and the deceased quarrelling. He also deposed that he had seen the appellant along with the co-accused Jeevan chasing the deceased and taking him inside the Tikona Park. He had further deposed regarding the manner in which the murder had taken place.

7. The above newspaper report, in case it is to be accepted in evidence, would show that the identity of the dead body recovered on 02.05.2017, was in public knowledge on 03.05.2017 itself. Today we are not to determine as to how the same will be proved by the appellant or its effect on the case of the prosecution, however, at the present stage we are of the opinion that the said evidence will have some bearing on the outcome of the appeal.



8. The Supreme Court in ***Zahira Habibulla H. Sheikh v. State of Gujarat***, (2004) 4 SCC 158, had held that an Appellate Court, while exercising its discretion, can admit additional evidence in order to prevent a wrongful conviction. It was further observed that the admissibility of evidence under Section 391 CrPC is distinct from its reliability, evidentiary value, and ultimate consideration on the merits of the appeal. We reproduce the relevant portion of the judgment as under:

“47. Section 391 of the Code is another salutary provision which clothes the courts with the power to effectively decide an appeal. Though Section 386 envisages the normal and ordinary manner and method of disposal of an appeal, yet it does not and cannot be said to exhaustively enumerate the modes by which alone the court can deal with an appeal. Section 391 is one such exception to the ordinary rule and if the appellate court considers additional evidence to be necessary, the provisions in Section 386 and Section 391 have to be harmoniously considered to enable the appeal to be considered and disposed of also in the light of the additional evidence as well. For this purpose it is open to the appellate court to call for further evidence before the appeal is disposed of. The appellate court can direct the taking up of further evidence in support of the prosecution; a fortiori it is open to the court to direct that the accused persons may also be given a chance of adducing further evidence. Section 391 is in the nature of an exception to the general rule and the powers under it must also be exercised with great care, especially on behalf of the prosecution lest the admission of additional evidence for the prosecution operates in a manner prejudicial to the defence of the accused. The primary object of Section 391 is the prevention of a guilty man's escape



through some careless or ignorant proceedings before a court or vindication of an innocent person wrongfully accused. Where the court through some carelessness or ignorance has omitted to record the circumstances essential to elucidation of truth, the exercise of powers under Section 391 is desirable.

48. The legislative intent in enacting Section 391 appears to be the empowerment of the appellate court to see that justice is done between the prosecutor and the persons prosecuted and if the appellate court finds that certain evidence is necessary in order to enable it to give a correct and proper finding, it would be justified in taking action under Section 391.

49. There is no restriction in the wording of Section 391 either as to the nature of the evidence or that it is to be taken for the prosecution only or that the provisions of the section are only to be invoked when formal proof for the prosecution is necessary. If the appellate court thinks that it is necessary in the interest of justice to take additional evidence, it shall do so. There is nothing in the provision limiting it to cases where there has been merely some formal defect. The matter is one of discretion of the appellate court. As reiterated supra, the ends of justice are not satisfied only when the accused in a criminal case is acquitted. The community acting through the State and the Public Prosecutor is also entitled to justice. The cause of the community deserves equal treatment at the hands of the court in the discharge of its judicial functions.

59. ...

The question of admission of evidence initially or as additional evidence under Section 391 is distinct from the efficacy, reliability and its acceptability for consideration of claims in the appeal on merits. It is only after admission, the Court should consider in each case whether on account of earlier contradiction before Court



and the testimony allowed to be given as additional evidence, which of them or any one part or parts of the depositions are creditworthy and acceptable, after a comparative analysis and consideration of the probabilities and probative value of the materials for adjudging the truth. To reject it merely because of contradiction and that too in a sensitised case like the one before Court with a horror and terror oriented history of its own would amount to conspicuous omission and deliberate dereliction of discharging functions judiciously and with a justice-orientated mission. In a given case when the Court is satisfied that for reasons on record the witness had not stated truthfully before the trial Court and was willing to speak the truth before it, the power under Section 391 of the Code is to be exercised. It is to be noted at this stage that it is not the prosecution which alone can file an application under Section 391 of the Code. It can also be done, in an appropriate case by the accused to prove his innocence. Therefore, any approach without pragmatic consideration defeats the very purpose for which Section 391 of the Code has been enacted. ...”

9. Keeping in view the fact that the appellant is facing a sentence of life imprisonment, we deem it necessary and proper to allow him to lead further evidence on the above said article. We at this stage cannot comment on how the appellant will prove the claimed article or its evidentiary value or its effect. These are to be considered once the appellant leads his additional evidence.

10. We therefore, allow this application.

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11. The appellant shall file the list of witnesses within a period of



four weeks.

12. List the appeal before the learned Joint Registrar (Judicial) on 05th October, 2026, for recording of the additional evidence on behalf of the appellant limited only to the article mentioned above.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

AUGUST 18, 2026/gs/as/ma