

IN THE COURT OF SUDHIR PARMAR: ADDITIONAL SESSIONS  
JUDGE: GURUGRAM.

Session Case Number	82 of 09.01.2019/10.10.2019
CNR number	HRGR01-000512-2019
CIS number	SC/27/2019
UID CODE	HR-0157
Decided on	<b>06.02.2020</b>

State

Versus

Mahipal son of Hoshiar Singh, Resident of village Bhungarika, Police Station Nangal Chaudhary, District Mahendergarh, at present Tower-B Quarter No.601, Police Line Gurugram.

---Accused

FIR Number: 470 dated 13.10.2018  
Under sections: 302,201 Indian Penal Code,1860 &  
27 Arms Act.  
Police Station: Sector 50, Gurugram.

**Present:** Shri Anurag Hooda, Public Prosecutor for the State assisted by  
Shri Vishal Gupta, counsel for the complainant.  
Accused Mahipal in custody represented by  
Shri Prem Shankar Sharma, Advocate.

## **JUDGMENT**

The accused, named above, has been tried for the offences punishable under sections 302/201 Indian Penal Code,1860 and 27 Arms Act, on the challan put up by Station House Officer, Police Station Sector 50, Gurugram. The case of accused was committed to the court of Sessions vide order dated 07.01.2019 passed by Ms.Suyasha Jawa, learned Judicial Magistrate Ist Class, Gurugram .

2. The prosecution story, in brief, runs as under:

On 13.10.2018, Inspector/SHO Surender Singh alongwith P/SI Jai Bhagwan was present in the Police Station, received telephonic

information that in front of Arcadia Market, a woman and boy were shot with gun and were taken to Park hospital. On this information, they reached at Park hospital. SI Naresh, ASI Charan Singh, ASI Satish, ASI Yogesh, Head Constable Fakrudeen were already present there. ASI Baljeet, ASI Shyam Sunder and Constable Mahipal were directed to remain present at the place of occurrence i.e. Arcadia Market. Ruqa and MLC of injured Ritu wife of Shri Krishan Kant and Dhruv son of Shri Krishan Kant, residents of C-1301, Bestech Park View, SPA, Sector 47, Gurugram were obtained by P/SI Jai Bhagwan. P/SI Jai Bhagwan presented an application before the doctor for recording the statements of injured upon which the doctor opined that the patients are unfit for giving statement. The family members of the injured also reached at Park hospital. The injured were sent to Medanta hospital for further treatment. ASI Baljeet was asked to call the Crime team at Arcadia Market. Inspector/SHO Surender Singh alongwith his colleagues reached at Medanta hospital, where P/SI Jai Bhagwan moved an application before the doctor for recording the statements of injured upon which the doctor opined that the injured are unfit for giving statement. Thereafter, Shri Krishan Kant, Additional District Judge, Gurugram presented a written application to Inspector/SHO to the effect that today at about 3.30 p.m., while he was in the court complex, during the course of his duty hours, he received a telephonic call from his P.S.O. Mahipal on his mobile phone No.9991502008 who told that he had shot his wife Ritu and son Dhruv. At this, he immediately informed his colleagues and when one of his colleague Shri R.K.Mehta, dialled on the phone number of his wife, some unknown

person attended the call informed that they have been brought to Park hospital, with gun shot injuries. Thereafter, he immediately rushed to Park hospital, met his wife Ritu who told him that she alongwith son Dhruv reached Arcadia Market and asked P.S.O. Mahipal to wait near the vehicle. Thereafter, when they came back to the car, Dhruv asked Mahipal to hand over the keys of the car bearing No.HR-20-AC-2425 make Honda City, on which he got angry and then shouted and without any provocation, he rushed towards them and fired gunshot upon her, when Dhruv came to her rescue, he also fired shot upon him. When the facts were narrated by his wife Ritu, his colleague Shri Jasbir Singh Kundu, Additional District Judge, Gurugram was also present with him. After some time his injured wife and son were shifted to Medanta hospital, where he had given the statement. He prayed for taking legal action against the accused.

3. On the basis of the contents of the application, offence under sections 307 IPC and 27 Arms Act was found to be committed by Constable Mahipal. Tehrir was sent to the police station through Head Constable Fakrudeen for registration of the FIR and subsequently it was registered. On 13.10.2018, for the investigation of the case SIT was constituted. On the same day, the scene of crime was inspected by ASI Baljeet Singh in the presence of Scene of Crime Team Doctor Jyoti. Site plan of the place of occurrence was prepared and the photographs of the place of occurrence were captured. Blood, empty cartridges(SIKKA) were taken into police possession through memo, after converting the same into a parcel. The footage from two DVRs installed near the place of occurrence was taken into police possession by the member of SIT namely

Shri Vivek Kundu Incharge Cyber Cell, Gurugram and statements of witnesses were recorded. After receiving the information regarding the occurrence, Inspector Amit Kumar Incharge Crime Branch sector 40 Gurugram, apprehended the accused Mahipal alongwith revolver, Honda City Car bearing registration No. HR-20-AC-2425 & mobile phone of deceased Dhruv. The revolver was taken into possession through a memo . The personal search of accused was conducted and parcels of the recovered articles was prepared. From the Honda City Car, number plate bearing No.HR-20-AC-2425, two mobile phones (one of deceased Dhruv Marka MEIZU and second of accused Mahipal marka MI REDMI Note-4) alongwith sims were recovered and after making separate parcels, the same were taken into police possession. Site plan of the place of recovery was prepared. The revolver was got inspected by Finger Print Expert who lifted the Chance Print from the revolver and the same was taken into police possession through memo. After careful checking of revolver five empty cartridges were recovered from the cylinder of revolver. The recovered revolver and five empty cartridges were again taken into police possession through a memo. The sketch of the revolver was prepared. Swab gun powder from the hands of accused Mahipal was taken by Scene of Crime Team and after inspecting the vehicle bearing No. HR-20-AC-2425, the marks of blood and the piece of vehicle marked with bullet were cut and separate parcels of the same were prepared & taken into police possession. On the same day, accused was arrested. On 14.10.2018, he was taken for medical examination. During medical examination, blood stained uniform of accused was handed over by the doctor to Inspector Amit

Kumar which was taken into police possession. Witness Constable Kumar handed over an application to Inspector Amit Kumar which was taken into police possession by Inspector Amit Kumar. On 13.10.2018, statements of witnesses were recorded. On 14.10.2018, on receiving information regarding death of Ms.Ritu wife of Krishankant, section 302 IPC was added. After taking the photographs of dead body, proceeding under Section 174 Cr.P.C. was conducted. Sub Inspector Naresh Kumar got conducted the post mortem of dead body. Thereafter, disclosure statement of accused Mahipal was recorded and his four days police remand was obtained. ASI Balejeet took into police possession the video clips into the pendrive of the incident which was made by Rishi Gupta alongwith certificate under section 65-B. Statements of witnesses were recorded. On 14.10.2018, ACP Dharna Yadav took into possession, the record regarding posting of accused Mahipal and record regarding revolver was also obtained from Armoury. Statements of witnesses were recorded. On 15.10.2018, statement of eye witness Hemant Kumar was recorded by Yashwant Singh, Member of SIT and taken into police possession the video clips prepared by him into the pendrive of the incident alongwith certificate under section 65-B. Blood sample of injured Dhruv was taken from Medanta hospital by ASI Baljeet Singh and taken into police possession. The post mortem report of deceased Ms.Ritu was taken into possession after converting the same into parcel by SI Naresh Kumar. Doctor of Medanta hospital handed over specimen fragments from right and left brain, gauze bandage of Dhruv which were taken into possession by SI Naresh Kumar. On 15.10.2018, in pursuance of disclosure statement,

accused Mahipal got recovered two paintings and one wooden frame which he had taken away alongwith the vehicle and the same were taken into police possession. Accused got the place of occurrence demarcated. Demarcation memo was also prepared. On 16.10.2018, Inspector Amit Kumar took into police possession recording regarding giving of first information of the incident at #100, one pendrive, certificate under Section 65-B and photocopy log book of #100. On 16.10.2018, the case properties were deposited in CFSL, Chandigarh, RFSL Bhondsi and FSL Madhuban. On 17.10.2018, detailed disclosure statement of accused Mahipal was recorded. The statement under section 164 Cr.P.C. of witness Hemant Kumar was got recorded in the court by Inspector Yashwant Singh and its certified copy was obtained. After completion of four days police remand, the accused was produced in the court on 18.10.2018. With the permission of the court, the specimen of manual as well as of digital Finger print of accused were taken by Finger Print Expert and were taken into police possession. Thereafter, the accused was sent to Bhondsi jail. The statement under section 164 Cr.P.C. of witness Constable Vinay Kumar was also got recorded in the court by Inspector Amit and its certified copy was obtained. On 22.10.2018, recovered paintings and one frame were got identified and identification memo was prepared. On the same day, the case property was deposited with SCRB, Madhuban Karnal. On 23.10.2018, after the death of Dhruv during treatment, section 307 IPC was deleted. The proceedings under section 174 Cr.P.C. of deceased Dhruv was got conducted. Photographs of dead body were taken. Post mortem of deceased was conducted by board of doctors, Civil hospital, Gurugram. On

24.10.2018, ASI Baljeet Singh presented the photographs of the place of occurrence which were taken into police possession. On 25.10.2018, the calls details of mobile phone of Mahipal bearing No.9468278668, 9711844723, call details of mobile phone of deceased Dhruv bearing No.8816890824 and of deceased Ritu bearing No.9416048798 were obtained, as per which the locations of the said numbers were found to be of Arcadia Market at the time of occurrence and thereafter, the location of mobile phone of accused Mahipal and Dhruv was found to be same till the arrest of accused. From the call details of mobile phone of Mahipal, it was found that he made call to Shri Krishankant complainant and witness Constable Vinay. On 26.10.2018, the scaled site plan of the place of occurrence was got prepared. Statements of witnesses were recorded. On 01.11.2018, the viral video on social media were taken into police possession in a pendrive by Inspector Anand which testified regarding committing of offence by Mahipal. On 05.11.2018, Inspector Vivek Kundu, inspected the report of DVR of FSL Chandigarh and pendrive. On 25.11.2018, after receiving the report of Finger print from SCRB Madhuban, it transpired that chance print from the revolver recovered from accused Mahipal and finger prints which were taken in the court were same. On 05.12.2018, the posting orders regarding Constable Vinay Kumar were obtained. On 10.12.2018, call details of mobile phone No.9717358325, CAF ID and certificate 65-B were obtained. On 11.12.2018, call details of mobile phone No.8295126413, CAF ID and certificate 65-B were obtained. Results regarding parcel was received from FSL Madhuban and from which it transpired that Sikka and empty

cartridges belongs to the revolver recovered from accused. The gun powder was found in the hand swab of accused. The bullet hole in the chassis of Honda City Car was found from the gun shot. Section 201 was added. After receiving the prosecution sanction order against the accused the same would be enclosed with the challan was obtained. Mobile phone of accused Mahipal was sent to CFSL Chandigarh and report would be submitted after receiving the same. After completion of investigation, challan against accused was prepared and submitted before the court.

4. Copies of the final report under section 173 Cr.P.C and other accompanying documents were supplied to accused as envisaged under Section 207 Cr.P.C. free of costs, by the learned Area Magistrates.

5. On finding a prima facie case, the accused was charge sheeted for the commission of offence under sections 302 & 201 Indian Penal Code, 1860 and under section 27 of Arms Act. The accused pleaded not guilty and claimed trial.

6. The prosecution plea, at the trial, was buttressed by the testimony of following witnesses:

PW1	Assistant Sub Inspector Dharampal
PW2	Assistant Sub Inspector Birender Singh
PW3	Head Constable Fakruddin
PW4	Assistant Sub Inspector Randhir
PW5	Assistant Sub Inspector Dharambir
PW6	Head Constable Sumit
PW7	Jyoti, Scientific Assistant
PW8	E/ASI Ashok Kumar
PW9	Dhaarna Yadav, ACP(HQ)
PW10	Assistant Sub Inspector Pardeep Kumar
PW11	Ajit Pandey
PW12	Assistant Sub Inspector Dharmender

PW13	Sub Inspector Naresh Kumar
PW14	Doctor Dhruba Lahkar
PW15	Constable Ashok
PW16	Vipin Kumar
PW17	Vikas Madan
PW18	Head Constable Rishi Raj
PW19	Doctor Manish Kumar
PW20	Doctor Shubhina Gupta
PW21	Doctor Ambreen Tahir
PW22	Constable Satender
PW23	Anil Antil
PW24	Doctor Atma Ram Bansal
PW25	Doctor Neetu Yadav
PW26	Doctor Basant Kumar Dalmia
PW27	Doctor V.S.Bhalla
PW28	Doctor Karanjit Singh
PW29	Doctor Deepak Mathur
PW30	Doctor Rajiov Parakh
PW31	Doctor Harsh Sapra
PW32	Doctor Vasudha Singhal
PW33	Head Constable Sandeep
PW34	Dinesh Kumar
PW35	Devender Saini
PW36	Lady Constable Usha
PW37	Constable Vinay Kumar
PW38	Pankaj Sharma, Nodal officer
PW39	Surender Kumar, Nodal Officer
PW40	Ajay Kumar, Nodal Officer
PW41	Saurabh Aggarwal, Nodal Officer
PW42	Constable Mandeep Kumar
PW43	Devinder Kumar
PW44	Assistant Sub Inspector Satyajeet
PW45	Sulekha Rani
PW46	R.S.Poonia
PW47	Assistant Sub Inspector Baljeet Singh
PW48	Hemant Kumar Chaturvedi
PW49	Rishi Gupta

PW50	Assistant Sub Inspector Surender
PW51	Shri Krishan Kant, AD&SJ
PW52	Shri Jasbir Singh Kundu, AD&SJ
PW53	Shri R.K.Mehta, AD&SJ
PW54	Inspector Amit
PW55	Jitender
PW56	Inspector Yashwant
PW57	Inspector Anand Kumar
PW58	Constable Deepak
PW59	Inspector Vivek Kundu
PW60	Dharambir
PW61	Ramesh Chand
PW62	Inspector Jai Bhagwan
PW63	Doctor Aanchal Dwivedi
PW64	Inspector Surender Singh

7. The prosecution also relied upon the following documents:

Exhibits	Documents
<b>Ex.PA</b>	Scaled Site Plan prepared on 26.10.2018 by PW1 ASI Dharampal
<b>Ex.PB</b>	Formal FIR dated 13.10.2018 recorded by PW2 ASI Bijender Singh
<b>Ex.PB/1</b>	Special Report
<b>Ex.PB/2</b>	Endorsement of PW2 ASI Bijender Singh
<b>Mark A</b>	Tehrir
<b>Ex.PC</b>	Recovery Memo of Cut piece of Honda Car by PW4 ASI Randhir
<b>Ex.PW5/A</b>	Affidavit ASI Dharambir regarding deposit of case property at FSL Madhuban on 16.10.2018
<b>Mark (Ex.PAM) B</b>	Discharge Summary Ritu
<b>Mark (Ex.PAC) C</b>	Discharge Summary Dhruv
<b>Ex.PW6/A</b>	Affidavit PW6 HC Sumit Kumar Maalkhana Mohir regarding deposit of case property at FSL Madhuban on different dates
<b>Ex.PD</b>	Identification Memo prepared at the behest

	of PW55 Jitender Shopkeeper Painting & Wooden Frame
<b>Ex.PE</b>	Identification Memo prepared on the identification of PW51 Shri Krishan Kant of Painting & Wooden Frame
<b>Ex.PF</b>	Crime Scene Report prepared by PW7 Ms. Jyoti
<b>Ex.PG</b>	Entry Regarding handing over the revolver Ex.MO/16 to PW37 Constable Vinay Kumar on 28.10.2018
<b>Ex.PH</b>	Report of PW8 EASI Ashok, Kot Incharge regarding the revolver handed over to PW 9 ACP Dharna
<b>Ex.PH/1</b>	Recovery Memo prepared by PW 9 ACP Dharna Yadav of Report of PW8 EASI Ashok, Kot Incharge given to ACP Dharna regarding the revolver
<b>Ex.PJ</b>	One Page report of place of Posting of Constable Mahipal
<b>Ex.PJ/1</b>	Recovery Memo of the place of Posting Constable Mahipal
<b>Ex.PK</b>	Transfer Order (6 pages) of PW37 Constable Vinay Kumar
<b>Ex PK/1</b>	Report of PW10 ASI Pardeep regarding Transfer Order (6 pages) of Constable Vinay Kumar
<b>Ex.PK/2</b>	Recovery Memo of Report of PW10 ASI Pardeep regarding Transfer Order (6 pages) of Constable Vinay Kumar
<b>Ex.PL</b>	Foreign Body Hand over Form from Medicity by PW11 Ajit Pandey
<b>Ex.PL/1</b>	Recovery Memo of Foreign Body Hand over Form from Medicity prepared by PW13 ASI Naresh
<b>Ex.PM</b>	Recovery Memo of unsealed Blood Sample of Dhruv given by PW14 Doctor Dhruva Lahkar
<b>Ex.PN</b>	Recovery Memo of fresh Blood Sample of Dhruv Prepared By PW47 ASI Baljeet
<b>Ex.PO</b>	Application moved by PW13 SI Naresh Kumar for conducting Post Mortem Examination of Ritu Garg on 14.10.18
<b>Ex.PO/1</b>	Receipt of dead body handing over to family

<b>Ex.PQ</b>	Recovery Memo of Sealed Parcel handed over by doctor after post mortem examination prepared by PW13 SI Naresh Kumar
<b>Ex.PR</b>	Police Application for taking blood sample of Dhruv
<b>Ex.PS</b>	Recovery Memo of blood sample of Dhruv dated 14.10.18 PW47 ASI Baljeet
<b>Ex.PM</b>	Memo whereby the unsealed blood sample of Dhruv was returned back by Doctor Dhruva Lakhar to PW47 ASI Baljeet
<b>Ex.PN</b>	Recovery Memo of Fresh Blood Sample of Dhruv Dated 15.10.18 Prepared By PW47 ASI Baljeet
<b>Ex.PS</b>	Entry in Log book regarding receipt of call from Mobile No. 9891166303 by PW15 Constable Ashok Kumar.
<b>Ex.PT</b>	Recovery Memo DVR from Maintenance Manager Vipin Kumar PW16 Arcadia Manager
<b>Ex. PU</b>	Copy of Original Gate Pass Book
<b>Ex.PV</b>	Recovery Memo DVR from PW17 Vikas Madaan, Shopkeeper Arcadia Manager prepared by PW59 Inspector Vivek Kundu
<b>Ex.PW</b>	Report of PW18 HC Rishiraj with regard to lifting of Chance Finger Prints from revolver Ex.MO/16
<b>Ex.PX</b>	Recovery Memo of Chance Finger Prints lifted from revolver by PW18 HC Rishiraj
<b>Ex. PY</b>	Recovery Memo of Revolver after being resealed by PW54 Inspector Amit on 13.10.18 when chance prints were lifted from the same by PW18 HC Rishiraj
<b>Ex.PZ</b>	Report of PW18 HC Rishiraj with regard to searching of Chance Finger Prints from the Honda City car but no chance prints were found
<b>Ex.PAA/1 to Ex. PAA/3</b>	Chance Prints lifted from Revolver by PW18 HC Rishiraj
<b>Ex PAA/4 to Ex PAA/8</b>	Finger Prints of accused Mahipal taken in court on 18.10.18 by PW18 HC Rishiraj
<b>Ex.PAA/9 to Ex. PAA/11</b>	Digital Prints of accused Mahipal by PW18 HC Rishiraj
<b>Ex.PAB</b>	Recovery Memo of all Finger Prints taken

	by PW18 HC Rishiraj, PW35 Devender Saini & PW36 Lady Constable Usha.
<b>Ex. PAC</b>	Discharge Summary Dhruv by PW19 Doctor Manish Kumar
<b>Ex.PAD</b>	MLR Ritu dated 13.10.18 by PW20 Doctor Shubina Gupta
<b>Ex.PAE</b>	Police Intimation by PW20 Doctor Shubina Gupta
<b>Ex.PAF</b>	Police Intimation by PW20 Doctor Shubina Gupta
<b>Ex.PAG</b>	MLR Druv dated 13.10.18 by PW21 Doctor Ambreen Tahir
<b>Ex.PAH</b>	Certificate 65-B of PW22 Constable Satender, PCR
<b>Ex.PAJ</b>	Recovery Memo of Call recording of Mobile Phone 9891166303 in a pendrive by PW 22 Constable Satender
<b>Ex.PAK</b>	Certificate 23.10.2018 regarding Brain Dead Dhruv by PW24 Doctor Atma Ram Bansal & PW 28 Doctor Karanjit & PW32 Doctor Vasudha Singhal
<b>Ex. PAK/1</b>	Police Intimation regarding Brain Dead PW24 Doctor Atma Ram Bansal
<b>Ex.PAK/2</b>	Consent regarding Organ Transplant by PW24 Doctor Atma Ram Bansal
<b>Ex.PAL</b>	Police Request for Medical Examination of accused Mahipal from PW25 Doctor Neetu Yadav
<b>Ex.PAL/1</b>	MLR of Accused Mahipal by PW25 Doctor Neetu Yadav
<b>Ex. PAM/ Mark B</b>	Discharge Summary Ritu, Park Hospital by PW26 Doctor Basant Kumar Dalmia
<b>Ex.PAN</b>	Recovery Memo Clothes of Ritu Garg by PW27 Doctor V. S. Bhalla
<b>Ex.PAN</b>	Death Summary Dhruv 23.10.2018 by PW28 Doctor Karanjit
<b>Ex.PAO</b>	Inquest papers Ritu Garg by PW29 Doctor Deepak Mathur
<b>Ex.PAP</b>	X-ray Films Ritu Garg by PW29 Doctor Deepak Mathur
<b>Ex.PAP/1</b>	X-ray Films Ritu Garg by PW29 Doctor Deepak Mathur
<b>Ex. PAP/2</b>	X-ray Films Ritu Garg by PW29 Doctor

	Deepak Mathur
<b>Ex.PAQ</b>	PMR Ritu Garg by PW29 Doctor Deepak Mathur
<b>Ex.PAR</b>	Police Request for conducting PMR Dhruv by PW29 Doctor Deepak Mathur
<b>Ex. PAS</b>	Inquest papers Dhruv by PW29 Doctor Deepak Mathur
<b>Ex.PAT</b>	X-ray Films Dhruv by PW29 Doctor Deepak Mathur
<b>Ex.PAT/1</b>	X-ray Films Dhruv by PW29 Doctor Deepak Mathur
<b>Ex.PAU</b>	PMR Dhruv by PW29 Doctor Deepak Mathur
<b>Ex.PAV</b>	Death Summary Dhruv by PW30 Doctor Rajiv Parikh
<b>Ex.PAV/1</b>	Death Certificate Ritu by PW30 Doctor Rajiv Parikh
<b>Ex.PAW</b>	Unfit Opinion Dhruv by PW31 Doctor Harsh Sapra
<b>Ex.PAW/1</b>	Unfit Opinion Dhruv by PW31 Doctor Harsh Sapra
<b>Ex.PAX</b>	Unfit Opinion Dhruv by PW32 Doctor Vasudha Singhal
<b>Ex.PAY</b>	Sanction order PW33 HC Sandeep Kumar, Reader, JCP
<b>Ex.PAZ</b>	Sanction Order PW34 Dinesh Kumar, Section officer (Home), Chandigarh
<b>Ex.PBB</b>	Order dated 18.10.2018 passed by Ms.Kopal, JMIC, Gurugram
<b>Ex.PBC</b>	Application of PW37 Constable Vinay Kumar to PW64 Inspector/SHO, Sector 50
<b>Ex.PBD</b>	164 Cr.p.C.statement of Constable Vinay Kumar PW37 dated 18.10.2018
<b>Ex.PBE</b>	CDR 9468278668 PW38 Pankaj Sharma
<b>Ex.PBF</b>	Cell ID Chart Reliance PW38 Pankaj Sharma
<b>Ex.PBG</b>	CAF Mahipal accused, PW38 Pankaj Sharma
<b>Ex.PBK</b>	CDR 8295126413 PW38 Pankaj Sharma
<b>Ex.PBL</b>	CAF Rishi Gupta EW PW38 Pankaj Sharma
<b>Ex.PBM</b>	Cell ID Chart Reliance PW38 Pankaj Sharma

<b>Ex.PBN</b>	Certificate 65-B of PW38 Pankaj Sharma
<b>Ex.PBO</b>	Recovery Memo PW38 Pankaj Sharma
<b>Ex.PBP</b>	CAF 9991502008 of Shri Krishan Kant PW39 Surender Kumar
<b>Ex.PBQ</b>	CDR 9991502008 of Shri Krishan Kant PW39 Surender Kumar
<b>Ex.PBR</b>	CAF 9416048798 of Shri Krishan Kant PW39 Surender Kumar
<b>Ex.PBS</b>	CDR 9416048798 of Shri . Krishan Kant PW39 Surender Kumar
<b>Ex.PBT</b>	CAF 9813574037 of Shr R. K. Mehta PW39 Surender Kumar
<b>Ex.PBU</b>	CDR 9813574037 of Shri R. K. Mehta PW39 Surender Kumar
<b>Ex.PBV</b>	Certificate 65-B of PW39 Surender Kumar
<b>Ex.PBW</b>	Cell ID Chart PW39 Surender Kumar
<b>Ex.PBX</b>	Recovery Memo PW39 Surender Kumar
<b>Ex.PBY</b>	CAF 9910885993 of Constable Vinay Kumar PW39 Surender Kumar
<b>Ex.PBZ</b>	CDR 9910885993 of Constable Vinay Kumar PW39 Surender Kumar
<b>Ex.PCA</b>	Cell ID Chart of Constable Vinay Kumar PW39 Surender Kumar
<b>Ex.PCB</b>	Certificate 65-B of PW39 Surender Kumar
<b>Ex.PCC</b>	Recovery Memo PW39 Surender Kumar
<b>Ex.PCD</b>	CAF 9717358325 of Hemant PW40 Ajay Kumar
<b>Ex.PCE</b>	CDR 9717358325 of Hemant PW40 Ajay Kumar
<b>Ex.PCF</b>	Cell ID Chart of Hemant PW40 Ajay Kumar
<b>Ex.PCG</b>	Certificate 65-B of PW40 Ajay Kumar
<b>Ex.PCH</b>	Recovery Memo PW40 Ajay Kumar
<b>Ex.PCI</b>	CAF 9711844723 of Mahipal accused PW41 Saurabh Aggarwal
<b>Ex.PCJ</b>	CDR 9711844723 of Mahipal accused PW41 Saurabh Aggarwal
<b>Ex.PCK</b>	Certificate 65-B of PW41 Saurabh Aggarwal
<b>EX. PCL</b>	CAF 8816890824 Saurabh
<b>EX. PCM</b>	CDR 8816890824 of Shri Krishan Kant PW41 Saurabh

<b>Ex. PCN</b>	Certificate 65-B of PW41 Saurabh
<b>Ex. PCO</b>	Cell ID Chart Vodaphone PW41 Saurabh
<b>Ex. PCP</b>	Recovery Memo PW41 Saurabh
<b>Ex. PCQ</b>	Certificate 65-B of Constable Mandeep PW42
<b>EX.PCR</b>	Recovery Memo pendrive handed over by PW42 Constable Mandeep to PW57 Inspector Anand Kumar
<b>Ex.PCS</b>	Serology Report of PW43 Devender Kumar SSO, FSL Madhuban
<b>Ex.PCT</b>	Certificate 65-B PW 43 Devender Kumar SSO, FSL Madhuban
<b>Ex.PCU</b>	Recovery Memo Envelope containing pendrive Ex.MO/39 of Rishi Gupta video clip prepared by PW47 ASI Baljeet
<b>Ex.PCV</b>	Recovery Memo Certificate 65-B of PW44 ASI Satyajee & PW49 Rishi Gupta by PW47 ASI Baljeet
<b>Ex.PCW</b>	Recovery Memo Envelope containing pendrive Hemant video clip
<b>Ex.PCX</b>	Recovery Memo Certificate 65-B of PW44 & Hemant
<b>Ex.PCY</b>	Report of PW45 Sulekha Rani FSL Chemical, Madhuban
<b>Ex.PCZ</b>	Opinion of PW46 R.S.Poonia SSO, FSL Chemical, Madhuban
<b>Ex.PDA</b>	Recovery Memo articles lifted from spot PW47 ASI Baljeet
<b>Ex.PDB</b>	Rough Site Plan PW47 ASI Baljeet
<b>Ex.PDC</b>	Handing over Receipt of lady bag
<b>Ex.PDD</b>	Recovery Memo Photographs PW47 ASI Baljeet
<b>Ex.PDE</b>	Recovery Memo Of pendrive Ex.MO/40 Containing The Clippings Of Mobile Phone Of PW48 Hemant
<b>Ex.PDF</b>	Handwritten statement of PW48 Hemant
<b>Ex.PDG</b>	164 Crpc statement of PW48 Hemant
<b>Ex.PDH</b>	Certificate 65-B PW49 Rishi Gupta
<b>Ex. PDI</b>	Recovery Memo of Revolver alongwith Holster prepared by PW54 Inspector Amit
<b>Ex.PDJ</b>	Recovery Memo Number Plate of Honda Car prepared by PW54 Inspector Amit

<b>Ex.PDK</b>	Recovery Memo two Mobile Phones Meiza belonging to Dhruv deceased and MI Redmi Note prepared by PW54 Inspector Amit
<b>Ex.PDL</b>	Rough Sketch of Revolver as well as five empties prepared by PW 54 Inspector Amit
<b>Ex.PDM</b>	Recovery Memo of Hand swipes taken by Doctor Jyoti by PW54 Inspector Amit
<b>Ex.PDN</b>	Recovery Memo swipe from Steering Wheel of Honda City
<b>Ex.PDO</b>	Arrest memo Mahipal prepared by PW54 Inspector Amit
<b>Ex.PDP</b>	Personal Search Memo of accused Mahipal prepared by PW54 Inspector Amit
<b>Ex.PDQ</b>	Recovery Memo Uniform accused Mahipal prepared by PW54 Inspector Amit
<b>Ex.PDR</b>	Recovery Memo written application of Constable Vinay prepared by PW54 Inspector Amit
<b>Ex.PDS</b>	Superdari Release Order Paintings dated 02.11.2018
<b>Ex.PDT</b>	Superdari Release Order Car and Mobile phone dated 02.11.2018
<b>Ex.PDU</b>	Rough Site Plan of the place of recovery of the Honda Car prepared by PW54 Inspector Amit
<b>Ex.PDV</b>	Application for recording 164 Cr.P.C. of Constable Vinay
<b>Ex.PDX</b>	Certificate 65-B of Hemant
<b>Ex.PDY</b>	Application for recording 164 Cr.P.C. of Hemant on 17.10.2018
<b>Ex.PDZ</b>	Application for taking certified copy of 164 Cr.P.C. of Hemant
<b>Ex.PEA</b>	Ballistics Report prepared by PW60 Dharmbir
<b>Ex.PEB (Mark A)</b>	Photograph by Finger print expert prepared by PW61 Ramesh Chand
<b>Ex.PEC (Mark B)</b>	Photograph by Finger print expert prepared by PW61 Ramesh Chand
<b>Ex.PED (Mark C &amp; C1)</b>	Photograph by Finger print expert prepared by PW61 Ramesh Chand
<b>Ex.PEE</b>	Photo enlargements prepared by PW61 Ramesh Chand
<b>Ex.PEF</b>	Photo enlargements prepared by PW61

	Ramesh Chand
<b>Ex.PEG</b>	Detailed Report Finger Print prepared by PW61 Ramesh Chand
<b>Ex.PEH</b>	Application to Doctor at Park Hospital regarding fitness of Ms.Ritu and Dhruv by PW62 Inspector Jai Bhagwan
<b>Ex.PEH/1</b>	Both Ms. Ritu and Dhruv declared unfit
<b>Ex.PEI</b>	Application to Doctor Vivekanshu at Medanta Hospital regarding fitness of Ms.Ritu and Dhruv by PW62 Inspector Jai Bhagwan
<b>Ex.PEI/1</b>	Both Ms. Ritu and Dhruv declared unfit
<b>Ex.PEJ</b>	Disclosure Mahipal dated 14.10.2018 recorded by PW64 Inspector Surender
<b>Ex.PEK</b>	Recovery of two paintings of Lord Budha and Lord Krishna and wooden frame which are Ex.MO/45 to Ex MO/47 on the pointing out of accused Mahipal on 15.10.2018 by PW64 Inspector Surender
<b>Ex.PEL</b>	Demarcation of the place of occurrence vide Demarcation Memo dated 15.10.18 prepared by PW 64 Insp. Surender
<b>Ex.PEM</b>	Detailed Disclosure Mahipal dated 17.10.2018 recorded by PW64 Inspector Surender
<b>Ex.PEN</b>	Report of PW63 Doctor Anchal Dwivedi, Junior Scientific Officer
<b>Ex.PEO</b>	Forwarding Letter of PW63 Doctor Anchal Dwivedi
<b>Ex.PEP</b>	Endorsement of PW64 Inspector Surender on Ex.PB/2 application of Shri Krishan Kant
<b>Ex.PEQ</b>	Rough site Plan of the place of recovery of two paintings of Lord Budha and Lord Krishna and wooden frame prepared by PW64 Inspector Surender
<b>Ex.PER</b>	Application for obtaining Fingerprints, search slips as well as digital fingerprints by PW64 Inspector Surender
<b>Ex.PES</b>	Application for obtaining Fingerprints, search slips as well as digital fingerprints by PW64 Inspector Surender
<b>Ex.PET</b>	Application to Doctor Vasudha at Medanta Hospital regarding fitness of Dhruv on

	20.10.2018 by PW64 Inspector Surender
<b>Ex.PEU</b>	Application to Doctor at Medanta Hospital regarding fitness of Dhruv on 22.10.2018 by PW64 Inspector Surender
<b>Ex.PEV</b>	Order dated 13.10.2018 to constitute SIT
<b>Ex.PEW</b>	Order dated 14.10.2018 to constitute SIT

8. The learned Public Prosecutor has given up 15 witnesses including Pws Pankaj Gupta and Doctor Vivekanshu Verma being unnecessary and thereafter closed the evidence of the prosecution on 07.12.2019.

9. When examined under section 313 of the Code of Criminal Procedure, the accused sheltered himself under the usual plea of false implication and submitted that on 12.10.2018, from 8 p.m. to 9 p.m., he received a whatsapp message from Shri Krishankant, the then Additional District Judge, Gurugram that he has to report for duty in the society at about 8.45 a.m., next morning. Next day, i.e. 13.10.2018, at about 8.35 a.m., after receiving the keys of the Honda City Car bearing no. HR-20AC-2425 from the peon, he took out the Car from the parking area and parked the said Car in front of tower-C of the society. At about 8.55 a.m., Dhruv came and asked him to take him for tuition classes, accordingly he dropped him at Bakhtawar Chowk. He asked him to come at 12:00 noon to pick him from tuition classes. Thereafter, he reached back to the society and at about 9.40 a.m., Shri Krishankant asked him to drop him to the court premises and on the way, he asked him that he has to pick Dhruv from tuition classes at about 12:00 noon and he said after leaving Dhruv, he (Mahipal) should remain there in the society. At about 10 a.m., he dropped Shri Krishan Kant into the court premises. At about 11.30 a.m., he started from court

premises in the above said Car to pick Dhruv from tuition class and reached there at about 11.50 a.m. Thereafter, he picked Dhruv and dropped him to the society. At that time, Madam Ms. Ritu was present near the lift of tower-C. She asked him to wait there as she had to go somewhere. Thereafter, at 1.00 p.m., Ritu mam and Dhruv came and sat in the aforesaid Car and asked him to take them to Baliawas. As he was not aware of the route of the said village, he asked Dhruv to use GPS to put the location of the area so that they can reach there. After travelling for 40 minutes, they reached village Baliawas but could not find the dog farm as the location was incorrect and they reached in a marooned land where their car got stuck into sand dunes. Ultimately, after finding the right route, they reached the said farm at about 2 p.m. where there stayed for about 40 minutes. Thereafter, he asked Ritu mam that where they have to go from the said place. She directed him to drive towards Arcadia Market and he after using GPS took them to Arcadia Market and they reached there at about 3 p.m. Ritu Mam and Dhruv both went in the market and after parking the Car , he stood there. Thereafter, one person came to him and asked him the way to Galleria Market. He guided him the way of Galleria Market and also got stopped one Auto Rikshaw for his convenience. In the meanwhile, he noticed that Mam Ritu and Dhruv were standing near the Car. He opened the doors of the Car with remote key. At that time, Mam Ms. Ritu and Dhruv were carrying one painting each in their hands which could not fit in the boot of the Car, thereafter, he opened the door of the Car and placed both the paintings on the rear seat of the Car and tried to close the door. As the size of the paintings were large, while closing the door the

same hit the frame of the paintings due to which it got damaged. Madam told him that he (Mahipal) has broken the frame of the paintings. Dhruv told him nonsense (bewkoof) whereas Madam rebuked him by saying son of donkey (gadhey ke bache). He kept mum. Thereafter, he was again told by Mam to place them properly and he kept them again, it was again got damaged. After seeing this, Dhruv got agitated and left the place of the Car and then he (Mahipal) was asked by mam to search him as to where he has gone. Thereafter, when he went to the backside of the market to search him, his phone was ranged and he saw Dhruv was standing near the Car with Ritu Mam. When he reached near the Car, he asked him with great anger as to where he had gone. He told him that Mam send him (Mahipal) to locate him. Dhruv asked him for the keys of Car and also abused him by calling in the name of sister and he handed over the keys to Dhruv. The keys were handed over by Dhruv to Mam and Mam sat on the driver seat. On the left side of Mam Ritu, Dhruv tried to sit in the left side. In the meanwhile, he asked to Mam Ritu while standing on Dhruv side as what do he do now. Dhruv pushed him while sitting inside the Car. When he asked him as to why he is behaving like this then he grabbed him and in retaliation, he pushed him back due to which he fell down and in the meanwhile mam came out from her seat and reached towards them. In the meanwhile, Dhruv tried to snatch his service revolver and he cautioned him that it is fully loaded revolver and it may go off and during scuffle revolver went off and directly hit Ritu Mam and she fell down. Dhruv did not leave the revolver and he wanted to retrieve it from him and during this period revolver again went off and in that sequence Dhruv also sustained bullet

injuries. He does not know how many shots went off from the revolver. Then he tried to lift Dhruv in order to take him to hospital but because the car was already occupied with the paintings so he could not get him inside the car due to paucity of space. In the meanwhile, the crowd gathered there started shouting catch and beat him (pakro pakro, maro maro). He left Dhruv there at the spot and fled away with the car. After covering some distance in Car, he called Krishankant on his mobile phone that his wife and son have been injured after sustaining fire arm injuries (ghatna ghat gayi hai or apke bete aur patni ko goli lag gayi hai). He also informed about the said fact to co-PSO/gunman Vinay, his wife and to his cousin namely Manoj. He was bewildered as to what to do now and he was roaming here and there in the car. He was apprehended by police from Gawal Pahari area of District Gurgaon.

10. No evidence in defence was led by the accused.

11. I have heard learned Public Prosecutor for the State and learned counsel representing accused & have gone through the material on record thoroughly and carefully.

12. Before appreciating the rival contentions and evidence brought on record, this court would briefly touch upon the evidence which has come on record:

PW1 ASI Dharampal stated that on 26.10.2018 he visited the place of occurrence and on the asking and demarcation of ASI Baljeet Singh of Police Station Sector-50, Gurugram, he prepared scaled site plan Ex.PA.

PW2 ASI Birender Singh stated that on 13.10.2018 , a written

tehrir of complainant Krishant Kant endorsed by Inspector Surender Singh at Mark-A was received by him through HC Fakruddin and on the basis of which, he recorded formal FIR Ex.PB . He also sent special report Ex.PB/1 of this case through computer Operator Constable Barkat Ali to Illaka Magistrate and higher police officers without any delay. He also made endorsement Ex.PB/2 on Mark-A.

PW3 HC Fakruddin testified that on 13.10.2018, he joined the investigation of this case along-with Inspector Surender Singh, Investigating Officer of the case. In Medanta Hospital, Inspector Surender handed over to him a written tehrir of complainant Shri Krishan Kant, which was further endorsed by him as Mark-A for registration of FIR, which he further on arrival at Police Station Sector-50, Gurugram, handed to ASI Birender, who recorded FIR in the present case and after recording the FIR, he handed back the tehrir to him, which he further handed over to Investigating Officer Inspector Surender in Medanta Hospital, Gurugram. His statement was recorded by the Investigating Officer on 18.10.2018.

PW4 ASI Randhir stated that on 13.10.2018 at about 10 p.m., on the asking of Inspector Amit of Crime Sector-40, he visited police Station Sector-56, Gurugram and Honda City bearing registration No.HR-20-AC-2425 of White colour was parked there and on asking of Inspector Amit, he cut the left rear side chassis (piece of running board) above the back tyre which was having two bullet holes with the help of electric cutter which was earlier marked and same was handed over to Inspector Amit who converted the same into sealed parcel by affixing the seal of 'RK' and took the same into police possession vide memo Ex.PC which was attested

by him as well as ASI Surender and Constable Mohit. His statement was recorded by Inspector Amit on same day. The sealed parcel bearing No.10, bearing the seal of FSL intact opened up which found to contain cut piece of chassis having bullet holes and was shown to witness, who after seeing it, states that cut piece of chassis of car Ex.MO-1, is the same which was cut by him and handed over to Inspector Amit for taking the same into police possession.

PW5 ASI Dharambir tendered his duly sworn affidavit Ex.PW5/A in evidence. He deposed that on 15.10.2018 Doctor of Park Hospital handed over to him discharge summaries Mark-B and Mark-C of Ritu and Dhruv, which he further handed over to Inspector Surender Singh, who attached the same in the file.

PW6 HC Sumit tendered into evidence his duly sworn affidavit Ex.PW6/A. He further deposed that on 22.10.2018 Jitender Proprietor of Klick Photo framing and Studio of Arcadia Market came to him and he in the presence of Investigating Officer Inspector Surender Singh two paintings which were already with him along with one wooden frame, in a sealed ribbon but visible otherwise, shown to the said Jitender who identified the same and stated that these are the same paintings which were framed by him on the asking of deceased Ritu. He proved the identification memo Ex.PD prepared by Investigating Officer in this regard which bears his signature besides the signature of above said Jitender. Similarly on the same day, Shri Krishan Kant, the then Additional Sessions Judge, Gurugram, also visited the police station and also identified the above paintings and frame saying that these were the same paintings which

were painted by his wife and got framed. The identification memo Ex.PE prepared by the Investigating Officer in this regard bears his signature besides the signatures of Shri Krishan Kant. His statements were recorded by the Investigating Officers. He also brought the malkhanna register No.19 which contains all the entries as to the case property in his hand.

PW7 Mrs.Jyoti, Scientific Assistant, Incharge Mobile Forensic Science Unit-1, Gurugram, stated that on 13.10.2018, she received a telephonic message from ASI Charan Singh Police Station Sector-50, Gurugram, to reach at Park Hospital in connection with some investigations. Accordingly, she reached there, where ASI Charan Singh met him and disclosed that Mrs.Ritu wife of Shri Krishan Kant and their son Dhruv are admitted in the hospital with gunshot injuries. Inspector Surender Singh also met her there and asked her to reach Arcadia Market to inspect the scene of crime where ASI Baljeet Singh is already there.

Accordingly, she reached Arcadia Market and met ASI Baljeet Singh and cordoned the scene of crime as per law and briefed her about the incident and things she has to do. Accordingly, she inspected the scene of crime with all scientific angles. The incriminating articles lying at the spot were lifted by her such as blood stained earth, ear rings, fired bullets etc, and handed over the same to ASI Baljeet Singh for proper sealing and further investigations. After the inspection, she prepared rough notes and also took the photographs of the scene of crime through her mobile phone. Thereafter, she left the place of occurrence at about 5.50 p.m. for Medanta hospital on asking of SHO Surender. When she reached the hospital. She received another telephonic call from Inspector Amit Incharge CIA Sector

40 at about 6.35 p.m., to reach at Police Station Sector-56 in connection with some investigations of the present case.

Accordingly, she reached police station Sector 56 at about 7.10 p.m., where Inspector Amit met her and briefed that they want to have the hands swab of both hands of the accused Mahipal, who was there in the police station. Accordingly, she scientifically took the hands swab of both hand of the accused Mahipal for gun powder residues test and handed over the same to Inspector Amit with directions to convert the same into a sealed parcel and for further investigations. During this, she received another message to reach Gawal Pahari area and accordingly she accompanied Constable Manoj who took her to the Gawal Pahari area where Constable Mohit was already there with the car lying parked at a place which was cordoned by her. She was asked to examine the car to collect forensic evidence.

Accordingly, she inspected the car minutely and found that there were few splashes of blood on the car above back left wheel. She took samples of blood by cotton gauze. She also wiped out the remains of any incriminating residue available on the steering wheel by way of a cotton swab to get the residue of gun powder and after inspection etc., reached back to the police station Sector-56 and handed over both the lifted samples to Inspector Amit. She also gave him necessary directions to cut a piece of chassis of the car having entry and exit bullet holes for further investigations and tests. During inspection of car, she also found that the back side registration number plate was removed and was lying inside the car itself and he asked the Investigating Officer to take the same into

possession for further investigations. She also observed that the front side registration number plate was having coated with mud with an intention to cover the registration number of the vehicle.

Since it was already late hours on that day, she reached back to her home and on the next day, she prepared a detailed report about her inspections as referred above giving details of the observations made by her along-with the proceedings done and required to be done by the Investigating Agencies which is Ex.PF bearing her signatures and she handed over the same to ASI Baljeet Singh.

She identified the cut piece of chassis part of the car Ex.MO-1 having bullet holes which was part of the car seen by her, blood stained gauze Ex.MO-2, ear rings Ex.MO-3 and Ex.MO-4, fired bullet Ex.MO-5, blood stained earth Ex.MO-6, fired bullet Ex.MO-7, blood swab Ex.MO-8, blood swab Ex.MO-10, fired bullet Ex.MO-11, which were lifted by her from the scene of crime. She further identified right hand swab Ex.MO-12, left hand swab Ex.MO-13 of accused Mahipal which she had taken from his hands. She further identified blood sample on cotton gauze Ex.MO-14 which she had taken from left side of the chassis of the Honda City Car, swab of wipe out of the steering wheel Ex.MO-15 which was taken by her from the steering wheel of the car. She handed over all the said articles to concerned Investigating Officer.

PW8 EASI Ashok Kumar brought the original register with regard to entry and stated that on 28.10.2017 a Revolver of 38 bore in the make and style of 'Ruger' and with Sr.No.161-94522 alongwith 10 live rounds were issued from Armoury to Constable Vinay Kumar No.3549 who

was posted as Gunman with Shri Krishan Kant, Additional Sessions Judge, Gurugram and proved the entry Ex.PG with regard to handing over the arm and ammunition, which was also signed by Constable Vinay Kumar as a receipt of above said arm and ammunition. He handed over his report Ex.PH to ACP Dharna Yadav on 13.10.2018, which was taken into police possession vide memo Ex.PH/1. He identified the Revolver of .38 Ex.MO16 along with holster and five empties Ex.MO17 to Ex.MO21 of 10 live bullets which were issued to Constable Vinay.

PW9 Dhaarna Yadav, ACP (Head Quarters), Gurugram testified that on 13.10.2018, she went to Police Lines, Gurugram and directed EASI Ashok Kumar, who was working as a Kot Incharge of the police armoury to produce record about the issuance of weapon to PSOs attached with Shri Krishant Kant, the then ASJ, Gurugram. Accordingly after going through the records, she found that a revolver in the make and style of Ruger bearing Sr.No.161-94522 alongwith 10 live rounds, issued from Armoury to Constable Vinay Kumar No.3549, who was posted as Gunman with Shri Krishan Kant, Additional Sessions Judge, Gurugram and entry Ex.PG with regard to handing over the arm and ammunition was there in the concerned register, duly signed by Constable Vinay Kumar as a receipt of above said arm and ammunition. In this regard, she sought report from EASI Ashok Kumar, who handed his report Ex.PH and same was taken into police possession by her vide recovery memo Ex.PH/1 which was duly signed by her as attesting witness. She also recorded statement of EASI Ashok Kumar under Section 161 Cr.P.C.

On 14.10.2018, she sought report of posting order of

Constable Mahipal accused present in the court from ASI Pardeep Kumar, who provided her one page report of said Constable Mahipal, Ex.PJ wherein he has been shown posted as Gunman with Shri Krishan Kant, the then Additional Sessions Judge, Gurugram from 26.4.2017 onwards till the date of occurrence as mentioned at point-A of Ex.P-J which was taken into police possession as per memo Ex.P-J/1, attested by ASI Pardeep Kumar. She recorded the statement of ASI Pardeep Kumar in this regard. She handed over all these proceedings to Investigating Officers to make it part of the file.

PW10 ASI Pardeep Kumar stated that on 14.10.2018 he handed over to ACP Dhaarna Yadav the posting record Ex.PJ of Constable Mahipal accused present in the court and as per the said report, Constable Mahipal was posted as Gunman to Shri Krishan Kant, learned Additional Sessions Judge, Gurugram, from 26.4.2017 till the date of occurrence as shown on point-A of the above said exhibit and same was taken into police possession by ACP Dhaarna Yadav vide memo Ex.P-J/1 which was attested by him. His statement was recorded by under Section 161 Cr.P.C in this regard.

On 05.12.2018, Inspector/SHO Surender, Investigating Officer in the present case sought from him transfer orders with regard to Constable Vinay No.3549 and as per the transfer order Ex.P-K (containing six pages) Constable Vinay was transferred on 04.05.2017 as Gunman to Shri Krishan Kant, the then Additional Sessions Judge, Gurugram, at point-A of the said transfer order. He also prepared report to this effect Ex.PK/1. The above said transfer order along with his report was taken into police

possession by Inspector Surender vide recovery memo Ex.P-K/2 which was attested by him as attesting witness. His statement was recorded by the Investigating Officer.

PW11 Ajit Pandey stated that on 13.10.2018, he was on duty as one of the Security Official in the Security Control Room Area, Medicity Gurugram and on that day Arun A.G, Operation theatre No.6 (Neuro) being deputed with Dr.Karan Jeet Singh Narang, Assistant Director, Neuro Surgery, handed over to him three sealed parcels containing some medical related things as detailed in the forum body hand over form, Ex.P-L which bears his signature in token of receipt, with directions that he should hand over the same to the police and keep it intact till then. Accordingly, he kept those samples in his control room under lock and key.

On 15.10.2018 on the request of ASI Naresh, he handed over the above parcels to him in the intact sealed condition and same was taken into police possession by him as per recovery memo Ex.P-L/1 which was attested by him. He further deposed that till the time, the samples remained in his custody neither he interfered with its contents in any manner nor he allowed anybody else to do so.

PW12 ASI Dharmender stated that on 16.10.2018, MHC/MM Sumit Kumar handed over to him one sealed plastic jar bearing two intact seals of Mortuary along with a yellow envelope bearing five seals of mortuary along with sample seal and directed him to deposit the same with FSL vide RC No.684 dated 16.10.2018. On the same day, he deposited the same at RFSL Bhondsi and obtained the receipt No.RFSL No.18-BH/toxi-1518 dated 16.10.2018 and handed over the same back to MM. Till the

time, the samples remained in his custody neither he interfered with its contents in any manner nor allowed anybody else to do so.

Similarly, on 22.10.2018, MHC/MM Sumit Kumar handed over to him one sealed parcel of envelope bearing two seals of RR along with sample seal, another sealed envelope of white colour containing specimen of finger prints having five sealed of 'RK' alongwith sample seal vide RC No.696 Dated 22.10.2018, with directions to deposit the same with SCRB, Madhuban, vide RC No. 696 dated 22.10.2018. On the same day, he deposited the same at SCRB Madhuban and obtained the receipt and handed over the same back to MM. Till the time, the case property remained in his custody neither he interfered with its contents in any manner nor he allowed anybody else to do so.

On 15.10.2018, he joined the investigation of this case with ASI Baljeet. Investigating Officer ASI Baljeet Singh returned back to Dr.Dhruva Lahkar, the blood sample which was given by her in an unsealed condition to ASI Baljeet on 14.10.2018 vide memo Ex.PM which was attested by him and the doctor. Investigating Officer also directed the doctor to provide fresh sample in a sealed condition. Accordingly after some time, the doctor handed over the blood samples of Mr.Dhruv Aggarwal (now deceased) in a sealed parcel duly sealed with the seal of Medanta and the same were taken into police possession by ASI Baljeet as per the recovery memo Ex.PN.

PW13 SI Naresh Kumar stated that on 14.10.2018, Inspector Surender handed over to him dead body of deceased Ritu Garg along with inquest papers with directions to get the postmortem examination done

from Civil Hospital, Gurugram. He accordingly took the dead body to Civil Hospital, and moved application Ex.PO. Accordingly, a Medical Board was constituted which conducted the postmortem examination and after the postmortem examination, the dead body was handed over back to him and he accordingly handed over the dead body to the family of deceased as per the receipt Ex.PO/1.

On 15.10.2018, he along with HC Narender went to mortuary Gurugram and doctor who conducted postmortem examination, handed over to him the postmortem report of deceased Ritu Garg alongwith one sealed parcel bearing the seal of Mortuary alongwith sealed envelope with directions to get the same deposited with FSL Bhondsi. The said articles were taken into police possession vide memo Ex.PQ, which was attested by HC Narender. He recorded statement of HC Narender in this regard.

He also deposed that on the same day, he reached Medanta Medicity and approached Security Control Room and contacted Ajit Pandey, Security Person on duty in the control room and he handed over to him three sealed parcels bearing the intact sealed condition and same was taken into police possession by him along with foreign body hand over form Ex.PL and the same was taken into police possession vide memo Ex.PL/1 which was attested by Ajit Pandey and HC Narender. He recorded statements of witnesses. On returned to the police station, he deposited the case property with MHC and handed over the file to Inspector Surender, who also recorded his statement with regard to his proceedings.

PW14 Doctor Dhruva Lahkar, Consultant, Neuro Anesthesia and Neuro Critical Care, Medanta the Medicity Hospital, Gurugram stated

that on 14.10.2018, he was working as such in the team of Dr. K.S. Narang, Neuro Surgeon. On that day, police moved application Ex. PR before him for taking blood sample of injured Dhruv and on that day, he handed over the blood sample of Dhruv in an unsealed parcel inadvertently, the same was taken into police possession by concerned Investigating Officer ASI Baljeet vide memo Ex. PS which bears his signature. The application for obtaining the blood sample also bears his endorsement in this regard.

On 15.10.2018, the concerned Investigating Officer again made a request for providing fresh blood sample in a sealed parcel and he also handed over the blood samples given on 14.10.2018 which were taken back by him as per the memo Ex.PM which bears his endorsement in this regard. Thereafter, he took the fresh blood sample of injured Dhruv and converted the same into a sealed parcel sealed with three seals of Medanta Hospital alongwith sample seal and same was taken into police possession vide memo Ex.PN. He made endorsement to this effect on the said memo. His statement was recorded by the Investigating Officer on 15.10.2018. He identified the blood sample Ex.MO22 which was handed over by him to the police in a sealed parcel and preserving it in a cold chain.

PW15 Constable Ashok stated that on 13.10.2018 at about 3.27 p.m., one telephonic information was received on 100 number from mobile No. 9891166303 and the informant disclosed his name as Amit and informed that one police man who is wearing a police uniform had fired at two persons and one of them is a women and other is a man and the police person has fled in a car from the spot and police may be sent. Thereafter, he called back on the said mobile number and inquired about the particulars

of the car and he told that the car in question is a white colour Honda City car bearing registration No. HR-20-AC-2425. He further told that he has video recording of the said incident also. In the meanwhile Constable Pawan Kumar who was also working in the control room informed him that he has also received a similar call and the caller identified himself as Navneet calling from mobile No.9999996337 and informed about the similar incident. Accordingly, the matter was reported to higher police officials as well as flash to all the police station including Police Station Sector-50, Gurugram, in whose jurisdiction the occurrence took place. The entires of the call were duly made in the log book and later the same were handed over to the Investigating Officer of this case. He has seen the copies of those entry which is Ex.PS which is in his handwriting at point-A. He also brought the original log book.

PW16 Vipin Kumar stated that he is working as Maintenance Manager in Arcadia Market since November 2017 and he is Incharge of maintenance of the entire market as per M/s Unitech who is the Developers of this market.He is also responsible for the upkeeps and maintenance of CCTV footage cameras installed in the entire market including supervision of the CCTV cameras through a control room.

On 13.10.2018, a shooting incident took place in the Arcadia market which was duly captured by the CCTV cameras installed there and accordingly they informed the police about this. On the same day at about 7 p.m.,Shri Vivek Kundu and Baljeet Singh police officials asked him to hand over the original DVR including hard disc of the computer system containing the CCTV footage of shooting incident from the front camera

installed on the boundary wall of the shop named Snow Bright Dry Cleaners facing visiting parking area and the road. Accordingly, he handed over the DVR including hard disc to the police which was converted into a sealed parcel by affixing three seals of 'SK' and was taken into police possession vide recovery memo Ex.PT which bears his signature. From the time of shoot out till handing over of the original DVR and hard disc to the police it remained intact and was not subject to any editing change, interference etc., by anybody including him. His statement was recorded by the Investigating Officer. He proved the site plan Ex.PA and stated that it is correct site plan of Arcadia market as per the existing position at the spot. Point-G in the site plan is the place where the concerned CCTV camera was installed and which captured the incident. As per their rules, a gate pass was also prepared in this regard. He has brought the original gate pass book and proved the copy of the same as Ex.PU. He identified the DVR Ex.MO23 in the make and style of Hikvision which was handed over by him to the police.

PW17 Vikas Madan stated that he is running cloth shops in Arcadia Market shops bearing No. 139-140 on first floor and has installed CCTV camera. On 13.10.2018 Inspector Vivek Kundu came at his shop and sought DVR in the make and style of Hikvision of the said CCTV cameras and he accordingly handed over the same to him who converted the same into a sealed parcel by affixing three seals of impression 'SK' and took the same into police possession vide memo Ex.PV which was attested by him and Constable Sushil Kumar. His statement was also recorded by the Investigating Officer on same day. He identified the DVR Ex.MO24

which was handed over to the police by him and police converted the same into sealed parcel and took the same in its possession.

PW18 HC Rishi Raj stated that he is a Finger Print Expert in Scene of Crime Branch in Police Commissioner Office, Gurugram. On 13.10.2018, he on calling of Inspector Amit Kumar of CIA-40 went to Police Station Sector-56, Gurugram. At about 7 p.m., he reached there and Inspector Amit handed over to him a sealed parcel bearing seal of 'RK' containing revolver used by accused Mahipal to Decipher Finger Prints. He opened the sealed parcel and thereafter with the help of his kit, he found decipherable chance print. He accordingly lifted the same with lifting tape by using powder and pasted the decipherable data chance print which were lifted on the tape and pasted on three piece of papers and handed over the same to the Investigating Officer after converting the same into sealed parcel by affixing the seal of 'RR" and same was taken into police possession along with report Ex.PW vide memo Ex.PX. The revolver in question alongwith five rounds Ex.PAA/1 to Ex.PAA/3 was also resealed by Inspector Amit by affixing seals of 'RK' and was taken back in police possession vide memo Ex.PY.

He further deposed that on asking of Inspector Amit at about 8.30 p.m., he went near Gwal Pahari police post where the car in question was parked and he examined the same to get some finger print from all possible spots including steering wheel and dash board and accordingly submitted report Ex.PZ. He identified the revolver Ex.MO16 which he lifted the decipherable chance print for sending the same to FSL Madhuban.

He also testified that on 18.10.2018, he joined the investigation of this case with Inspector Surender and application for obtaining finger print search slip as well as digital finger prints was moved by Inspector Surender in the court of learned Area Magistrate Ms. Kopal and accordingly the learned JMIC granted permission to take the above said finger prints of the accused. Thereafter, he took the finger prints of accused with the black ink as per the procedure on five sheets which are individual finger prints circular as well as vertical on 5 sheets Ex.PAA/4 to Ex.PAA1/8, which were attested by him and identified by Inspector concerned. Thereafter, the same were also attested by learned Area Magistrate Ms. Kopal.

Similarly the digital prints of accused were also taken on three sheets with the help of a prescribed digital graphs machine and got printed and handed over to Inspector Surender, which are Ex.PAA1/9 to Ex.PAA1/11 which were signed by lady Constable Usha, who is the Incharge of that machine and also attested by learned Area Magistrate and identified by Inspector Surender.

After taking all the finger prints, the same were put in a envelope which was duly sealed by Inspector Surender by seal of 'RK' and the same was taken into police possession as per the recovery memo Ex.PAB.

PW19 Doctor Manish Kumar, Neuro Surgeon, Park Hospital, Gurugram stated that on 13.10.2018, he prepared discharge summary Ex.PAC of patient Dhruv. The details of the investigation and the course in

hospital is mentioned in the discharge summary, which was handed over to the police on 14.10.2018.

PW20 Doctor Shubhina Gupta, Medical Officer, Park Hospital, Gurugram stated that on 13.10.2018, she conducted medico legal examination of Mrs.Ritu who was brought around 4 p.m. with alleged history of gunshot below right shoulder following a gun shot at Arcadia Mall Gurugram around 3.45 p.m. on 13.10.2018. On examination, she found her vitals i.e. Blood Pressure: 110/66, Heart Rate : 136/min, spo2 : 96% on oxygen and 64% on room air.

On local examination, she found entry wound situated over her anterior chest on anterior axillary lying situated above nipple and bluish discoloration of skin present. The wound size 4x2 cm. Crepitus present query? Surgical emphysema. No exit wound seen.

Patient was conscious and oriented, moving all limbs and was speaking and responding to verbal commands. Heart sound was present. She was breathing and was having soft abdomen. She advised for admission of the patient and for surgical review panel. She also advised for CT chest and CT abdomen. She proved the MLR Ex.PAD of the patient Ritu. She also handed the original MLR to the police on same day and sent police intimation Forms Ex.PAE and Ex.PAF with regard to admission of patient Dhruv and Ritu to the SHO concerned.

PW21 Doctor Ambreen Tahir, Emergency Medical Officer, Park hospital, Gurugram stated that on 13.10.2018, he conducted medico legal examination of Dhruv who was brought around 4 p.m. with alleged history of gunshot wound over head, chin and neck at Arcadia Mall/market,

Gurugram around 3.45 p.m. on 13.10.2018. On examination, he found his vitals i.e. Blood Pressure: 140/78 mmhg, Heart Rate : 88, spo2 : 96% on oxygen. Temperature Afebrile. On local examination, he found firearm wound over head, chin and neck. Patient was conscious but of irritable behaviour. Cardio Vascular System S1S2 audible. He advised CT head, CT chest, CT abdomen, CT CS spine. He was admit under Dr. Manish, Neuro Surgeon and Dr. N.K. Mandal, Surgeon. He proved the MLR Ex.PAG of patient Dhruv . He also handed the original MLR to the police on same day.

PW22 Constable Satender stated that on 14.10.2018, Inspector Amit Kumar of Crime Sector-40 Gurugram moved application before him with regard to provide mobile call voice recording which were made on 100 number on 13.10.2018 at about 3.27p.m. from mobile Nos. 9891166303 and 9999996337 and he accordingly checked the computer server system and without any tampering and addition and omission, provided the call recording of the above said calls by transferring them in the pendrive alongwith logbook page Ex.PS with regard to entry of the above said calls alongwith his certificate Ex.PAH under Section 65-B of Indian Evidence Act and same was handed over to Inspector Amit Kumar, who took the same into police possession vide memo Ex. PAJ He identified the pendrive Ex.MO25 which was handed over to Inspector Amit Kumar by him and contains the correct voice recording as recorded in computer server of police control room. The said pendrive was played in the open court. The witness after hearing the same states that it is the same conversation between the computer operator and the caller of the above

said mobile numbers.

PW23 Anil Antil stated that he had come to seek job in Gurugram one month prior to 13.10.2018 and was residing in Sai Kripa Property Arcadia Market, Sector-49, Gurugram. On 13.10.2018 at about 3.30 p.m., when he was passing by Arcadia market Sector-49, Gurugram, he found that crowd had gathered there and when he reached there he saw that a lady and a youth lying in a pool of blood on ground adjacent to the road and they were gasping for life. He sought help from the public who had gathered there but no one came forward. Some how he stopped two autos. First of all, he lifted youth on his shoulder and shifted him in one of the Autos and thereafter he shifted the lady also to the other Auto and sat in the Auto alongwith the lady who was conscious at that time and was requesting to take them to the hospital immediately. He accordingly took them to the Park Hospital and got them admitted. He remained in the hospital for about 3-4 hours. Police also came there. His statement was recorded on 16.10.2018 by the police.

PW24 Doctor Atma Ram Bansal, Neurologist, Medanta Hospital, Gurugram stated that on 22.10.2018, he after clinical examination of the patient Dhruv, declared him brain stem dead alongwith other member of Board namely Dr.Vasudha Singhal. He proved the certificate E.PAK dated 23.10.2018 to this effect bearing his signature as well as of Dr.Vasudha Singhal with all precondition of the patient. He also identify signature of Dr.Vasudha Singhal as she signed the said certificate alongwith him. He also proved the police intimation form t Ex.PAK/1 and consent form Ex.PAK/2 for organ transplantation.

PW25 Doctor Neetu Yadav, Medical Officer, Civil Hospital, Gurugram stated that on 14.10.2018, she conducted medico legal examination of accused Mahipal who was brought by Constable Mohit and ASI Rambir at about 2.14 a.m. On examination, his condition was fair, his gait was normal, his B.P was 140-80, pulse rate 95 per minutes and SPO2-100%. All his vitals were normal. No fresh injury was seen over the body of accused. He was in uniform at the time of examination and it was found that there was blood stains on the left legging of his pant and after his examination on the request of police, his uniform i.e shirt and pant was converted into a sealed parcel by affixing the seal impression of 'MI' and handed over to the police. She proved the police request Ex.PAL for medical examination and medical examination report Ex.PAL/1. She identified the shirt Ex.MO26 and Pant Ex.MO27 (Uniform of police) which were handed over to the police by him in a sealed parcel alongwith sample seal.

PW26 Docotor Basant Kumar Dalmia, Consultant Surgeon, Park hospital, Sector-47, Gurugram stated that on 13.10.2018 , he prepared discharge summary Ex.PAM of Ritu Rani, who was admitted in their hospital with gunshot injury. The details of the investigation and the course in hospital is mentioned in the discharge summary, which was handed over to the police on 14.10.2018. When patient Ritu was discharged, she was conscious, well oriented and speaking.

PW27 Doctor V.S. Bhalla, Medical Superintendent, Park Hospital, Sector-47, Gurugram stated that on 13.10.2018 patient Dhruv and Ritu were admitted to their hospital with the history of gunshot injuries and

they were examined by the team of doctors and provided immediate treatment. On 14.10.2018, he handed over to the police the clothes of patient Dhruv in a sealed parcel bearing five seals of Park Hospital. He also handed over another sealed parcel bearing three seals of Park Hospital containing clothes of Ritu and the same were taken into police possession vide memo Ex.PAN. He identified T-shirt Ex.MO28, Vest Ex.MO29, jeant Pant Ex.MO30, underwear Ex.MO31, Kurta Ex.MO32 and Brassier Ex.MO33 which were handed over to the police in a sealed parcel by him.

PW28 Doctor Karanjit Singh, Associate Director, Medanta Institute of Neuro Sciences, Gurugram stated that on 13.10.2018, patient Dhruv, UHID No. MM01337163 was brought to Medanta Hosptial with the history of gunshot injury being referred from park Hospital. Accordingly, he was admitted in Neurosurgery ICU ward and was examined by a team of doctors headed by him. After examination, it was found that Dhruv was having four wounds related to gunshot injuries besides some other injuries. There were two wounds on the head, one on right side and one on left side. There was another wound on the neck and the fourth wound was present on left thigh. He was accordingly treated conservatively and also underwent surgery for removal of foreign bodies from brain and decompression by removal of big bone pieces of skull on both sides and was put on ventilator. He ultimately succumbed to his injuries on 23.10.2018. The police was accordingly informed by the hospital authorities. He proved the complete death summary Ex.PAN, Ex.PAK brain stem death declaration of deceased Dhruv, which was duly signed by a Board of Doctors including him, Dr. Atma Ram Bansal and Dr. Vasuda Singal.

She further testified that on 13.10.2018, on the request of the police they handed over bone fragments of left and right brain alongwith gauze in a sealed parcel duly sealed with the seal of Medanta Hospital, to the police through a foreign Body Form Ex.PL, which was taken into possession. He identified the small plastic container Ex.MO34 containing the left side brain fragment of Dhruv and similarly small plastic container Ex.MO-35 containing right side brain fragment and parcel Ex.MO36 which contains gauze and hairs of deceased Dhruv which was handed over by him to the police).

PW29 Doctor Deepak Mathur, Medical Officer, General Hospital, Gurugram stated that on 14.10.2018, on police request Ex.PO, a board constituting him as well as Doctor Pawan Kumar Chaudhary and Doctor Yudhvir Singh for conducting postmortem examination on the dead body of Ritu Garg wife of Krishan Kant, 38 years, female. Before the said postmortem examination, they went through inquest papers Ex.PAO which were initialed by them. They also signed death intimation form Ex.MO/1 of deceased Ritu Garg. Thereafter, X-ray of the dead body was conducted and proved the X-ray films Ex.PAP, Ex.PAP/1 and Ex.PAP/2 respectively. During postmortem examination of dead body of Ritu Garg, following injuries were found:-

**Externally**, 1) Gun shot entry lacerated wound, 1 cm x 0.6 cm on right side chest, upper 1/3rd, 11 cm below and medial to right shoulder tip and 10 cm above right nipple, inverted margins, 1mm of abrasion collar seen surrounding the upper and lateral margins of the wound with blackening at the edges and initial track of wound, wound seen continuous inside, piercing subcutaneous tissue, muscles, intercostal muscles between 2 and 3 ribs, right upper lobe of lung with pleurae, traversing backwards and

downwards making a exit wound, 2 x 0.6 cm on the mid upper back, 18 cm from right shoulder tip and 20 cm from left shoulder tip on posterior chest wall upper 1/3, surrounded with haematoma.

2) Gunshot grazing abredded bruise, 7 x 1.5 cm, in the shape of a cone with base 1.5 cm at the level of left clavicle and tapering edge posteriorly with blackening at edges.

3) Multiple Confluent Bruises, over left upper 1/3 of chest and breast reddish in color.

4) Abraded bruise, vertically over mid chest over sternum lower 1/3, 9 X 2 cm, reddish in color.

5) Bruise, 7 X 5 cm below left ear lobule on posterior jaw and upper 1/3 of neck, reddish in color.

6) Bruise, 5 X 4 cm outer surface of left shoulder, reddish in color.

**Internally**, all organs were pale.

The cause of death in this case is shock and haemorrhage following ante mortem close range firearm injury, external injury No.-1 described above and its consequences were sufficient to cause death in normal course of life, blood has been preserved to rule out associated poisoning. Time duration between post mortem and death was approximately 12 to 24 hours. Original PMR along with 16 inquest paper, plain blood in a sealed parcel, X-ray and dead body were handed over to the police. He proved the postmortem report Ex.PAQ of Ritu Garg which bears his signature as well as signatures of Doctor Pawan and Doctor Yudhvir Singh. He further stated that blood Ex.MO37 is the same which was handed over to the police by him in a sealed parcel.

He further deposed that on 23.10.2018 on police request Ex.PAR after constitution of Board, also conducted the postmortem examination on the dead body of Dhruv son of Krishan Kant, 18 years male after going through inquest papers Ex.PAS and after getting conducting X-

ray films Ex.PAT and Ex.PAT/1. During postmortem examination, they found following injuries:-

**Externally**, 1) Stitched gunshot entry wound, 5 X 5 mm on right temporal scalp just above the right ear lobule seen penetrating through the skull (Surgically Done Craniectomy Seen), lacerating the corresponding dura and temporal lobe going upward and backward and exiting through the lacerated wound, 5 X 5 mm on right parietal bone, 15 cm above and behind the right ear lobule with dark red clotted blood.

2) Stitched gunshot entry wound, 5 X 5 mm on left parietal scalp, 12 cm above left ear lobule seen penetrating through the surgically done craniectomy and repair through the parietal lobe of brain going backward and exiting through the exit wound, 19 cm above and behind the left ear Lobule with dark red clotted blood.

3) Laceration, 5 mm X 5 mm on left anterior neck base, muscle deep with dark red clotted blood.

4) Laceration, 5 X 5 mm on right side chin skin deep with dark red clotted blood.

5) Two partially healed abraded bruises, mid back over upper dorsal vertebral region midway between scapula and one on lumber region, 1 X 1 cm each.

6) Surgically done craniectomy wounds, one 27 Cm long over Left temporal - parietal scalp and another on left fronto-temporal - Parietal to Frontal Lobe, 33 Cm long, two surgical incised wound on abdomen (38 cm transversely) and 28 cm long vertically on trunk for organ retrieval seen.

**Internally**, extensive sub scalp heamatoma b/l fronto-parieto-temporal region with surgically done b/l craniectomy seen.

The cause of death in this case is cranio-cerebral damage following ante mortem multiple firearm injury, external injuries to the head described above and its consequences were sufficient to cause death in normal course of life. Time duration between post mortem and death was within 12 hours. Original postmortem report alongwith 26 inquest papers,

x-ray and dead body were handed over to the police. He further stated that so far as injury No.5 related to deceased Dhruv is concerned, this injury is possible on account of dragging of a person on a hard and rough surface as it was abraded bruises. He proved the postmortem report Ex.PAU of deceased Dhruv which bears his signature as well as signatures of other members of the Board.

PW30 Doctor Rajiv Parakh, Chairman Vascular Surgery, Medanta Hospital, Gurugram, brought the entire treatment record of the patient in original and stated that on 13.10.2018, Ms. Ritu Garg, was brought in Medanta Emergency Department from Park Hospital, Gurugram, with alleged history of gunshot injury with hypotension and on inotropic support. Urgent CT Angiography was performed which show right sided large hemothorax and right subclavian artery pseudoaneurysm. Patient was taken in operation theater for emergency procedure. Few minutes after intubation, patient went into hypotensive shock, so immediately CPR was initiated. Code blue was announced. Cardiology review was taken. With ongoing CPR, as a life saving attempt, balloon occlusion of right subclavian artery was done and right side chest tube insertion was done by thoracic surgery team. Opinion of cardiac surgeon sought for any possible life saving intervention. Despite of all life saving measures, patient succumbed to her injuries and was declared dead at 21:35 on 13.10.2018. He proved the death summary of patient Ex.PAV, prepared by his team and the same is signed by Doctor Tarun Grover, whose signature he identified. He also proved the death certificate of Ritu Garg Ex.PAV/1 which also bear signature of same doctor, whose signature he

identified.

PW31 Doctor Harsh Sapra, Director, Neuro Critical Care, Medanta Hospital, Gurugram stated that on 18.10.2018 police moved application before him whether patient Dhruv, who was admitted in their hospital, is fit for giving statement or not. He keeping in view the medical history and the state of health vide his opinion Ex.PAW declared him unfit to make statement.

Similarly, on 22.10.2018, again police moved another application seeking fresh opinion about the fitness of patient Dhruv to make statement and again as per opinion Ex.PAW/1, he declared him unfit to make the statement.

PW32 Doctor Vasudha Singhal, Neuro Critical Care, Medanta Hospital, Gurugram stated that on 20.10.2018, police moved application before him whether patient Dhruv, who was admitted in our hospital, is fit for giving statement or not. He keeping in view the medical history and the state of health vide his opinion Ex.PAX declared him unfit to make statement. Similarly, on 22.10.2018, a board was constituted consisting of him, Doctor Atma Ram Bansal, Neurologist and Doctor Karanjeet Singh Narang, Associate Director, for declaring the case of Dhruv as a Brain Stem Death case. Accordingly, the Board assessed the entire medical record of Dhruv and as per the medical principles, the Board declared the Dhruv as a case of brain stem death vide certificate Ex. PAK which were signed by all the members of the Board including him.

PW33 Head Constable Sandeep stated that on 30.10.2018, one of the Investigating Officers of this case, put up the file of this case for

taking sanction of prosecution as required under Section 39 of the Arms Act, 1959 and accordingly he put the file before Shri Kulvinder Singh, IPS, the then Joint Commissioner of Police, Gurugram, who after going through the record and considering it a fit case ordered granting of sanction as referred above. He proved the sanction order Ex.PAY and identified the signature Shri Kulvinder Singh, IPS, at point-A .

PW34 Dinesh Kumar, Section Officer (Home), Chandigarh Haryana, brought the office record and stated that on 24.12.2018, after carefully considering the present case, examining the material (police file, challan papers and other relevant documents forwarded by the Commissioner of Police, Gurugram) and after applying his mind, sanction was accorded by Doctor S.S.Parshad, Additional Chief Secretary to Government of Haryana, under Section 197 Cr.P.C and Section 39 of Arms Act for prosecution of Constable Mahipal No.2861 son of Shri Hoshiar Singh, resident of village Bungarka, Police Station Nangal Chaudhary, District Mahendergarh. He proved the sanction order Ex.PAZ which bears signature of Doctor S.S.Parshad, Additional Chief Secretary, whose signature he identified at point-A.

PW35 Devender Saini, Reader to Dr.Yasika, Additional District and Sessions Judge, Gurugram, stated that on 18.10.2018, he was posted as a Reader to Ms.Kopal, Judicial Magistrate Ist Class, Gurugram. On that day, Inspector Surender moved application for obtaining manual finger prints (search slip) as well as digital finger print of accused Mahipal. The said application was allowed by learned Magistrate. Thereafter, he alongwith concerned police officials and accused Mahipal went to Room

No.64 (finger Print Branch) of Court Complex where Lady Constable Usha, took his digital finger prints through the finger print machine and printed the same on the three sheets Ex.PAA/9 to Ex.PAA/11 which was signed by Lady Constable Usha. Similarly manual finger prints Ex.PAA/4 to Ex.PAA/8 of accused were taken by Head Constable Rishi Raj, which was attested by him. The above said documents were further attested by Ms.Kopal, Judicial Magistrate Ist Class, Gurugram and were taken into police possession vide memo Ex.PAB after converting the same into a sealed envelope duly sealed with the seal of 'RK', which was attested by him as well as Lady Constable Usha and HC Rishi Raj. He identified the signature of Ms. Kopal, Judicial Magistrate Ist Class, Gurugram, on order Ex.PBB.

PW36 Lady Constable Usha stated that on 18.10.2018, she obtained digital finger prints through digital graph machine and got printed on the three sheets of accused Mahipal on police request and subsequent order of Judicial Magistrate Ist Class on three sheets Ex.PAA/9 to Ex.PAA/11, which were attested by here and thereafter they were taken into police possession alongwith manual finger prints by converting the same into sealed parcel and by affixing seal of 'RK', vide memo Ex.PAB.

PW37 Constable Vinay Kumar stated that he is working in the police department since 2.8.2007. He was deputed as a Personal Security Officer of Shri Krishan Kant, the then Additional District & Sessions Judge, Gurugram, with effect from 04.05.2017 and remained with him till his transfer. Apart from him, accused Mahipal was also deputed as second P.S.O. A revolver bearing Sr. No.16194522 was allotted to him on

28.10.2017 vide Ex.PG. This single weapon was being used by them turn by turn as per the duty schedule. The behaviours of Judge Sahib was very cordial with them and he was very happy with their services.

He further deposed that on 13.10.2018, he was on rest and accused Mahipal being the second P.S.O., was on duty with Shri Krishan Kant, learned Additional District Judge. On that day, he was in his quarter in police line and as such the above weapon was in his possession which was taken by him from his quarter alongwith five rounds. At about 7.30-7.45 a.m., two calls were made by accused Mahipal but no conversation took place as both the calls were disconnected after few seconds. He was having mobile No.9910885993 at that time and still he is using the same mobile number, the SIM card of which is in his name, which was taken by him as per application, copy of which is on the file, whereas, mobile Number of Mahipal is 9468278668. Thereafter at about 3.38 p.m., he received a call from accused Mahipal on his mobile phone and he disclosed to him that he has shot bullets on Madam wife of Shri Krishan Kant and his son Dhruv and he is absconding. He immediately rang peon of Judge Sahib and inquired from him as to whether any such occurrence took place and where is Mahipal and the peon informed that Mahipal is on duty and Judge Sahib has left in hurry for somewhere.

After about 15 minutes, he received a mobile call from the brother of Shri Krishan Kant Ji who also inquired from him about the said incident and he informed that since he is on rest, he does not know anything but he would revert back to him after verifying the facts. After that he came to know about this incident and as also seen the video of the

incident which goes viral by that time. During this time, he received a call from police station Sector-56, Gurugram and accordingly he reached the police station at about 6.30 p.m. and again came to know about the details of incident. On being asked by the SHO, he disclosed all the facts to him also.

Thereafter, he was called by higher police officials in C.P. Office, where he also apprised them about the above said facts. His statement was recorded on 14.10.2018 by Inspector Amit of CIA Sector-40, Gurugram, in this regard. He also moved an application Ex.PBC with regard to above said facts to SHO Police Station Sector-50, Gurugram, which bears his signature. On 18.10.2018, his statement Ex.PBD under Section 164 Cr.P.C was also recorded by Ms. Kopal, Judicial Magistrate Ist Class, Gurugram. He also proved the document Ex.PG vide which the revolver in question was issued in his name. He further stated that since out of the 10 rounds issued to him, five rounds remained with him and after the occurrence on 29.10.2018, he deposited those five rounds with Incharge of Armoury namely Ashok Kumar. He identified the revolver Ex. MO16 which was issued to him as PSO and was handed over by him to accused Mahipal present in the court on 13.10.2018 in the early morning and has been used in the commission of this crime.

PW38 Pankaj Sharma, Nodal officer, Reliance Jio, 4<sup>th</sup> Floor Reliance Mall, Vikaspuri, New Delhi stated that on 25.10.2018, Inspector Vivek Kundu came present alongwith Constable Sushil in their office with regard to notice served to them under Section 91 Cr.P.C on previous date i.e. 24.10.2018 whereby he sought CDR and other relevant documents of

mobile No. 9468278668. On same day, he handed over call detail record Ex.PBE, Ex.PBF containing cell ID (location chart of towers), one page Ex.PBG of customer application form. The subscriber of the said mobile number is Mahipal son of Hoshiyar Singh, resident of H.No. 601 Tower-B, Police Lines, Gurugram and his permanent address as per the record is village Bhungarka, District Narnaul Mahendergarh, which was issued on 03.12.2017. He proved his certificate Ex.PBH under Section 65-B of Indian Evidence Act to this effect. The above said documents were taken into police possession vide recovery memo Ex.PBJ.

He further testified that on 11.12.2018 Inspector Surender came present in their office and sought CDR and other relevant documents of mobile No.8295126413. He handed over to him call detail record Ex.PBK of the said mobile number dated 13.10.2018, customer application Form Ex.PBL, which stands in the name of Rishi Gupta son of Narender Kumar Gupta, resident of village Motihari, Champaran, Bihar and his permanent resident of Sohna, District Gurugram. Cell ID chart of above said mobile number is Ex.PBM. He proved certificate Ex.PBN under Section 65-B of Indian Evidence Act to this effect. The above said documents were taken into police possession vide memo Ex.PBO. The above said customer application form are EKYC based and are generated through thumb impression and there is no requirement of the physical copy as the same are available on the server itself. The CAFs above exhibited are also original. The location of all the calls as mentioned in the call detail records are very much reflected in the cell I.D charts as stated above.

PW39 Surender Kumar, Nodal Officer, Bharti Airtel Limited,

224, Okhla Phase-III, New Delhi stated that on 25.10.2018, Inspector Vivek Kundu came present alongwith Constable Sushil Kumar in their office with regard to notice served to them under Section 91 Cr.P.C on previous date i.e. 24.10.2018 whereby he sought CDR and other relevant documents of mobile No.9991502008. The said mobile connection is in name of Krishankant son of Sh. Devraj, resident of C1301, Park View SPA Apartment, Sector-47, Gurugram. He handed over customer application Form alongwith other documents Ex.PBP and call detail record Ex.PBQ dated 13.10.2018 of the said mobile. He also handed over CAF alongwith supporting documents of mobile No.9416048798. The said mobile connection is in name of Krishankant son of Shri Devraj, resident of C1301, Park View SPA Apartment, Sector-47, Gurugram. CAF and other supporting documents are Ex.PBR and its call detail record dated 13.10.2018 is Ex.PBS. The said mobile phone is in the name of Shri Rajesh Kumar Mehta, resident of House No. 8 Officers colony, Civil Lines, Gurugram.

He also handed over customer application form of mobile No.9813574037 and its supporting documents, Ex.PBT and its call detail record of dated 13.10.2018 is Ex.PBU. He also handed over to the police his certificate Ex.PBV under Section 65-B of Indian Evidence Act with regard to above said three mobile numbers. He also handed over the cell I.D. chart Ex.PBW. The above said documents were taken into police possession vide memo Ex.PBX . On 29.10.2018, he handed over to the police customer application form Ex.PBY of mobile No.9910885993. The subscriber of said mobile number as per CAF is Vinay Kumar son of

Dharambir, resident of House No. 87 Police Line, Gurugram. The call record of date 13.10.2018 of the said mobile number is Ex. PBZ. The cell I.D chart is Ex.PCA. I also handed over to the police certificate Ex.PCB under section 65-B of Indian Evidence Act. The above said documents were taken into police possession vide seizure memo Ex.PCC.

PW40 Ajay Kumar, Nodal Officer, Bharti Airtel Limited, stated that on 10.12.2018, Inspector Surender alongwith ASI Baljeet came to their office and sought customer application form, call detail and location chart of mobile No.9717358325. He handed over to him customer application form Ex.PCD of the said mobile number. As per customer application form, the subscriber of the said mobile number is Hemant Kumar Chaturvedi, resident of Naharpur Rupa, Gurugram. He also handed over call detail Ex.PCE of the said mobile number of 13.10.2018 and its location chart (cell I.D chart) Ex.PCF and his certificate Ex.PCG under Section 65-B of Indian Evidence Act. The above said documents were taken into police possession vide memo Ex.PCH by Inspector Surender.

PW41 Saurabh Aggarwal, Nodal Officer, Vodafone Idea Limited, stated that on 25.10.2018, Inspector Vivek Kundu came present alongwith Constable Sushil Kumar in their office with regard to notice served to them under Section 91 Cr.P.C on previous date i.e. 24.10.2018 whereby he sought CDR and other relevant documents of mobile No.9711844723. The said mobile connection is in name of Mahipal son of Shri Hoshiyar Singh, resident of 601, Tower-B, Gurugram and his permanent address was of village Bhungarka, Sub-District Narnaul, District Mahendergarh. He handed over customer application Form alongwith other

documents Ex.PCI and call detail record Ex.PCJ of period dated 01.09.2018 to 13.10.2018 of the said mobile and his certificate Ex.PCK under section 65B of the Evidence Act in this regard.

He also handed over ID CAF alongwith supporting documents of mobile No.8816890824. The said mobile connection is in name of Krishankant son of Shri Devraj, resident of House No.587, Preeti Nagar, Hisar, Haryana. CAF and other supporting documents are Ex.PCL and its call detail record Ex.PCM dated 13.10.2018. He also handed over his certificate Ex.PCN under section 65B of the Evidence Act alongwith cell ID chart Ex.PCO. The above said documents were taken into police possession vide seizure memo Ex.PCP.

PW42 Constable Mandeep Kumar stated that on 01.11.2018 , he joined the investigation in this case alongwith Inspector Anand Kumar Yadav, Incharge Cyber Cell. On that day, on asking and direction of higher police officers, he handed over to him the viral video on social media with regard to the occurrence of the present case in 32 GB pendrive in the make and style of Kingston DT50 alongwith his certificate Ex.PCQ under section 65B of the Evidence Act. The said pendrive was converted into a sealed parcel by affixing the seal of 'MJ'. The said pendrive alongwith his certificate was taken into police possession vide recovery memo . He identified the pendrive Ex.MO38 in which he preserved the viral social media five different clips and handed over the same to the Investigating Officer. The said pendrive Ex.MO38 was played, which found to contain five different clips of various duration and after seeing them and the witness states that these are the same which he preserved in the said

pendrive and handed over to the police.

PW43 Devinder Kumar, Senior Scientific Officer, Serologist, FSL Madhuban stated that 21.11.2018, he received 15 sealed parcels in connection with the present FIR, through ballistic division and proved his report Ex.PCS. Laboratory examinations were carried out by him to detect the blood on the exhibits through chemical test. Blood, thus, detected was subjected to serological test to determine its species of origin and group. Accordingly, he serologically examined all the blood samples vis-a-vis incriminating articles as detailed in his report and after grouping and conducting test, he prepared detailed report Ex.PCS. After examination the exhibits along with their original wrappers were sealed with the seal of FSL (H) SERO.

PW44 ASI Satyajeet stated that on 14.10.2018, on the directions of higher officers, he went to Police Station Sector-56, where he found ASI Baljeet Singh present alongwith one Shri Rishi Gupta and on the direction of the investigating officer, Shri Rishi Gupta, handed over to him, his mobile phone in the make and style of Samsung Galaxy ONMAX in which he stated that there is a video clip of 15 seconds recorded by him along with two photographs clicked and saved by him. He attached the said mobile phone with his laptop and derived the said video clip alongwith two photographs in a pendrive in the make and style Sandisk and handed over to ASI Baljeet Singh. He also handed over his certificate Ex.PCT under section 65B of the Evidence Act. The above said pendrive was taken into police possession by converting the same into an envelop vide memo Ex.PCU. Similarly, his certificate under section 65B of the Evidence Act

as well as Shri Rishi Gupta, were taken into police possession vide memo Ex.PCV by ASI Baljeet Singh. He identified the pendrive Ex.MO39 in the make and style of Scandisk of 16 GB in which he retrieved the data from the mobile phone of Shri Rishi Gupta. The pendrive was also played in the Court and it was found to be containing the video clip as well as two photographs relating to the incident. Similarly, on 15.10.2018, he was asked by the Investigating officer Inspector Yashwant to retrieve the data from the another mobile phone. Accordingly, he reached Arcadia market and met Inspector Yashwant alongwith one Hemant son of Shri Lalman who handed over to him, his mobile phone in the make and style of Mi Redmi phone and he stated that there is a video clip of 2 minutes and 30 seconds as prepared by him. He accordingly, attached the said mobile phone to his laptop and retrieved the said video clip to his laptop and then prepared a copy of same in the pendrive which was handed over to the Investigating Officer. He further stated that during this process, he has not made any omission, addition or editing of the clipping and copied the same as it is. The said pendrive was put into an envelop and pasted it and was taken into possession by the Investigating Officer as per recovery memo Ex.PCW. He also handed over to the investigating officer his certificate Ex.PCX under section 65B of the Evidence Act. He identified the pendrive Ex.MO40 in the make and style of Scandisk of 8 GB in which he retrieved the data from the mobile phone of Hemant. The pendrive was also played in the Court and it was found to be containing the video clip relating to the incident. He further stated that both the mobile phones were handed over back to their owners after retrieval of the data.

PW45 Sulekha Rani, Senior Scientific Assistant (Chemistry) Forensic Science Laboratory (H), Madhuban, Karnal, stated that one sealed plastic jar containing blood sample approximately 100 ml. stated to be of Ritu Garg wife of Shri Krishan Kant, as taken by the doctor during postmortem examination, was received in their laboratory as per forwarding memo No.163-5A dated 16.10.2018 in a sealed parcel, as dispatched vide RC No.684 dated 16.10.2018 through Head Constable Dharmender Singh No.10/GGM and received in this division on 16.10.2018. After satisfying him about intactness of the specimen seals, he employed chemical test and techniques to detect common gaseous and volatile poisons, metallic poisons, inorganic ions, plant poison, pesticide and drugs in Ex.1. After necessary examination on that, no common poison could be detected. She prepared her report Ex.PCY. After examination, the remnants of the exhibits were sealed with seal of SS/CHEM/FSL(H), Madhuban. The blood vial of Ritu Garg is Ex.MO37.

PW46 R.S.Poonia, Senior Scientific Officer (Physics Division), FSL Madhuban, Karnal, Haryana, stated that on 14.12.2018, he received a forwarding memo regarding one sealed parcel in connection with present FIR, through ballistic division and the same was received on 12.12.2018. On 14.12.2018, he opened the said parcel bearing the seals of 'AD', 'BALL' and 'FSL(H)', which found to contain one revolver of .38 bore along with leather cover and five fired cartridges cases. He examined the base of butt of the revolver by treating it chemically to decipher the original number. Before chemical treatment, the number was found erased and after chemical treatment, the number was found as 161-9452\*. \*stands

for the number which could not be deciphered as the number was deeply erased. He resealed the above said articles with seal of 'SSO/PHYSICS/FSL/H'. He proved his report Ex.PCZ in this regard. He identified the revolver Ex.MO16 which was examined by him and five empty cases Ex.MO17 to Ex.MO21 which were received by him in the sealed parcel.

PW47 ASI Baljeet Singh stated that on 13.10.2018, at about 4 p.m., Inspector/SHO Surender Singh informed him that a firing incident has occurred in Arcadia Market, Sector-49, Gurugram. On this information, he alongwith ASI Sham Sunder and Constable Mahipal reached Arcadia Market. On reaching there, he found lot of public gathered at the spot, thereafter, he cordoned off the scene of crime. The higher officials were also informed and after some time, various team of higher officials reached at the spot. After some time, scene of crime team led by Dr. Jyoti also reached at the spot. On the directions of the senior officers including Inspector Surender Singh, SHO of Police Station Sector-50, Gurugram, inspected the scene of crime and then took photographs from various angles. As per directions of scene of crime team and directions of the senior officers, whatever incriminating evidence and circumstances were found on the spot, were collected including blood stained earth lying at the spot, three fired bullets collected from three different spot, one pair of ear rings lying at the spot, and another blood stained earth from another area. All these incriminating articles were converted into separate sealed parcels by affixing the seals of 'DSJ' and were taken into police possession vide memo Ex.PDA. He also prepared rough site plan Ex.PDB of the place of

occurrence along with correct marginal notes.

He further stated that on 14.10.2018, he reached Medanta Hospital, Gurugram, where management of the hospital handed over to him one lady hand bag containing some articles, stated to be of Ms.Ritu Garg, (since deceased), which he handed over to one of the relative namely Mr.Praveen Gupta containing all the articles therein. He proved the recovery-cum-receipt memo Ex.PDC. On the same day, he requested the Medanta Hospital for blood sample of Mr.Dhruv which was accordingly provided in a vial and the same was taken into police possession vide recovery memo Ex.PS. On Rishi Raj Gupta met him in the Medanta Hospital and informed that he was present at the scene of crime when the incident took place and have a small video clipping as well as photographs in his mobile phone relating to this incident. Accordingly, he asked him to handover his mobile phone, but he refused but stated that he is ready to provide a copy of recording and photographs. Accordingly, he took him to Police Station Sector-56, Gurugram, where with the help of ASI Satyajeet, he got a copy of video clipping and two photographs in a pendrive and took the same into police possession vide recovery memo Ex.PCU. Certificate Ex.PCT under section 65B of the Indian Evidence Act of ASI Satyajeet as well as of Rishi Raj Gupta, was taken into police possession vide memo Ex.PCV. He identified the pendrive Ex.MO39 in which data was retrieved by ASI Satyajeet from the mobile phone of Rishi Raj Gupta and the pendrive was also played in the Court, which found to contain video clip as well as two photographs of the incident.

He also testified that on 15.10.2018, he came to know that the

blood sample of Mr.Dhruv is not sealed by the doctor. Thereafter, he went to Medanta Hospital and contacted the said doctor to seal the same who asked him to handover the said sample and he would give him fresh blood sample. The handing over memo is Ex.PM which bears the signatures of Dr.Dhruba Lahkar and Head Constable Dharmender. Thereafter, doctor handed over to him fresh blood sample of Mr.Dhruv in a sealed parcel with three seals of Medanta Hospital, which was taken into police possession vide recovery memo Ex.PN . On return to the police station, he handed over the case property to MHC.

On 24.10.2018, after getting the photographs EX.P1 to Ex.P18 developed from the lab of the place of occurrence, which he took in his mobile phone, he handed over the same to Inspector Surender Singh, who was one of the member of SIT constituted for investigation of the case which were taken into police possession vide memo Ex.PDD. On 26.10.2018, he got prepared scaled site plan of the scene of crime Ex.PA through ASI Dharam Pal (Draftsman) after taking him on the spot and explaining him the factual position and ASI Dharam Pal after preparing the same handed over to him.On 10.12.2018, as per instructions of the SIT, he alongwith Inspector Surender Singh went to the Airtel office to seek customer application form, call detail and location chart of mobile number 9717358325. Nodal Officer Ajay Kumar, Airtel handed over customer application form Ex.PCD which was found to be in the name of Hemant Kumar Chaturvedi. Call details Ex.PCE and location chart Ex.PCF as well as certificate Ex.PCG under section 65B of the Indian Evidence Act were handed over by Nodal Officer Ajay Kumar to Inspector Surender Singh,

which were taken into police possession by him vide memo Ex.PCH. He identified blood stained earth Ex.MO2, pair of ear rings Ex.MO3 and Ex.MO4, fired bullet Ex.MO5, blood stained earth Ex.MO6, fired bullet Ex.MO7, blood swab Ex.MO8, blood stained earth Ex.MO9, blood swab Ex.MO10 and fired bullet Ex.MO11 which were lifted from the spot and were taken into police possession by him. He also identified blood vial Ex.MO22 which was handed over to him by Dr.Dhruba Lahkar on 15.10.2018, pendrive Ex.MO39 in which ASI Satyajeet retrieved the video clipping as well as photographs taken by Shri Rishi Raj Gupta in his mobile phone, which was taken into police possession by him.

PW48 Hemant Kumar Chaturvedi stated that on 13.10.2018, he was present in Arcadia Market and was having his meal on a food cart. At about 3.10/3.15 p.m., he heard a loud noise of firing which he took as bursting of fire crackers. But he attracted towards the spot and found that there was a policeman brandishing a gun in his hand and a car was also there in the market. One lady was lying on the road as injured and the policeman was dragging a young boy into the car. But when he could not put the body in the car, he left the spot alongwith the car. On seeing this, he immediately started making video of the abovesaid incident in his mobile phone No.9717358325 and the same was accordingly recorded in his mobile phone in three different clippings. Facts stated by him are duly recorded in those clippings. He forwarded the said clipping to some friends and from there, it goes viral and ultimately, the police came to know that it was recorded by him. Accordingly, he was called by the police and on 15.10.2018, he met the police at Arcadia Market, where he was called and

disclosed the entire facts as narrated above. His statement was recorded by the police. His mobile phone was also taken by the police and the police retrieved the clippings from his mobile phone in a laptop and then the copy of the same was prepared in a pendrive which was taken into police possession as per recovery memo Ex.PDE. The pendrive Ex.MO40 was shown to him and he admitted that it is the same pendrive which was containing the copy of clippings from his mobile phone. On the request of learned Public Prosecutor, the pendrive was played in the Court computer. He had seen the entire clippings as played in the Court through the pendrive. It contains the same video recording which was done by him in his mobile phone and copy of which was taken by the police. Initially, he was at a little distance away but during making video he approached near the spot as is clear from the video clipping and he also talking to some persons during this time. He further stated that till the time the mobile phone containing original clippings remains with him, he has not allowed anybody to tamper with it nor he do so. He further stated that on 15.10.2018, he handed over a writing Ex.PDF in his own hand with regard to above said incident. On 17.10.2018, on the request of police, he reached the Court complex and appeared before a Lady Judge and made statement regarding the above facts and incident. He further stated that statement Ex.PDG is the same statement which was made by him to a Lady Judge and he admitted his signatures on all three pages. He identified the accused present in the court.

PW49 Rishi Gupta stated that on 13.10.2018, at about 03.20/03.30 p.m., he was crossing Arcadia Market, Gurugram, as he had to

go to Medanta Hospital, Gurugram to see his father-in-law, who was admitted there in ICU. When he was crossing Arcadia Market, he saw at his left side that a person in police uniform was mercilessly beating a tall boy. Then, he pulled him down and shot fire at him. He was in his car. He crossed that area and parked his car and came back to know about the occurrence. When he reached there he saw that a lady was also there and who was lying between two cars. At that point of time, the accused person in uniform was shouting like anything while showing his revolver in air and after watching his behaviour, he and other persons stood back. Then, he tried to pick the body of that boy in the car. Out of the sudden he left the body and closed the back door of the car and then ran towards driver seat, sat in the car and ran away. When he was leaving that boy, he started to make his video through his mobile number 8295126413 in which face of that assailant can be seen easily. When that person ran away, he reached close to that boy where people took that boy and lady in two separate auto rickshaws, where he took pictures of struggle marks, used empty cartridge and blood marks. In the meantime, he called to the police control room several times but he could not make any contact with them. On the next day i.e. 14.10.2018, he again visited Medanta Hospital to see his father-in-law where he saw few police men and where he told whole occurrence to them and his statement under section 161 Cr.P.C was recorded. From there those police officers took him to the concerned police station Sector 56, Gurugram, where they took his mobile and took recorded images and videos in a pendrive and where his signature was taken on certificate of under section 65B and where again his statement regarding that was

recorded by police officials. The said pendrive Ex.MO/39 was taken into police possession through memo Ex.PCU . His certificate Ex.PDH under section 65B of Indian Evidence Act was taken into police possession through memo Ex. PCV. He identified the accused present in the court who was in police uniform on that day. The pendrive Ex.MO/39 played in the court and shown to the witness, who identified the accused sitting in the court as the same one who was in police uniform on that day. Witness also stated that the video clip played and the two images shown were same which he recorded from his mobile phone.

PW50 ASI Surender stated that on 13.10.2018, he joined the investigation of present case alongwith Inspector Amit, ASI Rambir, Head Constables Arun, Mohit and Manoj. Inspector Amit received information that PSO Mahipal had fired upon wife and son of Shri Krishan Kant, the then learned Additional Sessions Judge, Gurugram and they were lying admitted in Park Hospital, Gurugram. On this information, they all alongwith Inspector Amit reached Park Hospital, Gurugram. They met ACP Inderjit as well as SHO Inspector Surender, Sector 50, Gurugram. They disclosed that PSO Mahipal might have ran away towards Gurugram Faridabad Road in the Honda City Car and he can be apprehended there and he is wearing police uniform having service revolver with him. Thereafter, he alongwith abovesaid police officials made Nakabandi at Gawal Pahari, on Gurugram-Faridabad Road. At about 04.55 p.m., they saw a Honda City Car coming from Gurugram side being driven by accused Mahipal and its front number plate was mud smudged. The car was stopped by them and he was apprehended alongwith the car and on his

personal search, the revolver alongwith holster which was attached with the belt was taken into police possession vide memo Ex.PDI, after converting the same into a sealed parcel and by affixing the seal of RK which was attested by him as well as ASI Rambir and signed by accused Mahipal. After the inspection of car, they found that the rear registration plate HR-20AC-2425 was not fixed at its place where as the same was lying in front of the conductor seat in the car. The said registration plate was converted into a sealed parcel by affixing the same seal and was taken into police possession vide memo Ex. PDJ. Two mobile phones, one in the make and style of Meizu of Golden Colour stated to be belonging to Dhruv (since deceased) and other mobile phone in the make and style of MI Redmi Note 4 were also found in the above said car alongwith its RC. The above said mobile phones were converted into separate sealed parcel by affixing the same seal by Investigating Officer Inspector Amit Kumar. The said mobiles and RC were taken into police possession vide memo Ex.PDK. Thereafter, the entire area where car was parked was cordoned off and Constable Mohit was left there to preserve the same and thereafter, their team came to sector 56, Police Station where Head Constable Rishi Raj who happens to be a finger print expert was found present there. The sealed parcel containing revolver was opened by him and thereafter, he lifted chance prints from the revolver on some papers. Thereafter, he converted the chance prints into a sealed parcel by affixing the seal of RR and handed over the same to Investigating Officer Amit Kumar, vide memo Ex.PX. Thereafter, the rough sketch Ex.PDL, of the revolver alongwith its five empties were prepared by Investigating Officer Amit Kumar and same was converted into a sealed

parcel alongwith its holster by affixing the seal of RK and was taken into police possession vide memo Ex.PY. Thereafter, Dr. Jyoti Incharge of the FSL Mobile Team, also arrived in the police station and she took the hands swipes on swabs of accused Mahipal right and left hand and same were converted into a sealed parcel by affixing the same seal by Inspector Amit and was taken into police possession vide memo Ex.PDM. Thereafter, Dr.Jyoti, Head Constable Rishi Raj, Constable Manoj alongwith their team went to Gawal Pahari Area, where Honda City Car was lying parked and Dr.Jyoti lifted the swipe on swabs from the steering wheel and also a blood which was there on a cotton gauze and same were converted into a separate sealed parcel by affixing the seal of RK and was taken into police possession vide memo Ex.PDN. Thereafter, Motor Mechanic ASI Randhir was summoned at the spot and he cut the piece of the car where there was a bullet whole and which was specifically marked by Dr.Jyoti. The same was converted into a separate sealed parcel by affixing the seal of RK and was taken into police possession vide memo Ex.PC. Accused Mahipal was formally arrested by Inspector Amit Kumar vide arrest memo Ex. PDO and on his personal search one purse, one debit card, ₹600/-, whistle string and his name identification badge were taken into police possession after converting the same into sealed parcel by affixing the same seal of RK, vide personal search memo Ex. PDP. On 14.10.2018, accused was taken to General Hospital, Gurugram for medico legal examination, where Dr.Neetu Medical officer, got removed uniform of accused Mahipal (one shirt and trouser) and same was converted by her into a sealed parcel by affixing a seal of MI. The said sealed parcel was handed over to Inspector

Amit and was taken into police possession vide memo Ex.PDQ. Thereafter, the accused was put up in police lock up in Police Station Sector 50, and case property was deposited with the MM of the police station. Thereafter, accused was taken to Police Station Sector- 56, where Constable Vinay, who was co-security guard alongwith accused Mahipal attached to Shri Krishan Kant, the then Additional District Judge, Gurugram, came to the police station and moved his hand written application Ex.PBC, before Inspector Amit Kumar, who took the same into police possession vide memo Ex.PDR.

He further deposed that on 16.10.2018, MM Head Constable Sumit, handed over to him as well as ASI Dharambir, 22 sealed parcels i.e. one sealed parcel containing blood stained cloth bearing seals of DSJ, another sealed parcel containing a plastic container having ear rings and affixed with seals of DSJ, another sealed parcel containing fired bullet bearing seals of DSJ, another sealed parcel containing blood stained earth bearing seals of DSJ, another sealed parcel containing fired bullet bearing seals of DSJ, another sealed parcel containing blood stained cloth bearing seals of DSJ, another sealed parcel containing blood bearing seals of DSJ, another sealed parcel containing blood stained cloth bearing seals of DSJ, another sealed parcel containing fired bullet bearing seals of DSJ, another sealed parcel having a cut piece of chasis of the car bearing seal of RK alongwith sample seal, another sealed parcel containing swipe swabs of starrng bearing seals of RK alongwith sample seal, another sealed parcel containing revolver alongwith five empties and holster bearing seals of RK alongwith sample seal, another sealed parcel containing blood cotton

gauze lifter from the car bearing seals of RK alongwith sample seal, another sealed parcel containing swipe swab of right hand of accused Mahipal with seals of RK alongwith sample seal, another sealed parcel containing swipe swab of left hand of accused Mahipal with seals of RK alongwith sample seal, another sealed parcel containing uniform of accused Mahipal with seals of MI alongwith sample seal, another sealed parcel containing clothes of deceased Smt. Ritu bearing seals of Park Hospital, alongwith its sample seal, another sealed parcel containing clothes of deceased Dhruv bearing seals of Park Hospital, alongwith sample seal, another sealed parcel containing left side fragments of the left side brain bone of deceased Dhruv, bearing seal of Medanta Hospital, another sealed parcel containing right side fragments of the right side brain bone of deceased Dhruv, bearing seal of Medanta Hospital, another sealed parcel containing blood gauzes/bandges of deceased Dhruv bearing seal of Medanta Hospital, alongwith sample seal and lastly one sealed parcel containing blood of deceased Dhruv, bearing seal of Medanta Hospital, alongwith sample seal, vide RC No.685 dated 16.10.2018 for depositing the abovesaid sealed parcels to FSL, Madhuban and they deposited the same in FSL Madhuban on the same day without any delay and obtained the receipt regarding same from FSL Madhuban and on their arrival back to Police Station Sector 50, handed over the receipt to MM Head Constbale Sumit Kumar. He further deposed that till the case property remained in their custody they did not tamper with it nor allowed anyone to tamper the same. He identified the revolver Ex.MO/16, its holster Ex.MO/41 which were found on the person of accused Mahipal when he was apprehended by

them; five empties Ex.MO/17 to Ex.MO/21 which were found in the barrel of the revolver recovered from the accused Mahipal; rear registration number plate Ex.MO/42 bearing registration number HR-20AC-2425 which was recovered in front of the conductor seat of the car; a mobile phone in the make and style of MI Redmi Note 4 of Black Colour Ex.MO/43 recovered from the car and belongs to accused Mahipal ; hands swabs Ex.MO/12 and Ex.MO/13, taken from the hands of accused Mahipal by Dr. Jyoti in his presence; another swab Ex.MO/15 taken by Dr. Jyoti in his presence; a cut piece of chasis of car with bullet hole Ex.MO/1 cut by ASI Randhir Singh with the help of cutter and handed over in his presence to the Investigating Officer, uniform (shirt and trouser) Ex.MO/26 and Ex.MO/27, which were handed over by Dr.Neetu in his presence to the Investigating Officer, after getting the same removed from the person of accused Mahipal.

PW51 Shri Krishan Kant, Additional District & Sessions Judge, Ambala stated on 13.10.2018, he was posted at Gurugram as a Additional District and Sessions Judge, Gurugram. At about 03.30 p.m., he was attending a meeting then he received telephonic call from his PSO Mahipal present in the court on his mobile phone bearing No.9991502008. He said that he had shot his wife Ritu and son Dhruv. Shri R.K. Mehta, one of his colleague was sitting next to him and he told this fact to him and they both came out of the meeting hall. Then he asked about the mobile number of his wife Ritu and he called the same from his own mobile. Some unknown person picked the call and told him that his wife and son had been shifted to Park Hospital, after sustaining bullet injuries. They all

immediately rushed to Park Hospital, Gurugram. There his wife Ritu told him in the presence of Shri Jasbir Singh Kundu, the then learned Additional District Judge, Gurugram, that when they reached Arcadia Market, Gurugram, she asked Mahipal to wait near the car and when they returned from the Market, Dhruv asked Mahipal to hand over the keys of car bearing registration No.HR-20AC-2425 make Honda City. On this Mahipal got infuriated, shouted and rushed towards them and thereafter without any provocation fired upon her and when Dhruv came forward for her rescue, he also shot at him. After sometime in the Park Hospital, they got shifted them to Medanta hospital, Gurugram, due to their critical condition. There, he gave application Ex.PB/2, which bears his signature at point A, at about 08.15 p.m.

Later on, in the intervening night of 13/14.10.2018, his wife Ritu succumbed to the injuries suffered by her during that firing. Sim No.9416048798 of Airtel of which he was subscriber was used by his wife Ritu. Similarly, another sim No.8816890824 of Vodafone was also subscribed by him and was being used by his son Dhruv.

He further deposed that on 13.10.2018, he received call from Mahipal, at about 15:30:53 hours, which lasted for 13 seconds. Then he again received another call from Mahipal at about 15:31:21 hours which lasted for 32 seconds. Before that at about 15:09:59 hours he made a call to his wife Ritu and she apprised him that she is in Arcadia Market, to bring back her hand made framed paintings. On 22.10.2018, he obtained two paintings and one wooden frame which was recovered from accused Mahipal on Superdari and he also identified the said paintings as which

were made by his wife and with regard to which she went to Arcadia Market with her son, to bring back the same after framing by the shopkeeper. He proved the identification memo in this regard Ex.PE, which was recovered by the police and which was attested by him. On 02.11.2018, he took his Honda City Car bearing registration No.HR-20-AC-2425 and mobile phone in the make of Meizu on superdari which was being used by Dhruv and got recovered from the conscious possession of accused Mahipal. In this regard his supplementary statements were recorded by the Investigating Officer under section 161 Cr.P.C. He also made his endorsements behind superdari release orders which are Ex.PDS and Ex.PDT. He further testified that his son Dhruv expired on 23.10.2018 after treatment at Medanta Hospital, Gurugram and after his death he signed the consent form for the donation of his organs Ex. PAK/2. The Honda City Car, taken by the witness on Superdari lying parked on that day in the parking slot of the court premises is Ex.MO/44. He proved the two paintings alongwith the wooden frame Ex.MO/45 to Ex.MO/47, which he took on superdari. He also produced mobile phone Ex.MO/48 in the make of Meizu which was used by his son Dhruv and was taken on superdari by him.

PW52 Shri Jasbir Singh Kundu, Principal Judge, Family Court, Sirsa, stated that on 13.10.2018, he was posted as Additional District & Sessions Judge, Gurugram. On that day, on receiving the information that PSO Mahipal, who was attached with Shri Krishan Kant, ADJ, Gurugram, has given gun shot injuries to Ritu and Dhruv, wife and son respectively, of Shri Krishan Kant, ADJ, he arrived at Park Hospital,

Gurugram. In the hospital in his presence Shri Krishan Kant, had a talk with his wife Ritu upon which she told to Shri Krishan Kant, that she alongwith her son Dhruv had arrived at Arcadia Market and there she asked PSO Mahipal to wait for them near the car and when she alongwith Dhruv returned and Dhruv asked for the key of the car from Mahipal, he lost his temper and started shouting and without any provocation came aggressively towards her and opened fire upon her and when Dhruv intervened for her rescue, Mahipal fired at Dhruv also. She also told to Krishan Kant for what reason Mahipal fired upon them and what mistake she and Dhruv has done in this regard. He got recorded his statement to the police at Medanta Hospital, in this regard, which was read over to him and he admitted it to be correct. Accused Mahipal is present in the court.

PW53 Shri R.K.Mehta, Additional Sessions Judge, Karnal stated that on 13.10.2018, he was posted as Additional. Sessions Judge, Gurugram. On that day, at about 3.30 p.m., he alongwith Shri Krishan Kant, Additional Sessions Judge and other Judicial Officers were attending official meeting in District Court Complex, Gurugram. At that time Shri Krishan Kant, ADJ, Gurugram received a phone call on his mobile and he became perturbed. At that time he was sitting next to him and asked him as to what happened? On this he disclosed to him that his gunman Mahipal called him and told him that he had shot at his (Sh. Krishan Kant's) wife and son. He at once took mobile number of his wife namely Mrs. Ritu and made several calls from his mobile No.9813574037. Some unknown person picked the call and informed them that one lady and a boy have been shot by a policeman and they have been brought to Park Hospital with

bullet injuries. On this information, he alongwith Krishan Kant and other officers rushed to Park Hospital, Gurugram and he also made a call to Mahipal Gunman of Shri Krishan Kant, ADJ, Gurugram by taking his number from Shri Krishan Kant. Someone picked up the call but it was inaudible. As Mrs.Ritu and Dhruv were in serious condition, they were shifted to Medanta Hospital. His statement was recorded by the police.

PW54 Inspector Amit, CIA Staff, Palwal stated that on 13.10.2018, he alongwith ASI Rambir, ASI Surender, Head Constable Arun, Constables Mohit and Manoj were present in CIA Staff Sector 40 then they received information that PSO Mahipal had fired upon wife and son of Shri Krishan Kant, the then learned Additional Sessions Judge, Gurugram and they were lying admitted in Park Hospital, Gurugram. On this information, they all reached Park Hospital, Gurugram, where they met ACP Inderjit as well as SHO Inspector Surender, Sector 50, Gurugram. They disclosed that PSO Mahipal might have ran away towards Gurugram Faridabad Road in a Honda City Car and he can be apprehended there and who is wearing police uniform and having service revolver with him. Thereafter, he alongwith abovesaid police officials made Nakabandi at Gawal Pahari, on Gurugram Faridabad Road. At about 04.55.p.m., they saw a Honda City Car coming from the Gurugram side being driven by accused Mahipal and its front number plate was mud smudged. The car was stopped by them and he was apprehended by them from the car and on his personal search, the revolver alongwith Holster which was attached with the belt was taken into police possession vide memo Ex. PDI after converting the same into a sealed parcel and by affixing the seal of RK .

After the inspection of car, they found that the rear registration plate HR-20AC-2425 was not fixed at its place where as the same was lying in front of the conductor seat in the car. The said registration plate was converted into a sealed parcel by affixing the same seal and was taken into police possession vide memo Ex.PDJ. Two mobile phones, one in the make and style of Meizu of Golden Colour stated to be belonging to Dhruv (since deceased) and other mobile phone in the make and style of MI Redmi Note-4 were also found in the above said car alongwith its RC. The above said mobile phones were converted into separate sealed parcel by affixing the same seal by him. The said mobiles and RC were taken into police possession vide memo Ex. PDK. He also prepared rough site plan Ex.PDU of the place of recovery of the abovesaid car and other articles. Thereafter, the entire area where car was cordoned off and Constable Mohit was left there to preserve the same and thereafter, their team came to sector 56, Police Station where Head Constable Rishi Raj who happens to be a finger print expert was found present there who was earlier summoned by him. The sealed parcel containing revolver was opened by him and thereafter, he lifted chance prints from the revolver on some papers. Thereafter, he converted the chance prints into a sealed parcel by affixing the seal of RR and handed over the same to him and same were taken into police possession vide memo Ex.PX. Thereafter, the rough sketch Ex.PDL, of the revolver alongwith its five empties were prepared and same was converted into a sealed parcel alongwith its holster by affixing the seal of RK and was taken into police possession vide memo Ex.PY. Thereafter, Dr.Jyoti incharge of the FSL Mobile Team, also arrived in the police station

and she took the hands swipes on swabs of accused Mahipal right and left hand and same were converted into a sealed parcel by affixing the same seal and was taken into police possession vide memo Ex.PDM. Thereafter, Dr.Jyoti incharge of scene of crime team, Head Constable Rishi Raj, Constable Manoj alongwith their team went to Gawal Pahari Area, where Honda City Car was lying parked and Dr.Jyoti lifted the swipe on swabs from the steering wheel and also a blood which was there on a cotton gauze and same were converted into a separate sealed parcel by affixing the seal of RK and was taken into police possession vide memo Ex.PDN. Thereafter, the abovesaid car was brought to Police Station Sector-56 and Motor Mechanic ASI Randhir was summoned and on the direction of Dr.Jyoti, he cut the piece of the car where there was a bullet hole and which was specifically marked by Dr.Jyoti of FSL Team. The same was converted into a separate sealed parcel by affixing the seal of RK and was taken into police possession vide memo Ex.PC. Accused Mahipal was formally arrested by him vide arrest memo Ex.PDO, and on his personal search, one purse, one debit card, ₹ 600/-, whistle string and his name identification badge were taken into police possession after converting the same into sealed parcel by affixing the same seal of RK, vide personal search memo Ex.PDP.

He further deposed that on 14.10.2018, accused was taken to General hospital, Gurugram for his medico legal examination, where Dr. Neetu Medical officer, got removed uniform of accused Mahipal (one shirt and trouser) and same was converted by her into a sealed parcel by affixing a seal of MI. The said sealed parcel was handed over to him and taken into

police possession vide memo Ex.PDQ. Thereafter, the accused was put up in police lock up in police station sector 50, and he deposited the case property with the MM of the police station. Thereafter, accused was taken to Police Station Sector 56, where Constbale Vinay, who was co-security guard alongwith accused Mahipal attached to Shri Krishan Kant, the then ADJ, Gurugram, came to the police station and moved his hand written application Ex.PBC, before him and he took the same into police possession vide memo Ex.PDR. He recorded statements of witnesses at relevant place and time under section 161 Cr.P.C. On 14.10.2018, he moved an application before control room incharge for providing mobile call recording which were dialed on 100 number on 13.10.2018 and also the log book of the said calls. On 16.10.2018, Constable Satender after checking the computer server system, without any tempering and addition and omission, provided call recording of the calls by transferring them into a pendrive Ex.MO25 alongwith a logbook page Ex.PS which was having the entries of the said calls alongwith his certificate to this effect and same were taken into police possession vide memo Ex.PAJ. On 18.10.2018, he moved an application Ex.PDV before Ms.Kopal, learned JMIC, Gurugram with regard to recording of statement under section 164 Cr.P.C of Constable Viney and his statement Ex.PBD was recorded by the above said Magistrate. He identified the revolver Ex.MO/16 and its holster Ex.MO/41 which were found on the person of accused Mahipal when he was apprehended by them; five empties Ex.MO/17 to Ex.MO/21 which were found in the barrel of the revolver recovered from the accused Mahipal; rear registration number plate Ex/MO/42 bearing registration

number HR-20AC-2425 which was recovered in front of the conductor seat of the car; mobile phone Ex.MO/43 in the make and style of MI Redmi Note-4 of Black Colour recovered from the car and belongs to accused Mahipal; hands swabs Ex.MO/12 and Ex.MO/13 which were taken from the hands of accused Mahipal by Dr.Jyoti in his presence; another swab Ex.MO/15, which were taken by Dr.Jyoti in his presence; a cut piece of chasis of car with bullet hole Ex.MO/1, which was cut by ASI Randhir Singh with the help of cutter and handed over to him; uniform (shirt and trouser) Ex.MO/26 and Ex.MO/27, handed over by Dr.Neetu to him, after getting the same removed from the person of accused Mahipal; pendrive Ex.MO25 in which the call recording of 13.10.2018 were copied by Constable Satender and handed over to him.

PW55 Jitender stated that he is proprietor of shop number CG-39, in the make and style of The Klick Photo Framing and Studio in Arcadia Market, Sector 49, Gurugram. On 09.10.2018, Ms. Ritu handed over to him to Canvas Paintings of Budha and Krishna for framing them. On 13.10.2018, Ms. Ritu and her son came at his shop about 03.00/03.15 p.m., he handed to them both the paintings which he framed alongwith the wooden frame which he removed from one of the painting Ex.MO/45 to Ex.MO/47. They after staying at his shop about 10-15 minutes left the same at about 3.25 p.m. On 16.10.2018, he was called at Police Station Sector 50, Gurugram, and he identified the paintings which he framed and the wooden frame which he handed to Ms. Ritu and her son on 13.10.2018. He signed on the identification memo Ex.PD in this regard.

PW56 Inspector Yashwant, Range office Rohtak stated that on

14.10.2018, he received information from the office of DCP, East that a Special Investigating Team (SIT) has been constituted and he has also been incorporated as one of the member of the team. He was assigned the duty by his Higher Authorities to locate the person who was having the Video Clippings of the occurrence. On 15.10.2018, During the investigation, it came to his knowledge that one person namely Hemant was having a video clipping of the occurrence in his mobile. He obtained the mobile number of Hemant from his sources. He accordingly summoned him at Arcadia Market. He also called ASI Satyajeet of Cyber Cell at the spot alongwith his Laptop to retrieve the Data from the mobile phone of Hemant. When Hemant reached at Arcadia Market, he inquired from him about the facts and circumstances regarding to the present case with in his knowledge. He told him that on the day of occurrence he was present in the Arcadia Market and he had made a video clip of two minutes and thirty seconds in his mobile phone in the make and style of MI Redmi-4. He asked him to handover his mobile phone and asked ASI Satyajeet to retrieve the said video clip from the mobile phone of Hemant. He accordingly copied the said video clip from the phone to laptop and thereafter, the copy of the same was pasted in a pendrive in make and style of Sandisk of 8 GB. He put the said pendrive in an envelop and same was taken into police possession vide memo Ex. PCW. ASI Satyajeet and Hemant also handed over to him their certificates Ex.PDX and Ex.PCX respectively, under section 65B of Evidence Act. Hemant also handed over to him his hand written application Ex.PDF with regard to his being present at the place of occurrence and being eye witness of the same. He recorded the statement

of above said witnesses under section 161 Cr.P.C.

He further testified that on 17.10.2018, he again summoned PW Hemant and produced him before the court of Ms.Kopal, JMIC, Gurugram. He also moved application Ex.PDY for recording statement of Hemant under section 164 Cr.P.C. Accordingly his statement Ex.PDG was recorded by the learned JMIC and thereafter, he moved application Ex.PDZ for obtaining the certified copy of the above said statement and same was obtained by him and attached the same with the file. He identified the pendrive Ex.MO/40 played in the court and witness observed said video clip and stated it is the same which was retrieve from the mobile of the Hemant by ASI Satyajeet and after copying the same in a pendrive, it was handed over to him.

PW57 Inspector Anand Kumar, SIT Faridabad stated that he was member as investigating officer of the Special Investigation Team constituted for the investigation of the present case. On 01.11.2018 he was incharge Cyber Police Station. On that day Constable Mandeep came to Cyber Police Station and handed over to him the viral video on Social media with regard to the occurrence of the present case in 32 GB pendrive in the make and style of Kingston alongwith his certificate under section 65 of the Indian Evidence Act, which is Ex.PCQ. The said pendrive was converted by him into a sealed parcel by affixing the seal of MJ. The said sealed parcel alongwith certificate of Constable Mandeep was taken into police possession vide recovery memo Ex.PCR. He identified the 32GB Kingston pendrive Ex.MO38 in which Constable Mandeep preserve the viral social media in five different clips and handed over to him. The same

was played which found to contain five different clips of various duration and after seeing them witness states it is the same pendrive which he viewed before taking the same into police possession.

PW58 Constable Deepak, stated that on 15.10.2018, at about 09.00 p.m., MM/MHC Sumit of Police Station Sector 50, Gurugram, handed over to him a sealed parcel bearing three seals of monogram "SK" containing DVR alongwith its hard disk, another sealed parcel bearing three seals of same monogram containing a DVR alongwith its hard disk and sample seal of monogram "SK", vide RC No.683 dated 15.10.2018 to deposit the same to CFSL, Chandigarh. He deposited the abovesaid parcels on 16.10.2018 and obtained the receipt from CFSL, Chandigarh and on the return he handed over the same to MM/MHC Sumit of Police Station Sector 50, Gurugram. He further stated that till the case property remained in his custody, he did not tamper nor allowed anyone to tamper with it.

On 29.10.2018, he joined the investigation of this case with Inspector Vivek Kundu, Incharge Cyber Cell, Gurugram. On that day, Nodal officer Surender Kumar of Bharti Airtel Limited handed over to Inspector Vivek Kundu. Application form Ex.PBY of mobile No.9910885993 containing two pages. The subscriber of the said mobile number as per customer application form was Vinay Kumar son of Dharambir, resident of House No. 87, Police Line, Gurugram. The call record dated 13.10.2018, of the said mobile number is Ex.PBZ. The cell ID chart is Ex.PCA. The abovesaid Surender Kumar Nodal officer also handed over his certificate Ex.PCB, under section 65-B with regard to the above said documents. The said documents were taken into police possession vide

seizure memo Ex.PCC by Inspector Vivek Kundu in his presence. He attested the same alongwith Nodal officer Surender Kumar. On 30.10.2018, MM/MHC Sumit of Sector 50, Gurugram, handed over to him one sealed parcel bearing five seals of monogram RK containing a mobile phone in the make and style of Redmi Note 4 to deposited the same to CFSL, Chandigarh, vide RC No.719 dated 30.10.2018. He deposited the said parcel on the same day in CFSL, Chandigarh and obtained the receipt with regard to its deposit and on his return handed over the same to MM/MHC Sumit. He further stated that till the sealed parcel remained in his custody he did not tamper nor allowed any one to tamper the same.

PW59 Inspector Vivek Kundu, SHO Cyber Police Station, Gurugram stated that on 13.10.2018, he visited the Arcadia Market to conduct the Investigation. Vipin Kumar who was maintenance Manager in Arcadia Market of MS Unitech, met him and he apprised that the shooting incident which took place on the said day is duly captured by the CCTV camera's installed there. He asked him to hand over the original DVR including Hard Disk of the computer system containing the CCTV footage of shooting incident from the front camera installed on the boundary wall of the Snow Bright Dry Cleaners facing visitors parking area and the road. He checked the CCTV footage containing in the hard disk of DVR and found the footage of the occurrence. Accordingly, he asked Vipin Kumar to hand over the DVR including Hard Disk to him, who handed over the same which was converted into sealed parcel of monogram SK and was taken into police possession vide recovery memo Ex.PT. He identified the DVR with hard disk in make and style of Hikvision Ex.MO23 which was

handed over to him by Vipin Kumar, Maintenance Manager, Arcadia Market.

On same day, he went to the cloth shop No.139-140 of Vikas Madan situated on first floor, who had also installed a CCTV camera in front of his shop facing road and as he found the footage to be material to the case, he asked him to handover his DVR alongwith its hard disk in the make and style of Hikvision. Accordingly, he handed over the same to him and converted the same into a sealed parcel by affixing the three seals of monogram SK and took the same into police possession vide memo Ex.PV. He identified the DVR alongwith its hard disk Ex.MO24 which was handed over to him by Vikas Madan and was converted by him in a sealed parcel and took the same in police possession.

He further testified that on 25.10.2018, he went alongwith Constable Sushil in the office of Reliance Jio, Vikaspuri Delhi, with regard to notice served to them under Section 91 Cr.P.C on previous date i.e. 24.10.2018 whereby he sought CDR and other relevant documents of mobile No.9468278668. On same day, Pankaj Sharma, Nodal officer of Reliance Jio handed over call detail record Ex.PBE, nine pages Ex.PBF , containing cell ID (location chart of towers), one page Ex.PBG of customer application form. The subscriber of the said mobile number as per customer application form is Mahipal son of Hoshiyar Singh, resident of House No. 601 Tower-B, Police Lines, Gurugram and his permanent address as per the record is village Bhungarka, District Narnaul Mahindergarh, which was issued on 03.12.2017. The certificate Ex.PBH under Section 65-B of Indian Evidence Act was also handed over by Pankaj Sharma to him. The above

said documents were taken into police possession vide recovery memo Ex.PBJ. On same day, he alongwith Constable Sushil Kumar went to the office of Vodafone Idea Limited, C-45, Okhla Phase-II, New Delhi, where he met Nodal officer Saurabh Aggarwal, who was served with notice under Section 91 Cr.P.C on previous date i.e. 24.10.2018 whereby he sought CDR and other relevant documents of mobile No.9711844723. The said mobile connection on perusal of CAF was found in the name of Mahipal son of Shri Hoshiyar Singh, resident of 601, Tower-B, Gurugram and his permanent address was of village Bhungarka, Sub-District Narnaul, District Mahendergarh. Saurabh Aggarwal handed over the customer application Form alongwith other documents Ex.PCI (containing 6 pages) and call detail record of period dated 01.09.2018 to 13.10.2018 Ex.PCJ (containing 9 pages) of the said mobile alongwith his certificate Ex.PCK under section 65B of the Evidence Act in this regard and Saurabh Aggarwal also handed over ID CAF alongwith supporting documents of mobile No.8816890824. The said mobile connection as per CAF was found in the name of Krishankant son of Shri Devraj, resident of House No.587, Preeti Nagar, Hisar, Haryana. CAF and he also handed over other supporting documents are Ex.PCL (containing 3 pages) and its call detail record dated 13.10.2018 is Ex.PCM (containing 1 page). He also handed over certificate Ex.PCN under section 65B of the Evidence Act alongwith cell ID chart Ex.PCO (containing 5 pages) to him. The abovesaid documents were taken into police possession vide seizure memo Ex.PCP. On same day, he alongwith Constable Sushil Kumar also went to office of Bharti Airtel Limited, 224 Okhla Phase-III, New Delhi, where he met Surender Kumar,

Nodal officer, with regard to notice served to them under Section 91 Cr.P.C on previous date i.e. 24.10.2018 whereby he sought CDR and other relevant documents of mobile No.9991502008. The said mobile connection as per CAF was found in name of Krishankant son of Shri Devraj, resident of C1301, Park View SPA Apartment, Sector-47, Gurugram. He handed over customer application Form alongwith other documents Ex.PBP (containing 8 pages) and call detail record dated 13.10.2018 Ex.PBQ of the said mobile.

He also handed over CAF alongwith supporting documents of mobile No.9416048798. The said mobile connection as per CAF was found in name of Krishankant son of Shri Devraj, resident of C1301, Park View SPA Apartment, Sector-47, Gurugram. CAF and other supporting documents are Ex.PBR (containing 7 pages) and its call detail record dated 13.10.2018 is Ex.PBS (containing two pages). The said mobile phone as per CAF was found in the name of Shri Rajesh Kumar Mehta, resident of House No. 8 Officers colony, Civil Lines, Gurugram.

He also handed over customer application form of mobile No.9813574037 and its supporting documents which is Ex.PBT (containing six pages) and its call detail record Ex.PBU of dated 13.10.2018. He also handed over to him his certificate Ex.PBV under Section 65-B of Indian Evidence Act . He also handed over the cell I.D. chart Ex.PBW. The above said documents were taken into police possession vide memo Ex.PBX. On 29.10.2018, he again visited the said office and Surender Kumar, Nodal officer, handed over to me customer application form Ex.P-BY of mobile No.9910885993. The subscriber of said mobile number as per CAF was

found to be of Vinay Kumar son of Dharambir, resident of House No.87 Police Line, Gurugram. He handed over to him the call record Ex.PBZ of date 13.10.2018 of the said mobile numbe and the cell I.D chart Ex.PCA. He also handed over to him his certificate Ex.PCB under section 65-B of Indian Evidence Act. The above said documents were taken into police possession vide seizure memo Ex.PCC. On 05.11.2018, he was present at his cyber cell office, P/SI Jai Bhagwan came to his office and at that time he was having a DVR examination report prepared by CFSL, Chandigarh, alongwith a pendrive which was sent alongwith it and which was already seen by ACP Sadar. The pendrive was produced before him because of he being cyber official. He played the pendrive and thoroughly examined the same and found that on the channel number 3 of NVR/DVR, there was a recording of CCTV footage at time 15:22:20, where he found Mahipal accused present in the court, in police uniform going towards shops from the car. At 15:23:14, he found him coming back to the car and thereafter Ms.Ritu is found to be keeping the paintings on the rear seat of car and Mahipal is found to be closing the door of the car. After that Ms.Ritu and Mr.Dhruv were seen taking seat in the car. At about 15:24:18, Mahipal pulled Dhruv out of the car and started thrashing and beating him. Thereafter, Ms.Ritu and Dhruv were found to be fallen on the ground. Thereafter, at 15:27:01, Mahipal was found to be trying to put wounded Dhruv in the car, but he could not succeed. At 15:27:36, Mahipal alone was seen driving the car from the place of occurrence. On the examination of the footage of DVR's contained in the abovesaid pendrive he found in channel number 14 that at about 15:22:20, Mahipal in police uniform was

found to be going towards shops from the parking area and at 15:23:14, he was seen coming back towards the parking area. After the inspection of the pendrive, he handed over the same after putting it in a cloth parcel and stitched the same and by affixing his signature on the said parcel alongwith the above said report to P/SI Jai Bhagwan. Inspector Surender recorded his statement under section 161 Cr.P.C. about his detailed examination of the pendrive. He identified the pendrive Ex.MO49 taken out from a stitched cloth parcel having report number of CFSL, played in the court and shown to the witness who stated that it is the same pendrive which was examined in detail by him on 05.11.2018.

PW60 Dharambir, Assistant Director, Ballistics, FSL, Madhuban, Karnal stated on 16.10.2018, he received 22 sealed parcels in connection with present case vide RC No. 685 dated 16.10.2016 through ASI Dharambir Singh. The details of the descriptions of the parcels and condition of the seals have been given by him in his report Ex.PEA. In this case, he examined a .38 inch revolver which was marked by him W/1 (exhibited as MO/16) alongwith five .38 inch fired cartridge cases which were marked C/1 to C/5 by him (Ex.MO/17 to Ex.MO/21). He also examined three .38 inch fired bullets which were marked as BC/1 to BC/3 (as Ex.MO/5, Ex.MO/7 and Ex.MO/11). He also examined clothes containing parcel No.XVII and XVIII for gun shot residue/hole. He also examined swabs containing parcel No.XI, XIV and XV for gun shot residue. Bone pieces contained in parcel No.XIX and XX were also examined for gun shot residue. Metallic piece contained in parcel No.X was also examined for any bullet hole. Based on the examination carried

out in the laboratory the result was as under:

1. The firing mechanism of .38 inch revolver marked W/1 (Ex. MO/16) was found in working order.
2. .38 inch fired cartridge cases marked C/1 to C/5 (Ex. MO/17 to Ex. MO/21) and .38 inch fired bullets marked BC/1 to BC/3 (Ex. MO/5, Ex. MO/7 and Ex. MO/11) have been fired from .38 inch revolver marked W/1 (Ex. MO/16) and not from any other fire arm even of same make and caliber because every fire arm has got its own individual characteristic marks.
3. Holes on the lady's kurta (Ex. MO/32) and bra (Ex. MO/33) contained in parcel No. XVII have been caused by a bullet projectile.
4. Holes on T-shirt (Ex. MO/28), Baniyan (Ex. MO/29), Jeans Pant (Ex. MO/30) and underwear (Ex. MO/31) contained in parcel no. XVIII have been caused by a bullet projectile.
5. Holes on the metallic piece (Ex. MO/1) contained in parcel No. X have been caused by a bullet projectile.
6. Gun shot residue were detected from the hands swabs (Ex. MO/12 and Ex. MO/13) contained in parcel No. XIV and XV.
7. Gun shot residue were detected from the cotton swabs (taken from the steering wheel of the car) (Ex. MO/15) contained in parcel no. XI.
8. Gun shot residue could not be detected from the bone pieces (left and right sides brain bone fragments of deceased Dhruv) (Ex. MO/34 and Ex. MO/35) contained in parcel no. XIX and XX.

He resealed the abovesaid parcels after examination and report with the seal of AD/BALL/FSL (H). He proved the report Ex. PEA

PW61 Ramesh Chand, Incharge Fingerprint Bureau, Documents State Crime Record Bureau, Madhuban Haryana stated that on 22.10.2018, he received two sealed envelopes with seal intact of RR and RK. The sealed envelope RR was opened by him in the bureau it contained three lifters pasted on three pieces of papers (Ex. PAA/1 to

Ex.PAA/3) therein lifted chance prints. The same were photographed by him and the photographs bearing mark A is Ex.PEB, photograph bearing Mark B is Ex.PEC & photograph bearing marks C and C1 is Ex.PED. The second envelope bearing seal of RK was also opened by him which contained one search slip on eight sheets Ex.PAA/4 to Ex.PAA/11 which were AFIS live scanned ten digit fingerprints as well as palm prints of PSO/constable Mahipal son of Hoshiyar Singh. He also enlarged the photographs taken by him for examination. The enlarged photographs are Ex.PEE and Ex.PEF. He was asked to compare the chance prints with ten digit finger prints as well as abovesaid palm prints of PSO/ Ct. Mahipal son of Hoshiyar Singh and after his detailed and thorough comparison, he came to the conclusion that the photographs chance prints on mark B (Ex.PEC), and mark C on photographs Ex.PED were identical with right hand palm print of PSO Constable Mahipal Singh marked I and II on his finger print search slip Ex.PAA/5 at point A. The description of the matching points on photo enlargements Ex.PEE and Ex.PEF were given by him indicating these points. He proved the report Ex.PEG.

PW62 Inspector Jai Bhagwan, SHO Beri, Jhajjar stated that on 13.10.2018, after the information with regard to the occurrence in the present case, he went to Park Hospital, Gurugram and collected MLR Ex.PAD of Mrs. Ritu (since deceased), MLR Ex.PAG of Master Dhruv (since deceased) and police intimation form Ex.PAE and Ex.PAF with regard to their admission in Park Hospital from the doctors attending them. He also made application Ex.PEH before the Doctor attending injured Mrs.Ritu and Master Dhruv to seek his opinion whether they are fit for

making statement or not. Doctor vide his endorsement Ex.PEH/1 declared both Mrs.Ritu and Master Dhruv unfit for making statement. In the evening when both Mrs.Ritu and Mr.Dhruv were referred to Medanta for further management of their treatment, there also he moved application Ex.PEI before Doctor Vivekanshu of Medanta, who vide his endorsement Ex.PEI/1 declared unfit for statement as both of them were sent to operation theatre for the surgery. On 14.10.2018, he joined the investigation of this case with Inspector Surender. Accused Mahipal present in the court was interrogated by him in his presence. He disclosed in detail his involvement in the present case. He further disclosed that the two paintings and the frame were thrown by him in the bushes adjunct to the wall of Tau Devi Lal Stadium behind Medanta Hospital. He also offered to get the place of occurrence demarcated. His disclosure statement Ex.PEJ was reduce into writing which was attested by him as well as ASI Charan and signed by accused Mahipal. On the same day, Dr. V.S. Bhalla of Park Hospital handed over to Inspector Surender two sealed parcels bearing the seal of Park Hospital containing clothes of Ms.Ritu and Dhruv and same were taken into police possession vide memo Ex.PAN. On 15.10.2018, accused Mahipal as per his disclosure statement Ex.PEJ led the police party to the disclosed place and got recovered two paintings of Lord Budha and Lord Krishana and wooden frame Ex.MO/45 to Ex.MO/47 and same were converted into a sealed parcel by affixing the seal of YK and was taken into police possession vide seizure memo Ex.PEK. Accused Mahipal also led police party to the place of occurrence and got the same demarcated vide demarcation memo Ex.PEL. His supplementary statements were recorded

by the Investigating Officer Inspector Surender on 17.10.2018.

He further testified that on 17.10.2018, he again joined the investigation with IO/Inspector Surender. Accused again suffered detailed disclosure statement Ex.PEM before Inspector Surender with regard to his involvement in the present case. On 18.10.2018, he again joined the investigation of this case with Inspector Surender and an application for obtaining fingerprint search slip as well as digital fingerprints was moved by Inspector Surender in the court of Learned Area Magistrate, Ms. Kopal and accordingly the Learned Judicial Magistrate Ist Class granted permission to take the above said fingerprints of the accused Mahipal. Thereafter, Rishi Raj fingerprint Expert took the abovesaid fingerprints with the black ink as per the procedure on five sheets Ex.PAA/4 to Ex.PAA/8. Similarly, the digital prints of accused were also taken on three sheets Ex. PAA/9 to Ex. PAA/11 with the help of a prescribed digital-graph machine and got printed and were handed over to Inspector Surender. After taking all the fingerprints, the same were put in an envelope which was duly sealed by Inspector Surender by seal of RK and were taken into police possession vide recovery memo Ex.PAB.

He further stated that on 05.11.2018, a sealed envelope containing pendrive Ex.MO/49 pertaining to recording in the DVR's was received. He took the same to ACP Shri Inderjeet who saw the same and directed him to get the same examined from the Incharge of Cyber Cell Inspector Vivek Kundu. Accordingly, he went to Cyber Cell and handed over the pendrive to him for examination, the said pendrive was examined by him and after its examination he handed over the same back to him

which he further handed over to Investigating Officer Inspector Surender.

PW63 Dr. Aanchal Dwivedi, Junior Scientific Officer Physics at Central Forensic Science Laboratory, Sector 36A, Chandigarh stated that on 16.10.2018, she received two sealed cloth parcels pertaining to the present case bearing the seal of 'SK' through Constable Deepak Yadav, No. 4703. On opening first parcel, she found one NVR make Hikvision in which there were two hard disk each of 4 TB. In the second parcel, she found one DVR make Hikvision in which there was one hard dist of 4 TB. She examined both the NVR and DVR and their respective hard disks and the relevant/required data found in the hard disk was provided in a pendrive and same was converted into a sealed envelope by affixing the seal of AD PHY CFSL CHD. She proved her report Ex.PEN. The sealed envelope containing pendrive and detailed report Ex.PEN and forwarding letter Ex.PEO were handed over to the police official who visited CFSL to collect the same. She identified the DVR with hard disk in make and style of Hikvision Ex. MO23 and DVR alongwith its hard disk Ex.MO24, which was examined by her and with regard to which she prepared her report. She further identified pendrive Ex.MO49 which was played in the court and after watching it she stated that it is the same pendrive in which the required footages of the relevant channels were copied and handed over to the police.

PW64 Inspector Surender Singh stated that on 13.10.2018, he alongwith PSI Jai Bhagwan were present in Sector 46 for crime checking. In meanwhile, a telephonic information was received that one woman and a boy have been shot at opposite Arcadia Market and they are being shifted

to Park Hospital. On this information, he alongwith PSI Jai Bhagwan reached Park Hospital. In meanwhile, police officials of his police station ,namely, SI Naresh, ASI Charan Singh, ASI Satish, ASI Yogesh and Head Constable Fakrudin also reached Park Hospital. To cordon the place of occurrence, he sent ASI Baljeet alongwith ASI Shyam Sunder and Constable Mahipal. Thereafter, in Park Hospital PSI Jai Bhagwan received MLCs of injured Ms. Ritu and Dhruv. PSI Jai Bhagwan moved application before the concerned Doctors of Park Hospital whether injured are fit for making statements or not. On which, Doctor declared them unfit for making statements. In meanwhile, relatives of the injured also reached Park Hospital. He directed Ms. Jyoti Incharge scene of Crime team to go to the place of occurrence and to carry out necessary proceedings. Thereafter, injured Dhruv and Ms.Ritu were shifted to Medanta Hospital for further management/better treatment. He also reached alongwith his team to Medanta Hospital. Thereafter, P/SI Jai Bhagwan moved application Ex.PEI before doctor Vivekanshu of Medanta who vide his endorsement Ex. PEI/1 declared both injured Ritu and Dhruv unfit for statement as they were sent to operation theater for their surgeries. In Medanta Hospital, he met Shri Krishankant, the then Additipnal District Sessions Judge, Gurugram. who is husband of Ms.Ritu and father of Dhruv. He gave an application Ex.PB/2 to him on which he made endorsement Ex.PEP and sent the same through Head Constable Fakrudin for registration of FIR as the case by that time was prima facie under Sections 307 IPC and 27/54/59 Arms Act. He also recorded statement of Shri Jasbir Kundu and Shri R.K. Mehta, the then Additional District Judges, Gurugram. Thereafter, he proceeded to the

place of occurrence and when he was returning from there, in the intervening night of 13/14.10.2018 at about 12:30 a.m., he received information that Ms.Ritu had succumbed to bullet injuries sustained by her. Thereafter, he reached Medanta Hospital and in the mortuary of Medanta Hospital, he took photographs Ex.P19 to Ex.P24. He also conducted the inquest proceedings Ex.PAO on the dead body of deceased Ritu. He also recorded statements of Parveen Gupta and Rajeev Gupta under Section 175 of Cr.P.C. Thereafter, he handed over the dead body of Ms.Ritu and inquest papers to SI Naresh to get conduct the post mortem examination of the dead body . He added Section 302 IPC in the present case.

As he had already received information with regard to the arrest of the accused Mahipal by Inspector Amit and his team, he reached Sector-56 Police Station with his team. Thereafter, he took custody of accused Mahipal present in the court from Police Lockup and he was interrogated by him at about 6 a.m. on 14.10.2018 in presence of SI Jai Bhagwan and ASI Charan Singh. On interrogation, he disclosed his involvement in the present case. He further disclosed that the two paintings and the frame were thrown by him in the bushes adjacent to the wall of Tau Devi Lal Stadium behind Medanta Hospital. He also offered to get the place of occurrence demarcated. His disclosure statement Ex. PEJ was reduced into writing by him which was attested by SI Jai Bhagwan and ASI Charan and signed by accused Mahipal. He recorded statement of the abovesaid witnesses. Thereafter, accused Mahipal was produced before the Learned Area Magistrate and his four days police remand was obtained. Thereafter, accused was sent to Sector- 56, Police Station in police lockup.

Thereafter, he alongwith SI Jai Bhagwan went to Park Hospital where Doctor V.S. Bhalla handed over to him two sealed parcels bearing the seal of Park Hospital containing clothes of Ms. Ritu and Dhruv and same were taken into police possession vide recovery memo Ex.PAN which was attested by Dr. V.S. Bhalla and SI Jai Bhagwan. He recorded statement of Dr.V.S. Bhalla to this effect. Thereafter, the said parcels were deposited with the MM of Police Station, Sector 50. He also recorded supplementary statement of SI Jai Bhagwan.

He further testified that on 15.10.2018, he alongwith his team and accused Mahipal went to the disclosed place as per Ex.PEJ and accused got recovered two paintings of Lord Budha and Lord Krishna and wooden frame Ex.MO/45 to Ex.MO/47 which were converted into sealed parcel by affixing the seal of 'YK' and was taken into police possession vide recovery memo Ex.PEK . He also prepared rough site plan of the place of recovery Ex.PEQ of above said paintings and wooden frame. Thereafter, accused Mahipal led the police party to the place of occurrence and got the same demarcated vide demarcation memo Ex.PEL. Thereafter, accused was taken to General hospital, Gurugram and he was medico-legally examined. He also recorded supplementary statements of SI Jai Bhagwan and ASI Charan Singh. The accused was put up in police lock up of Police Station Sector 56 and thereafter, he got deposited the parcel of abovesaid paintings and frame with MM of police Station Sector 50. He also recorded statement of SI Naresh. ASI Dharambir handed over to him discharge summaries of Ms.Ritu and Dhruv of Park Hospital. On 16.10.2018, he recorded statements of PWs Jitender and Anil Antil. On

17.10.2018, accused was again interrogated by him in presence of SI Jai Bhagwan and ASI Charan Singh and he again suffered detailed disclosure statement Ex.PEM. He recorded statement of SI Jai Bhagwan and ASI Charan Singh. On 18.10.2018, he alongwith his team took accused Mahipal to the court of Ms.Kopal and there he moved an applications Ex.PER and Ex.PES for obtaining fingerprints, search slips as well as digital fingerprints and after getting necessary permissions, the aforesaid fingerprints on five sheets Ex.PAA/4 to Ex.PAA/8 and three sheets Ex.PAA/9 to Ex.PAA/11 were taken by Rishiraj, fingerprint expert, Lady Constable Usha respectively of accused Mahipal and same were put up in an envelope and he affixed seal of 'RK' on the envelope and same was taken into police possession vide memo Ex. PAB which was attested by Head Constable Rishiraj, Lady Constable Usha, Devender Saini Reader to abovesaid Judicial Magistrate Ist Class and SI Jai Bhagwan. Thereafter, accused was sent to judicial custody. Statements of witnesses were recorded. He deposited the abovesaid sealed envelope with MM of Police Station Sector 50. On 20.10.2018, he got developed the photographs of deceased Ms.Ritu from the lab. He moved application Ex.PET before Dr. Vashudha of Medanta Hospital that whether injured Dhruv is fit for making statement or not on which the abovesaid doctor declared him unfit for making statement. On 22.10.2018, paintings were identified by Jitender, Shopkeeper (PW55) who had done the framing work of the paintings. The identification memo Ex.PD was prepared. The abovesaid paintings and frame were identified by Shri Krishankant complainant, vide identification memo Ex.PE. On same day, he went to Medanta Hospital and moved

application Ex.PEU before the Doctor Harsh Sapra and he declared him unfit for making statement. On 23.10.2018, he received information with regard to critical situation of Dhruv. He alongwith his team went to Medanta Hospital where he came to know that Dhruv had succumbed to bullet injuries sustained by him. There Doctor had handed over to him police intimation form for donation of organs of Dhruv and after adding his remarks, he handed back the said form to the concerned Doctor. He collected death summary of deceased Dhruv. After organ donation process, he conducted inquest proceedings Ex.PAS on the dead body of deceased Dhruv and recorded statements of Sunil Bansal and Pankaj Gupta under Section 175 Cr.P.C. Thereafter, he took photographs Ex.P25 to Ex.P40 of deceased Dhruv and took the dead body to the mortuary Gurugram and moved application Ex.PAR before Autopsy Surgeon Doctor Deepak Mathur for postmortem examination of deceased Dhruv. He asked him by his remarks on the said application to get the X-ray done accordingly he did the needful and thereafter the postmortem examination was conducted by the Board of Doctor Mathur. After postmortem examination post mortem report of deceased Dhruv was handed over to him. On the same day, he deleted Section 307 IPC from the present case.

He further stated that on 24.10.2018, he recorded the statement of witnesses. He received eighteen photographs Ex.P1 to Ex.P18 of place of occurrence from ASI Baljeet and same were taken into police possession vide memo Ex.PDD. On 30.10.2018, he obtained sanction order Ex.PAY from Shri Kulwinder Singh, the then JCP, Gurugram. On 02.11.2018, he recorded supplementary statement of Shri Krishankant. On 05.11.2018, a

pendrive alongwith CFSL report were received. The pendrive was examined by Inspector Vivek Kundu through SI Jai Bhagwan and he recorded statement of Inspector Vivek Kundu in this regard. On 05.12.2018, he took transfer order Ex.PK of Constable Vinay and report Ex.PK/1 of PW10 ASI Pardeep which were taken into police possession by him vide memo Ex.PK/2. On 10.12.2018, he alongwith ASI Baljeet went to office of Bharti Airtel Limited, Okhla Phase, New Delhi and sought customer application form, call detail and location chart of mobile number 9717358325. Ajay Kumar, Nodal Officer handed over to him customer application form Ex.PCD, call details Ex.PCE and location chart Ex.PCF and certificate under Section 65 B which were taken into police possession vide memo Ex.PCH. On 11.12.2018, he alongwith Constable Dheeraj went to reliance office Vikaspuri, Delhi and sought customer application form, call details and another relevant documents of mobile number 8295126413 from Nodal Officer, Pankaj Sharma. He handed over call detail record Ex.PBK, customer application form Ex.PBL and cell ID Chart Ex.PBM of said mobile phone alongwith his certificate Ex.PBN under Section 65 B of the Indian Evidence Act which was taken into police possession vide seizure memo Ex.PBO. On the same day, 201 IPC was added. The orders dated 13.10.2018 and 14.10.2018 with regard to constitution of the special investigation team to conduct investigation in the present case are Ex.PEV and Ex.PEW respectively which were passed by Shri K.K. Rao, the then Commissioner of Police, Gurugram. He identified his signatures as he has worked with him and seen him writing and signing. He further stated that on 15.12.2018, after completion of the investigation, he prepared final

report under Section 173(2) Cr.P.C. and on 24.12.2018, he obtained sanction order for prosecution of accused Mahipal from home department, Haryana, Chandigarh and thereafter, on 28.12.2018, he submitted the final report in the court.

13. This is the whole evidence led by the prosecution.

14. It is argued by learned Public Prosecutor Shri Anurag Hooda assisted by Shri Vishal Gupta, Advocate for complainant that the prosecution has been able to prove its case against the accused beyond shadow of reasonable doubt. The case of the prosecution is supported by totally independent witnesses as well as official witnesses who have no grudge against the accused. The case of the prosecution is not only based on conclusive scientific forensic evidence but also based on oral testimony of public persons who had occasion to witness the said incident. It is submitted by learned Public Prosecutor that the prosecution has examined at least 64 witnesses whereas accused Mahipal also during his examination under section 313 Cr.P.C. has made certain admissions which clearly goes against him. Further, deceased Ms.Ritu had also suffered dying declaration before complainant Shri Krishankant which further corroborated by Shri J.S.Kundu, the then Additional District and Sessions Judge, Gurugram, who has been examined as PW52. After committing the said act i.e. act of shooting harmless innocent persons, accused made a phone call to Shri Krishankant on his mobile phone and told him that he has shot his wife Ms.Ritu and son Dhruv. He also disclosed this fact to PW37 Constable Vinay Kumar on his mobile phone about shooting of duo Dhruv and Ms.Ritu. This part of statement deposed by accused Mahipal clearly

admissible under Section 6 of the Evidence Act because the said statement was made by the accused shortly after the occurrence and ,therefore, would form part of transaction and become a relevant fact.

15. It is further argued by learned Public Prosecutor that the prosecution has been successfully prove to examine two eye witnesses in the present case i.e. PW48 Hemant Kumar and PW49 Rishi Gupta. Both of them were very much present when the occurrence had taken place in Arcadia Market. PW48 Hemant Kumar recorded three different video clips of the incident in his mobile phone and forwarded the same to his friends which then become viral on social media also. The police on 15.10.2018 had taken the said clips from the mobile of PW48 Hemant Kumar into pendrive. In this regard PW48 had also given the statement Ex.PDF on 15.10.2018. His statement was recorded under section 164 Cr.P.C. on 17.10.2018. Similarly, Rishi Gupta PW49 had also seen the occurrence as he was crossing the Arcadia market and saw accused Mahipal was beating a tall boy mercilessly and was shouting while showing revolver in the air. He also took picture of struggle marks, used empty cartridges lying on the spot and also recorded the video clips of the incident on his mobile phone having No.8295126413. The CCTV footage and viral video on social media were also taken into police possession by the police as the occurrence was captured by the CCTV cameras installed at two places in Arcadia market.

16. It is further submitted by learned Public Prosecutor that the revolver used in the crime recovered from accused Mahipal was issued in the name of co-PSO Constable Vinay Kumar. The said revolver was

issued by CASI Ashok Kumar who also identified the five empties which were issued to Constable Vinay Kumar who handed over the same to accused Mahipal alongwith revolver on that very fateful day. The prosecution has been able to lift finger print of accused Mahipal found on revolver, gunshot residue on the hands of Mahipal. The Honda City car which was driven by accused, bearing registration No.HR-20-AC-2425 belongs to complainant Shri Krishankant was also taken into possession from accused Mahipal who was apprehended at about 4.55 p.m. from Gawal Pahari, Faridabad road. The phone locations of accused Mahipal have also been proved by witness Pankaj Sharma PW38 and Saurabh Aggarwal PW41. The locations of both numbers as per location ID Chart were of Arcadia Market at the time of occurrence. The phone location of mobile phone used by deceased Dhruv has also been proved by PW41 and he was also present at Arcadia Market at the time of occurrence. It is argued by learned Public Prosecutor that the clothes of accused Mahipal were taken into possession by Doctor Neetu Yadav PW25 during his examination. Blood was found on the left legging of the pant of Mahipal. In this regard Devender Kumar, SSO Serologist, FSL was examined by the prosecution who gave his detailed report in this regard which is Ex.PCS. Similarly, clothes of Dhruv were handed over to police by PW27 Doctor V.S.Bhalla, Park hospital and the report prepared by Devender Kumar PW43 shows that blood group 'O' found on the clothing of accused Mahipal was of Dhruv. PW60 Dharambir, Ballistic Expert examined the clothes of Dhruv and on examination it was found by him that the holes in the above said clothes have been caused by a bullet projectile and he has

given his detailed report Ex.PEA. The police has also recovered paintings on the disclosure statement of accused Mahipal which were identified by KrishanKant on 22.10.2018. The posting of accused Mahipal alongwith Constable Vinay with Shri Krishankant, the then Additional District and Sessions Judge, Gurugram, was further proved by PW9 ACP Dharna Yadav. The report regarding posting of accused Mahipal is Ex.PJ. The cause of death of Dhruv and Ms.Ritu have been given by PW28 Doctor Deepak Mathur vide report Ex.PAQ and Ex.PAU. It is submitted by learned Public Prosecutor that accused be severely punished as he has committed the most horrendous and horrifying shooting of two harmless innocent persons for no fault before they could even know what was happening and that too by a person who was supposed to protect them. The learned Public Prosecutor assisted by learned counsel for the complainant has relied upon the following authorities:

**Vinod Kumar Versus State of U.P. 1991 Supp (1) Supreme Court Cases 353; Prakash and another Versus State of Madhya Pradesh (1992) 4 Supreme Court Cases 225; State of Maharashtra Versus Nisar Ramzan Sayyed 2017 (2) RCR 564; Pawan Kumar Versus State of H.P. 2017 (2) RCR 777; Ramesh and others Versus State of Haryana 2016 (4) RCR (Criminal) 955; Rafique @ Rauf and others Versus State of U.P. 2014 (2) RCR (Criminal) 757; State of Maharashtra Versus Kamal Ahmed Mohammed Vakil Ansari and others 2013 (2) RCR 450 ; State of Karnataka Versus M.N.Ramdas 2002 (4) RCR (Criminal) 693; Chandra Bonia Versus State of Assam 2011 (4)**

**RCR (Criminal) 190; Rajender Alias Rajesh Alias Raju Versus State (NCT of Delhi) Criminal Appeal No. 1889 of 2010 with Raj Kumar Alias Raju Versus State (NCT of Delhi) Criminal Appeal No. 1890 of 2010;with Sharda Jain Versus State (NCT of Delhi) with Criminal Appeal No. 2377 of 2014, 2020 (1) Supreme Court Cases (Cri) 63; Mulakh Raj Versus Satish Kumar 1992 Cr. LJ 1529; State of Himachal Pradesh Versus Jeet Singh 1999 (2) RCR 167; Ravinder Kumar Versus State of Punjab 2002 (1) RCR (Criminal) 227; Punjabrao Versus State of Maharashtra 2002 (1) RCR (Criminal) 231; Aradadi Ramudu @ Aggiramudu Versus State, Inspector of Police, Yanam 2012 (3) RCR (Criminal) 577; Nankaunoo Versus State of U.P. 2016 (2) RCR (Criminal) 774; State of Punjab Versus Pohla Singh and another 2004 (1) RCR (Criminal) 5; Satish Versus State of Haryana 2007 (3) RCR (Criminal) 844; Ramkrushna Versus State of Maharashtra 2007(3) RCR (Criminal) 33; Santosh @ Santukrao Versus State of Maharashtra 2007(3) RCR (Criminal) 74; Joseph Versus State of Kerala 2000 (2) RCR (Criminal) 738 and P.Sanjeev Rao Versus State of A.P. 2012 (3) RCR (Criminal) 653.**

17. On the other hand, the learned defence counsel Shri Prem Shankar Sharma, Advocate argued that accused Mahipal was appointed as PSO to complainant Shri Krishankant in the year 2017 with co-PSO Constable Vinay Kumar and both of them had been giving their duties with the complainant on alternate shifts as per their mutual settlement. The weapon i.e. revolver was issued in the name of Constable Vinay Kumar on

28.10.2017. The said gunman when stepped into the witness box as PW37 deposed that the behaviour of Judge Sahab was very cordial with him and Mahipal and he was very happy with their services. Both of them were working with him peacefully. On 13.10.2018, also the accused was not in any kind of pressure or tension. Accused Mahipal also living in the same vicinity in quarters and his relations with PSO was also good and this fact has also been admitted by witness Vinay Kumar in his testimony. Not even a single complaint made by both the PSOs against each other. It is submitted by learned counsel for the accused that on 13.10.2018, Constable Vinay Kumar had given five round loaded revolver to Mahipal without maintaining any register regarding the same as the revolver was allotted to Constable Vinay Kumar PW37. It was a serious lapse that fire arm allotted to someone and without maintaining the register, the same was exchanged by two PSOs with bullet and this illegal exchange of fire arm without authorization was a blunder and failure of the system as there was no provision of exchange the same. It is argued by learned defence counsel that the complainant Shri Krishankant PW51 has admitted in his cross-examination that accused was performing his duty sincerely and he has no complaint against him till the day of occurrence i.e. 13.10.2018. He never made any complaint against accused Mahipal to the police authorities and he was loyal to his family members too. On 13.10.2018, after leaving the complainant to the court at about 9.55 a.m., he was told to go home near 12.30 p.m., as his wife had to go to market for some work. He had obeyed the orders of the complainant firstly by bringing his son ,namely, Dhruv from tuition classes and at about 01 p.m. he took both of them to a place

i.e. Baliawas in the Honda City Car bearing registration No. HR-20-AC-2425. They remained there for about 40 minutes and thereafter the accused was directed to drive the car towards Arcadia market where they reached at about 3 p.m. The car was parked in the parking and he was again directed to wait there with the car as both of them went to market for taking paintings. When they came back after some time alongwith paintings in their hand, they found him nowhere, though he was very much present near the car at some distance and was immediately went to the car after being called by them on his mobile phone. Ms.Ritu and Dhruv tried to adjust the paintings in the boot of the car but the paintings were large in size so both of them put the same on the rear seat of the car with the help of accused who tried to close the door and as the size of the paintings were large and while closing the door the same got damaged due to which Ms.Ritu and her son Dhruv got angry and this is the genesis which caused the said unfortunate incident. Both of them rebuked upon the accused by using word 'nonsense' and 'son of donkey'. When the accused again tried to keep the paintings properly, then the same again got damaged by the door of the car and ,in the meantime, Dhruv got agitated and went at some distance of the car where it was parked. He was asked by Ritu to search Dhruv and he went for searching him. He did not find him and when he came back to the car he saw Dhruv was standing near the car and was asking to hand over the key in a rough manner, which were given to him. Dhruv used vulgar language in the name of his sister. Both of them were about to leave the place without the gunman as Ms.Ritu went towards the driver seat. When accused Mahipal asked them as what to do now he was pushed by Dhruv

who wanted to grab the revolver of the accused. The accused in retaliation also pushed him and cautioned him that the revolver is fully loaded and it may go off but as Dhruv was not leaving the revolver and the accused wanted to save his service revolver as it was loaded, Ms.Ritu came out to mediate between the accused and Dhruv, who were scuffling to each other. In the meanwhile, one bullet was fired and hit to Ms.Ritu but the scuffling was continued and the entire bullets were fired itself and Dhruv got injuries too. Since the incident took place accidentally, the accused tired to take away injured Dhurv inside the car but could not be successful because the car was also loaded with paintings and since he was under the fear being beaten by the crowd standing there, he left the place alongwith the car and he also called Shri Krishankant on his phone about the incident which had taken place accidentally and also disclosed this fact to co-PSO Vinay Kumar. He also informed the incident to his wife and his cousin and later on apprehended by the police from Gwal Pahari Faridabad road. He further submitted that both the paintings were made by Ms.Ritu and her sentiments were associated with the paintings. One painting was of Lord Krishna and another was of Lord Budha. She was very much annoyed due to the damage of paintings because of negligee of accused Mahipal.

18. It is further argued by learned defence counsel that though the incident took place accidentally and whatever had occurred it was due to sudden and grave provocation as both of them used vulgar language to the accused and Dhruv also misbehaved with accused Mahipal, thereby resulted into this incident which occurred during scuffling between accused Mahipal and Dhruv. The accused had no knowledge, intention and motive

to kill them as he was loyal towards the complainant and his family members. It was sufficient incident without pre-mediation, planning and motive. The statements given by the witnesses i.e. Rishi Gupta and Hemant Kumar have not supported the case of the prosecution as they have made the video clips of the alleged incident after it had taken place, so it can not be said that they had seen accused Mahipal firing upon Ms.Ritu and Dhruv. It is further argued by learned defence counsel that the alleged incident, if any, occurred was immediately and without provocation, the same does not under Section 302 IPC at any cost and it hardly may cover under Section 304 Part (1) IPC. At last, he prayed for acquittal of the accused in the interest of justice. In support of his contentions, the learned defence counsel has placed reliance upon the following authorities:

**Dharam Deo Yadav Versus State of Uttar Pradesh (2014) 5 Supreme Court Cases 509; Muralidhar alias Gidda and another Versus State of Karnataka (2014) 5 Supreme Court Cases 730; Baskaran and another Versus State of Tamil Nadu (2014) 5 Supreme Court Cases 765; Bastiram Versus State of Rajasthan (2014) 5 Supreme Court Cases 398; Ex-Armymen's Protection Services Private Limited Versus Union of India and others (2014) 5 Supreme Court Cases 409; Om Parkash Versus State of Haryana Criminal Appeal No.1102 of 2006 with Radhey Shyam and others Versus State of Haryana Criminal Appeal No.1103 of 2006 with Mange Ram and others Versus State of Haryana Criminal Appeal No.1104 of 2006 (2014) 5 Supreme Court Cases 753; Ashok Rai Versus State of Uttar Pradesh and others (2014) 5 Supreme Court Cases 713; Ashok Debbarama alias Achak Debbarma Versus**

**State of Tripura (2014) 4 Supreme Court Cases 747; Birju Versus State of Madhya Pradesh (2014) 3 Supreme Court Cases 421; N.S.Nagendra Versus State of Karnataka (2014) 3 Supreme Court Cases 193; Donthula Ravindranath alias Ravinder Rao Versus State of Andhra Pradesh (2014) 3 Supreme Court Cases 196; Nagesar Versus State of Chhattisgarh (2014) 6 Supreme Court Cases 672; Bahadur Singh and others Versus State of Madhya Pradesh (2014) 6 Supreme Court Cases 639; Anil alias Anthony Arikswamy Joseph Versus State of Maharashtra (2014) 4 Supreme Court Cases 69; State of Haryana Versus Satender (2014) 7 Supreme Court Cases 291; Umakant and another Versus State of Chhattisgarh (2014) 7 Supreme Court Cases 405; Mangesh Versus State of Maharashtra Criminal Appeal No.14 of 2001 (Arising out of SLP (Crl.) No.1981 of 2010 decided on 05.01.2011; Adambhai Sulemanbhai Ajmeri and others Versus State of Gujarat (2014) 7 Supreme Court Cases 716; Udai Singh Versus State Criminal Appeal No.496 of 2003 decided on 02.12.2008; Raghuveer Singh and others Versus State of Madhya Pradesh Criminal Appeal No.35/2007 decided on 18.05.2018 ; Manohar Versus State of M.P. CRA No.231 of 2013 decided on 12.09.2019; Sayaji Hanmat Bankar Versus State of Maharashtra Criminal Appeal No.457 of 2007 decided on 13.07.2001 and Balaji Gunthu Dhule Versus State of Maharashtra Criminal Appeal No.784 of 2008 decided on 19.09.2012.**

19. In view of the prosecution allegations and arguments advanced at Bar, point of determination in the present case under section 354(1)(b) of the Code of Criminal Procedure, 1973, is as under:

1. Whether prosecution has successfully proved that on 13.10.2018 at about 3.15 p.m. in the area of Police Station Sector 50, Gurugram, accused Mahipal committed murder of Ms. Ritu and Dhruv by intentionally firing shots at them in broad day light with an intention to cause their death and thereby committed offence punishable under section 302 of IPC?

2. Whether prosecution has successfully proved that on 13.10.2018, you used service revolver issued to Constable Vinay, who was working as Personal Security Officer with Shri Krishant Kant, the then Additional Sessions Judge, Gurugram, with an intention to use it for unlawful purpose of murder of Ms. Ritu and Dhruv and thereby committed an offence punishable under Section 27 of the Arms Act, 1959?

3. Whether prosecution has successfully proved that on 13.10.2018 you after committing the murder of Ms. Ritu and Dhruv smudged the registration number plate with mud and removed the same from car bearing registration No. HR-20-AC-2425 with intention to screen himself from being apprehended by the police and from legal punishment and thereby committed an offence punishable under Section 201 IPC?

20. After considering the rival contentions and evidence led on the record carefully, I come to a firm conclusion that prosecution has successfully proved the guilt of accused Mahipal for offence punishable under section 302, 201 IPC and 27 of Arms Act beyond shadow of reasonable doubt and hence, he is liable to be held guilty, convicted and sentenced thereunder for the reasons mentioned herein after:

21. **Definition of murder is defined under Section 300 IPC**

**which says:**

*Murder-* Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or-

Secondly- If it is done with the intention causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or-

Thirdly- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or-

Fourthly- If the person committing act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

22. Admitted facts are that deceased persons are wife and son of a judicial officer of the rank of Additional and District and Sessions Judge, Shri Krishan Kant who was posted at Gurugram since 26.04.2017. Accused Mahipal was deputed as a Personal Security Officer (PSO) with the said judicial officer since the date of posting of the judicial officer. Constable Vinay Kumar was also co-PSO alongwith accused Mahipal. Thus, ever since accused Mahipal had been carrying out his duty as PSO with the above named judicial officer. There is also no dispute regarding the fact that on the fateful day i.e. 13.10.2018, deceased persons had gone to Arcadia market at about 3.15 p.m. in their car bearing registration No. HR-20-AC-2425 make Honda City. They were accompanied by accused

Mahipal who was in police uniform and was driving the car. It is also admitted fact that co-PSO Constable Vinay Kumar was on rest on very day and accused Mahipal had taken the service revolver from him alongwith five rounds which were issued in the name of Constable Vinay and said fact is proved by CASI Ashok Kumar. It is also admitted fact when accused Mahipal was apprehended from Gwal Pahari Faridabad road, he was in possession of Honda City Car bearing registration No. HR-20-AC-2425 and revolver. It is also admitted that the bullets were fired from the same revolver which was in possession of accused Mahipal.

23. As per case of prosecution, at about 3.30 p.m., when complainant Krishan Kant the then Additional District and Sessions Judge, Gurugram was attending a meeting in the court complex then he received telephonic call from his PSO i.e. accused Mahipal on his mobile phone bearing No.9991502008 that he had shot his wife Ritu and son Dhruv. This fact was confirmed by one of his colleague Shri R.K.Mehta, who was also attending the meeting as he called on the mobile phone of Ms.Ritu which was picked by some unknown person who affirmed that the wife and son of the complainant had been shifted to Park hospital after sustaining bullet injuries. The complainant alongwith other officers rushed Park hospital, Gurugram, where his wife told him that when they reached Arcadia Market, Gurugram, alongwith PSO Mahipal, they asked him to wait near the car which was parked in the market and when they returned from the market, Dhruv asked PSO to hand over the keys of the car on which Mahipal got infuriated and without any provocation fired upon them. They were shifted to Park hospital by someone and after remaining some time in

the Park hospital, they were shifted to Medanta hospital due to their critical conditions.

24. This fact has also been admitted by accused Mahipal in his statement under Section 313 Cr.P.C. that both Ms.Ritu and Dhruv received bullet injuries from his service revolver which was being held by him. He further admitted that after both of them received injuries, he fled away alongwith the car. He had also called complainant Shri Krishan Kant on his mobile phone and informed him that his wife and son had sustained fire arm injuries. He also admitted this fact that he had also informed about the said incident to his co-PSO Constable Vinay. He further admitted that he was apprehended by police from Gwal Pahari area.

25. The contention of learned defence counsel is that on reaching Arcadia Market, Ms.Ritu and Dhruv went inside the market and came back one painting each in their hands, which could not fit in the boot of the car and thereafter, he tried to place both the paintings on the rear seat of the car and while closing the door of the car the frame of the paintings got damaged, on which Ms.Ritu and Dhruv become annoyed and rebuked him. Accused Mahipal again tried to reset the paintings inside the rear seat of the car ,however, they were again got damaged and because of this reason Dhruv got agitated and left the car. He was searched by accused Mahipal and when he went backside of the market, he saw Dhruv was standing near the car with Ms.Ritu and when he reached back then he was asked to give them the keys of the car. After that Dhruv sat on the left side of the driver seat whereas Ms.Ritu sat on the driver seat. Accused Mahipal asked them as to what he should do now, he was pushed by Dhruv and when

accused asked Dhruv as to why he was behaving in such like manner, then Dhruv grabbed him and in retaliation accused Mahipal pushed him back due to which he fell down as Dhruv wanted to grab the revolver of Mahipal. During this scuffle revolver accidentally went off, thereby causing injuries to Ms.Ritu and Dhruv. Accused Mahipal has also taken this stand in his defence when his statement under Section 313 Cr.P.C. was recorded. The above said contention of learned defence counsel as well as the stand taken by accused Mahipal in his statement under Section 313 Cr.P.C. that the revolver went off accidentally, can not be taken into consideration. Needless to say that five rounds of bullet were fired upon duo Ms.Ritu and Dhruv from point blank range which caused the death of both of them. If the revolver had gone off accidentally then only bullet could have got fired, thereby injuring only one person. Here two persons have died. Due to shots having been fired at them they sustained injuries on their vital body parts. By no stretch of imagination, it can be presumed that the revolver went off accidentally.

26. The mechanism of a rifled fire arm “revolver” has been described in Prikh’s text book of Medical Jurisprudence and Toxicology at page 267, which says a revolver is a hand gun generally not over 10 inches, with a rotating drum or cylinder behind the barrel, the drum having chambers for loading generally five or more rimmed cartridges. Each time the revolver is cocked, the cylinder rotates to bring a fresh cartridge in line with the firing mechanism and the barrel.

The revolver bullet jumps a gap from the chamber in the cylinder to the barrel. The cartridge of a revolver has a projecting rim at

the base and the empty cartridge case requires to be removed by hand. It may also be pushed out with a rod (side flinging drum) or automatically by propping up ratchet (top break revolvers).

27. In **Vinod Kumar (supra)** case it was held by Hon'ble Apex Court that even accepting the defence theory for the sake of arguments that the appellant was holding the butt of the gun (i.e. handle portion) it has to be held that the trigger with its guard which is generally attached to the butt of the gun was on the side of the appellant. Normally, unless one pulls the trigger there is no possibility of the shot being fired. So it can be safely inferred that the appellant who admittedly was holding the butt had fired the shot by pulling the trigger.

28. In the present case, evidence clearly reveal that it was accused Mahipal who fired shot at deceased deliberately and the defence theory of accidental firing is nothing but a fabricated story. Had the revolver been went off accidentally, the accused certainly would have taken both of them to the hospital. However instead of taking the injured to the hospital he fled away from the spot alongwith vehicle by brandishing the revolver in the air and thereby created scary atmosphere. Later on, he was apprehended from Gwal Pahari road, Faridabad alongwith revolver and car.

29. Further, the occurrence was captured by CCTV camera's installed at two places in Arcadia Market i.e. one on the boundary wall of shop bearing name 'Snow Bright Drycleaners' and other from the shop of Vikas Madaan PW17. Both these cameras installed outside the shop captured the incident and DVRs of which alongwith hard disk was taken into police possession vide memo Ex.PV. Both DVRs were examined by

Doctor Anchal Dwedi PW63. Both of them were converted into pendrive and were displayed in the court room during the testimony of PW59 Vivek Kundu a Cyber Cell Official who disclosed in his examination-in-chief the details regarding the said video footages in which the manner of shooting and assault by accused Mahipal is clearly and explicitly visible. He also stated that it is the same pendrive which was examined in detail by him on 05.11.2018.

30. The other defence taken by the learned defence counsel was that when the paintings which were carried by Ms.Ritu and Dhruv got damaged by accused Mahipal while closing the door of the car, they got annoyed and rebuked him by saying 'son of donkey' and 'nonsense'. Further, Dhruv asked for the keys of the car by using vulgar language for the accused which suddenly provoked the accused and the said incident had occurred due to sudden and grave provocation to the accused. Otherwise the accused was very cool and calm by nature and this fact is certified from the testimony of PW51 Shri Krishan Kant and PW37 co-PSO Constable Vinay. This arguments/defence of learned defence counsel does not satisfy the conscience of this court. Considering the plea of the accused that Ms.Ritu and Dhruv had abused him, he being a Government servant could have refused to provide his services as a PSO to the Judicial Officer concerned and his family members. He could have made a complaint to the appropriate authority. However, he did nothing and went on to fire bullets at the duo of son and mother thereby causing them serious injuries. Even if it is assumed that Dhruv had abused the accused, then what is to be considered is whether any such abuse having been hurdled upon the

accused had given him such grave and sudden provocation which led him to open fire at Dhruv and Ms.Ritu who were innocent and empty handed. In my considered opinion, there was no such provocation and hence it has to be observed that accused intentionally committed cold blooded murder of two persons in broad day light and the fact that he was a police official whose duty was to provide security and protection to the judicial officer concerned and his family members, the above act committed by him become all the more serious.

31. The other defence taken by the defence counsel is that the accused person has no knowledge , no intention, no mensrea and no motive to kill them. He was loyal towards the complainant and it was a sudden incident which occurred without premeditation, planning and motive. When no purpose was to be sold by killing them, how the accused had to murder them. It may be called incident occurred due to sudden and grave provocation given to the accused by Ms.Ritu and Dhruv. This contention of learned defence counsel is also of no force because the failure to discover the motive of an offence does not signify its non-existence.

32. In **Mulakh Raj (supra) case** it was held by Hon'ble Apex Court that where the case is based on circumstantial evidence and the motive being absent then failure to discover the motive of an offence does not signify its non-existence. Undoubtedly, in cases of circumstantial evidence, motive bears important significance. Motive always locks up in the mind of the accused and some time it is difficult to unlock. People do not act wholly without motive. The failure to prove motive is not fatal as a matter of law. Proof of

motive is never an indispensable for conviction. Therefore, absence of proof of motive does not break the link in chain of circumstances connected the accused with the crime, nor militates against the prosecution case.

33. In **State of Himachal Pradesh (supra) case** it was held by Hon'ble Apex Court that no doubt it is a sound principle to remember that every criminal act was done with a motive but its corollary is not that no criminal offence would have been committed if prosecution has failed to prove the precise motive of the accused to commit it. It is almost an impossibility for the prosecution to unravel the full dimension of the mental disposition of an offender towards the person who he offended.

34. In case of **Nathuni Yadav Versus State of Bihar, 1978(9) SCC 238**, it was held by Hon'ble Apex Court that motive for doing a criminal act is generally a difficult area for prosecution. One can not normally see into the mind of another. Motive is the emotion which impels a man to do a particular act. Such impelling cause need not necessarily be proportionally grave to do grave crimes. Many a murders have been committed without any known or prominent motive. It is quite possible that the aforesaid impelling factor would remain un-discoverable. We know, from experience of criminal courts that atrocious crimes of this sort have been committed from very slight motives; not merely from malice and revenge but to gain a small pecuniary advantage and to drive off for a time pressing difficulties. Mere fact that prosecution failed to

translate that mental disposition of the accused into evidence does not mean that no such mental condition existed in the mind of assailant.

35. In case of **Virsa Singh Versus The State of Punjab , 1958 SCR 1495** it was held by Hon'ble Apex Court that it does not matter that there was no intention to cause death. It does not matter that there was no intention even to cause an injury of a kind that is sufficient to cause death in the ordinary course of nature. It does not even matter that there is no knowledge that an act of that kind will be likely to cause death. Once the intention to cause the bodily injury actually found to be present is proved, the rest of the enquiry is purely objective and the only question is whether, as a matter of purely objective inference, the injury is sufficient in the ordinary course of nature to cause death. No one has a license to run around inflicting injuries that are sufficient to cause death in the ordinary course of nature and claim that they are not guilty of murder. If they inflict injuries of that kind, they must face the consequences; and they can only escape if it can be shown, or reasonably deduced that the injury was accidental or otherwise unintentional.

36. In case of **Nankaunoo (supra) case** it was held by Hon'ble Apex Court that intention is different from motive. It is intention with which the act is done that makes a difference in arriving at a conclusion whether the offence is culpable homicide or murder. The third clause of Section 300 IPC consists of two parts. Under the first part it must be proved that there was an intention to

inflict the injury that is present and under the second part it must be proved that injury was sufficient in ordinary course of nature to cause death. The emphasis of clause 3 of Section 300 IPC is on the sufficiency of the injury in the ordinary course of nature to cause death. The sufficiency is the high probability of death in the ordinary course of nature. When the sufficiency exists and death follows, causing of such injuries intended and causing of such offence is murder. For ascertaining the sufficiency of the injury, sometimes the nature of the weapon used, sometimes the part of the body on which the injury is caused and sometimes both are relevant. Depending on the nature of the weapon used and situs of the injury, in some cases, the sufficiency of injury to cause death in the ordinary course of nature must be proved and can not be inferred from the fact that death, in fact, taken place.

37. In **Miller Versus Minister of Pension, 1947(2) All E.R.373** it was observed by Lord Denning that what is in the mind of a person and the reason for doing a thing is an aspect within the special knowledge of the accused. The prosecution is not supposed to meet every hypothetically question raised by the defence. If prosecution is required to meet every fanciful plea, it would be clear case of deflecting the course of justice. If crime is to be punished in a glosseme way niceties must yield to realistic appraisal. Law would failed to protect the community if it admitted fancible possibilities of deflect, the course of justice.

38. In **Satish (supra) case**, it was held by Hon'ble Punjab

and Haryana High Court that it is neither obligatory nor incumbent on the part of the prosecution to prove the motive, but it can provide to the court for appreciating the evidence, this would be additional circumstance to prove the chain of the version. It was further held by Hon'ble High Court that (i) Motive is state of mind of the culprit and this element exclusively remains hidden in it and specially when it sprouts for the commission of offence that could be just precisely. (ii) Absence of motive does not speak the innocence of the accused where direct evidence against the accused is overwhelming.

39. In the present case there is a direct evidence and certainly motive take a back seat. Video footage of the events which happened just after the incident presents a horrifying portrayal of the ghastly crime. The accused can be seen dragging Dhruv by pulling his one leg in an attempt put him inside the car. He also uttered certain words to both of them as "ye hai shaitaan aur ye hai shaitaan ki maa". All these shows that even after firing at them the accused was not in a mood to spare them which proves that he had already made up his mind to murder both of them.

40. Learned defence counsel also took a plea that the accused was mentally unfit and at the time of incident was not able to understand the implication of his act and hence, argument being raised on behalf of the accused is that he is saved by general exception.

41. **Section 84 of IPC says:**

Nothing is an offence which is done by a person who at

the time of doing it, by reason of unsoundness of mind is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

42. The said plea of learned defence counsel is also of no substance because his mental health condition was checked by Doctor Neetu Yadav PW25 on 14.10.2018, who gave her report Ex.PAL/1. She categorically deposed in her cross-examination that he was in a proper state of mind. No board was constituted for medical examination of Mahipal. She has not recommended any test of the accused after her examination as there was no need in view of report made by her. During examination, she did not find any abnormality in the medical condition or behaviour of the accused. She had not done any test relating to neurological condition of the accused as there was no need as such because the accused was normal during examination and was not showing any irrational behaviour or psychiatric problem. Meaning thereby accused was in his proper frame of mind and fully aware of the consequences of his actions.

43. The case of prosecution is further proved from the dying declaration suffered by deceased Ms.Ritu before complainant Krishan Kant PW51 and corroborated by PW52 Sh.Jasbir Singh Kundu, the then Additional District and Sessions Judge, Gurugram. After receiving the information of the occurrence from accused Mahipal, Sh.Krishan Kant alongwith fellow judicial officers rushed to Park hospital where Ms.Ritu disclosed to him in the presence of

Shri Jasbir Singh Kundu , the then ASJ that when she alongwith her son Dhruv reached Arcadia market, Gurugram, she asked Mahipal to wait near the car and when they returned from the market, Dhruv asked Mahipal to hand over the keys of the car. On this Mahipal got infuriated, shouted and rushed towards them. He without any provocation fired upon her and when Dhruv came forward for her rescue, he also shot at him. This dying declaration of Ms.Ritu also proved by Shri Jasbir Singh Kundu, PW52. The contention of learned defence counsel was that the alleged dying declaration was never given by Ms.Ritu because as per testimony PW62 Inspector Jai Bhagwan, she was not fit for making statement on 13.10.2018 when he was posted as Additional SHO/PSI in Police Station Sector 50, he went to Park hospital after receiving information with regard to the occurrence and made an application Ex.PEH before the doctor attending injured Ritu and Dhruv for seeking his opinion whether the injured are fit for making statement. Doctor vide his endorsement Ex.PEH/I declared both Ms.Ritu and Dhruv 'unfit for making statement'. Later on, both of them were shifted/referred to Medanta hospital for further management of their treatment. There also he moved an application Ex.PEI before Doctor Vivekanshu of Medanta hospital who vide his endorsement Ex.PEI/1 declared both of them 'unfit for statement'. The said contention of learned defence counsel can not be taken into consideration because PW20 Dr.Subina Gupta, Medical Officer, Park hospital, Gurugram, who was holding the charge of emergency, conducted medico-legal

examination of Ms.Ritu. She was brought around 4 p.m., with alleged history of gun shot below right shoulder on 13.10.2018. On examination, she found her vital i.e. Blood Pressure: 110/66, Heart Rate : 136/min, spo2 : 96% on oxygen and 64% on room air.

44. She further disclosed that the patient was conscious and oriented and moving all limbs and was speaking and responding to verbal command. She advised for admission of Ms.Ritu and for surgical review penal. Her statement is further corroborated from the statement of PW23 Anil Antil who was a chance witness and was passing Arcadia Market, Gurugram, when the incident had taken place. He reached at the spot and saw that a lady and a youth lying in a pool of blood on the ground adjacent to the road and they were gasping for life. He lifted them in Autorikshaws. He sat in the autorikshaw with Ms.Ritu who was conscious at that time and was requesting him to take them to hospital immediately.

45. Now the question is whether the oral dying declaration given by Ms.Ritu before her death to complainant Krishan Kant is admissible in evidence. The answer is positive.

46. In **Prakash and another (supra)** case it was held by Hon'ble Apex Court where oral dying declaration made to family members as the assailants known to the deceased is acceptable where evidence of doctor not showing that deceased was not fit to make any dying declaration. As the family including the father was excepted to ask the victim the names of the assailants at the first opportunity and the victim was in the position to communicate, it is

reasonably expected that he would give the names of the assailants if he had recognized the assailants.

47. In case of **Nanuhau Ram Versus State of M.P.1988 SCC 152**, it was held by Hon'ble Apex Court that where the eye witness said that the deceased was in a fit and conscious state to make the dying declaration, the medical opinion can not prevail.

48. In case of **Pawan Kumar(Supra)** it was held by Hon'ble Apex Court that a valid dying declaration may be made without a certificate of fitness of the declarant by medical officer. A certificate of fitness is not the requirement of law.

49. In case of **Ramesh and others (Supra)** it was held by Hon'ble Apex Court that conviction be based on dying declaration if it is found that the maker of the statement was in a fit state of mind and had voluntarily made on the basis of personal knowledge without being influenced by others and the court on strict scrutiny finds it to be reliable. It was further held that it is immaterial to whom the declaration is made. It may be made to a Magistrate, to a police officer, a public servant or a private person. It may be made before the Doctor.

50. A certificate by doctor as to physical fitness and recording of declaration by Magistrate is not mandatory (**Rafique @ Rauf and others Versus State of U.P. 2014 (2) RCR(Criminal) 757**).

51. Thus, it is quite clear that Ms.Ritu before her death suffered dying declaration before PW51 Krishan Kant which was

corroborated by PW51 Sh.J.S.Kundu, the then ASJ, Gurugram and the fact that she was very much conscious before her death was further proved from the testimony of PW23 Anil Antil.

52. The accused Mahipal also made extra judicial confession to Shri Krishan Kant PW51 on phone call and further to PW37 Constable Vinay Kumar on his mobile phone. Krishan Kant deposed in his testimony when stepped into the witness box as PW51 that he received a phone call from accused Mahipal from his mobile No.9468278668 on 13.10.2018 at about 3.30 p.m., on his mobile No.9991502008 and told him that he had shot his wife Ms. Ritu and son Dhruv. Not only this, he had also disclosed the said fact from the same mobile number to PW37 Constable Vinay Kumar on his mobile No.9910885993 at about 3.38 p.m., that he had shot bullet to Madam and his son Dhruv and now he is going to abscond. These statements/ extra judicial confession given by accused Mahipal to Krishan Kant and Constable Vinay Kumar immediately after the incident had taken place i.e. about 3.30 p.m. and 3.38 p.m., respectively, is clearly admissible under Section 6 of the Evidence Act, as per which, whatever was said by the accused to the witness shortly after the occurrence would form part of transaction and so it has to be considered to be relevant fact and admissible in evidence. The call details of Krishan Kant, Constable Vinay and accused Mahipal have been duly proved by PW38 Pankaj Sharma Nodal Officer, Reliance Jio and PW39 Surender Kumar Nodal Officer Bharti Airtel. Even accused Mahipal in his examination under

Section 313 Cr.P.C. has admitted having made a mobile phone call to Shri Krishan Kant and informed him on his mobile phone that his wife and son have been injured after sustaining fire arm injuries. Further, PW15 Constable Ashok also deposed that immediately after the incident, one Amit informed him from his mobile No.9891166303 at about 3.27 p.m., that one police man had fired at two persons and had fled in a car from the spot. Similarly, at the same time, Constable Pawan Kumar who was working in the police control room informed him (Constable Ashok) that he too has received a similar call from mobile phone No.9999996337 made by one Navneet who has provided the same information about the incident. The evidence of PW15 Constable Ashok becomes highly relevant as shortly after the incident the information was conveyed by two different persons from their respective mobile phone numbers to police control room where Constable Ashok (PW15) was on duty as Operator.

53. In case of **State of Maharashtra (Supra)** it was held by Hon'ble Apex Court that where the accused who had assaulted the deceased, had made a statement about the assault to the brother of deceased, within half an hour of the act, the evidence of the brother was held to be "res gestae" and therefore, admissible under Section 6 of the Evidence Act. It was further held by Hon'ble Apex Court that the rationale of making certain statements or facts admissible under Section 6 of the Evidence Act, it was pointed out, was on account of spontaneity and immediacy of such statement or

fact, in relation to the “fact in issue”. And thereafter, such facts of statements are treated as a part of same transaction. Such statement must have been made contemporaneously thereupon and in conjunction therewith.

54. In case of **State of Karnataka (Supra)** it was held by Hon’ble Apex Court that extra judicial confession made a stranger believed because it was immediately made by the accused to the stranger and stranger had no reason to falsely implicate the accused.

55. In the present case also accused Mahipal immediately after fired gun shot to MS.Ritu and Dhruv made a phone call to Krishan Kant and Constable Vinay Kumar who are even not stranger to him and since there was no enmity of the accused with both of them as such there seem no reason to falsely implicate the accused in the said crime.

56. In case of **Chandra Bonia (supra)** it was held by Hon’ble Apex Court that extra judicial confession can be the basis of conviction of accused. Accused committing double murder made confession just after the murder and weapon of offence recovered at the instance of the accused. The accused was convicted on the basis of confession without corroboration. The confession need not be corroborated in all cases.

57. The case of the prosecution is further proved from the testimony of two eye witnesses namely Hemant Kumar PW48 and Rishi Gupta PW49. Both are chance witnesses and have no animus against the accused. Hemant Kumar PW48 was very much present at

Arcadia market at about 3.10/3.15 p.m. at a food stall. He saw the occurrence, made three video clips of the incident in his mobile phone, forwarded the same to his friends which then become viral in social medial soon after the incident. The video clips were taken into a pendrive Ex.MO40 which was taken into police possession vide Ex.PCW. He also given written statement to the police Ex.PDF on 15.10.2018 and his statement under Section 161 Cr.P.C. was got recorded on 17.10.2018. He heard the loud noise of firing which at first he took as a bursting of fire crackers but when he went to the spot he saw a police man brandishing a gun in his hand. One lady was lying on the road whereas the police man was dragging a young boy into the car and when he was not able to put the body in the car, he left the spot alongwith the car. He identified the accused present in the court and after being cross-examined at length nothing incriminating has come out from his mouth which goes in favour of the accused. Similarly, PW49 Rishi Gupta who was crossing Arcadia market on that very day at about 3.20/3.30 p.m., as he had to go to Medanta hospital, to see his father-in-law who was admitted there in ICU. He saw accused in police uniform was mercilessly beating a tall boy. Then he pulled him down and shot fire at him. He also saw a lady who was lying between two cars. The accused was shouting like anything while showing his revolver in air. He tried to pick the body of that boy in car but when he could not get it he left the place. He also make his video to his mobile phone No.8295126413 in which the face of the assailant can be seen easily. The mobile phone

clippings were taken into pendrive Ex.MO39. The same was placed in the court and shown to the witness who identified the accused sitting in the court as the same person who was in police uniform on that very day. From his testimony it is apparently clear that accused Mahipal on that very day caused the injuries to Ms.Ritu and Dhruv by shooting through his service revolver who later on succumbed to the injuries received by them. His statement was recorded by the police and despite his best efforts learned defence counsel could not impeach the credit of the witness. Further more, the occurrence was captured by CCTV cameras installed at two places/shops in the Arcadia market which were running in the natural course of business. The video footages gathered from these CCTV cameras are also displayed in the court wherein the manner of shooting and assault by accused Mahipal is clearly visible.

58. Needless to say that when the incident had taken place accused Mahipal was in possession of service revolver alongwith five rounds which was issued in the name of Constable Vinay Kumar. The said weapon was taken by him to protect the complainant and his family members being PSO, but the same had been misused by him by killing the family members of the complainant. As such he is also liable to be held guilty, convicted and sentence for offence under section 27 of the Arms Act.

59. Further, the paintings which were lying on the rear seat of the car were also thrown by accused Mahipal in order to screen himself from being apprehended by the police and from legal

punishment. Later on, these paintings were recovered at his instance in pursuance of disclosure statement Ex.PEJ suffered by him vide recovery memo Ex.PEK. Further from the disclosure statement Ex.PEM suffered by him the rear number plate was also recovered from the conductor seat of the car. Thus, he is also liable to be held guilty, convicted and sentence for offence under section 201 IPC.

60. Learned defence counsel has placed reliance upon certain case law.

61. In case of **Dharam Dev (Supra)** it was held by Hon'ble Apex Court that where the circumstantial evidence establishing guilt of appellant beyond reasonable doubt and conviction of the appellant/accused is upheld on the basis of last scene together evidence, forensic evidence, recovery of skelton of deceased from the house of accused at the instance of the accused then both trial court and High Court correctly appreciated the oral and documentary evidence and correctly recorded his conviction, which is upheld. Although the accused denied his guilt in his statment under section 313 Cr.P.C., but such false statement can be used as an additional link to complete the chain of circumstances. It is foreign for this Court to understand as to how and in what manner the law cited by the learned defence counsel helps the case of the defence. In this very case, the conviction was upheld by the Hon'ble Apex Court on the basis of circumstantial evidence. In the presnt case the accused was seen firing shot at Ms.Ritu and Dhruv in broad day light by witnesses and incident was captured in CCTV cameras.

62. In case of **Murlidhar alias Gidda (supra)**, it was held by Hon'ble Apex Court that where dying declaration is not recorded directly from actual words of maker but as dictated by somebody else, the said dying declaration creates a lot of suspicion and the prosecution has to clear the same to the satisfaction of the court. The genuineness of this citation can not be ignored into but in the present case, it was a oral dying declaration given by deceased Ms.Ritu to her husband (complainant Shri Krishan Kant) that too in the presence of Shri Jasbir Singh Kundu i.e. other colleague of complainant. Since she was conscious at that point of time and was in a condition to speak well and further this fact is corroborated by the statement of PW23 Anil Antil and as discussed above, the Hon'ble Apex Court in number of cases held that oral dying declaration can be taken into consideration.

63. In case of **Baskaran and another (Supra)** it was held by Hon'ble Apex Court that the extra judicial confession can be relied upon only if the same is voluntary and true and made in a fit state of mind. It was further held that value of evidence as to extra judicial confession, like any other evidence, depends upon veracity of witness to whom it has been made. In the present case, the extra judicial confession was made by accused Mahipal not only to complainant Krishan Kant but to Constable Vinay Kumar immediately after the incident had taken place. Since both of them had no enmity to the accused, so it can not be presumed that the extra judicial confession made by accused before them can not be

admissible in evidence or having no evidentiary value.

64. In case of **Nagesar(Supra)**, it was held by Hon'ble Apex Court that in case of unlawful assembly, mere presence of association with other members alone, reiterated is not per se sufficient to hold every one of them criminally liable for the offence committed by the others unless there is sufficient evidence on record to show that each one also intended to or knew the likelihood of commission of such offence. The facts and circumstances of this case are not applicable to the case in hand and are totally distinguishable as the act had not been committed by accused being member of unlawful assembly.

65. This court has gone through the other citations placed on court file by the defence counsel and is of the firm opinion that they are not applicable to the present facts and circumstances of the case as such there is no need to describe them in a wide manner as it would amount to burden the judgment only.

66. In the light of the discussion above, it is held that prosecution has successfully proved its case against accused beyond shadow of reasonable doubt. Point of determinations as framed above are , therefore, answered in favour of the prosecution. Accused is held guilty of offence for murder punishable under sections 302, 201 of the Indian Penal Code, 1860 and under section 27 of the Arms Act and is accordingly convicted thereunder.

133  
State Versus Mahipal

Let the accused be heard on quantum of sentence on  
07.02.2020.

Announced in open court  
06.02.2020

Sudhir Parmar  
Additional Sessions Judge,  
Gurugram.

Parveen

Note: This judgment consists of 133 pages and all  
the pages have been signed by me.

Sudhir Parmar,  
Additional Sessions Judge,  
Gurugram.06.02.2020

IN THE COURT OF SUDHIR PARMAR: ADDITIONAL SESSIONS  
JUDGE: GURUGRAM.

Session Case Number	82 of 09.01.2019/10.10.2019
CNR number	HRGR01-000512-2019
CIS number	SC/27/2019
UID CODE	HR-0157
Decided on	<b>07.02.2020</b>

State

Versus

Mahipal son of Hoshiar Singh, Resident of village Bhungarika, Police Station Nangal Chaudhary, District Mahendergarh, at present Tower-B Quarter No.601, Police Line Gurugram.

---Accused

FIR Number: 470 dated 13.10.2018  
Under sections: 302,201 Indian Penal Code,1860 &  
27 Arms Act.  
Police Station: Sector 50, Gurugram.

**Present:** Shri Anurag Hooda, Public Prosecutor for the State assisted by  
Shri Vishal Gupta, counsel for the complainant.  
Convict Mahipal in custody represented by  
Shri Prem Shankar Sharma, Advocate.

**ORDER ON QUANTUM OF SENTENCE:**

The convict has been held guilty for the commission of offences punishable under Sections 302, 201 of the Indian Penal Code, 1860 and under Section 27 of Arms Act.

2. Statement of convict on quantum of sentence has been recorded to the following effect:-

“Stated that I am a poor person. I have two minor daughters to look after. I have an old aged mother to look after. My wife is also a house wife and no other source of income.

There is no one else to look after them. I am the only bread earner for the family. I am not a previous convict. Give opportunity to reform to me and to survive the society. No danger to the society if, I live in society and no brutality was done by my part and whatever had occurred on the day of incident, it was an accidental incident and get in grave provocation. I repent for the said incident which occurred on the unfortunate day. I had no any intention to kill them and I assure to this Hon'ble Court if I have been given lesser punishment under the said section, I will serve to the society in a dignified manner and this incident will never be repeated in future by me. I have been given opportunity to serve the society and do some good deeds. Lenient view in the matter of quantum of sentence may kindly be taken”.

3. It was argued by learned defence counsel that the convict was the first offender and whatever had happened it was at the spur of moment and therefore, considering his past antecedents and family circumstances lenient view might be taken in the matter of award of sentence. The learned defence counsel placed reliance upon citations **Raghuveer Singh and others Versus State of Madhya Pradesh CRA No.35 of 2007 and Udai Singh Versus State Crl. Appeal No.496 of 2003.**

4. Opposing the prayer so made, learned Public Prosecutor vehemently argued that convict killed two persons without provocation and this being cold blooded murder of two family members of a judicial officer, absolutely no case is made out to show any sort of leniency to the

convict. He has committed the ghastly crime in broad daylight and being public servant, he having committed murder while on duty, his said act becomes all the more serious specially when it is against the society at large. Being a member of disciplined force, it was not expected from him to kill two innocent persons in such a barbaric manner because being security officer, Judge and his family had immense confidence in him. He knew this fact that being a trained cop in special weapon and techniques what would be the repercussions of firing with .38 calibre revolver which comes in a prohibited bore weapon category, in a public view. It is submitted by learned Public Prosecutor that he committed double murder without any remorse or repentance.

5. The Hon'ble Supreme Court of India in plethora of judgments has uphold the death penalty but also restricted the ambit of awarding death penalty to "special cases" or "rare of the rarest cases", although Supreme Court refrained itself in giving any airtight ingredients as to what all incidents will be confined within the said meaning and held in **Jagmohan Singh Versus State of U.P. (1973 1 SCC 20)** at para 26-

"The impossibility of laying down standard (in the matter of sentencing) is at the very core of criminal law as administered in India which invests the Judge with a very wide discretion in the matter of fixing the degree of punishment and that this discretion in the matter of sentence is liable to be corrected by superior courts....

The exercise of judicial discretion on well recognised principles is, in the final analysis, the safest possible

safeguard for the accused.”

6. The aforesaid view of the Hon’ble Supreme Court further gained strength from the Constitutional Judgment given in **Bachan Singh Versus State of Punjab (1980 SCC Cri. 580)** in which it was held that at para 201-

“As we read section 354(3) and section 235(2) and other related provisions of the code of 1973, it is quite clear to us that for making the choice of punishment or for ascertaining the existence or absence of “special reasons” in that context, the Court must pay due regard both to the crime and the criminal. What is the relative weight to be given to the aggravating and mitigating factors, depends on the facts and circumstances of the particular case. More often than not, these two aspects are so intertwined that it is difficult to give a separate treatment to each of them. This is so because ‘style is the ‘man’. **In many cases, the extremely cruel or beastly manner of the commission of murder is itself a demonstrated index of the depraved character of the perpetrator.** That is why, it is not desirable to consider the circumstances of the crime and the circumstances of the criminal in two separate water-tight compartments. In a sense, to kill is to be cruel and therefore all murders are cruel. But such cruelty may vary in its degree of culpability. And **it is only when the culpability assumes the proportion of extreme**

**depravity that “special reasons” can legitimately be said to be exist.”**

7. Considering all the above facts, I tend to agree with what has been argued by learned Public Prosecutor and hence, prayer for leniency made on behalf of the convict is declined. The kind of act leading to murder of wife and young son of a judicial officer has far reaching consequences. It has not confined its adverse effects on the society alone but is fraught with wider ramifications of sending shivers down the spine of holders of judicial office.

8. The horrendous act of the accused has not only taken away two lives but it has also the tendency to undermine the faith reposed by people in those who are supposed to safeguard them. Not only that, his acts have brought defame to the members of police force also who at times protect the people even at the cost of their lives. When protectors turn predators (prepetrators of crime), there appears to be no mitigating circumstance for consideration on the question of sentence. The case squarely falls within the ambit of ‘rarest of rare cases’ doctrine propounded by the Hon’ble Supreme Court in **Bachhan Singh’s case (1980)** and fulfills all the considerations laid down in **Machhi Singh Versus State of Punjab, AIR 1983(SC) 957** as follows:

1. **Manner of Commission of murder:** The murder was executed in the most diabolical manner with absolutely no regard whatsoever for human life. A woman and a young boy, both unarmed and trusting towards the accused, were shot mercilessly in full public view. The accused tried to drag the limp bodies and upon failing to do so, brutally pumped more

bullets in the victim's body.

**2.Motive for commission for murder:** The accused had planned the murder and he wanted to avenge some imaginary insult that he was subjected to by the victims. His act reeks of total meanness and depravity. The act amount to a cold blooded murder by one, whom the victims trusted for their safety.

**2.Anti social or abhorrent nature of the crime:** Killing of helpless woman and her innocent child is a satanic crime of highest order.

**4.Magnitude of Crime:** Both the mother as well as her son were brutally murdered in full public view, in broad daylight in front of a busy market. People were shocked at the sheer brutality and remorseless on part of the accused after shooting the victims. The way he tried to drag the body of Dhruv and thereafter kicked him was infernally atrocious and sent shivers down the spine of all bystanders.

**5.Personality of victim of murder:** In the present case the victims were an innocent child and a helpless woman and the accused was someone whom they trusted for their safety.

9. This cold blooded and remorseless act of grotesque killing by a security guard in his full senses sans any provocation whatsoever, satisfies both the 'crime test' as well as the 'criminal test'. His dastardly act has aroused intense and extreme indignation petrifying the entire community. This was not an act done on an impulse. When a 32 years old man being in police service since 2007 and entrusted with security duty decides to misuse his position and utilizes his service revolver to commit a crime, his actions are proof that he is beyond reform and a threat to society

at large. Thus, the accused deserves nothing except the extreme penalty of death.

10. Accordingly, the convict is hereby sentenced to undergo imprisonment as under :

Sr.No	Offence	Sentence
1.	Under Section 302 Indian Penal Code, 1860.	Convict is sentenced to Capital punishment by hanging the convict by the neck till he is dead.
2.	Under Section 201, Indian Penal Code, 1860.	Convict is sentenced to undergo Rigorous imprisonment for a period of five years and fine of ₹ 10,000/-. In default of payment of fine, he shall undergo further simple imprisonment for a period of four months.
3.	Under Section 27 Arms Act	Convict is sentenced to undergo Rigorous imprisonment for a period of three years and fine of ₹ 5,000/-. In default of payment of fine, he shall undergo further simple imprisonment for a period of two months.

11. The death penalty awarded to the convict is subject to confirmation of Hon'ble High Court. **Fine not paid by the convict.** The case property, shall be disposed of, as per Rules, after the expiry of period prescribed for filing of appeal.

12. File be consigned to record room after due compliance.

Announced in the open Court:  
07.02.2020

Sudhir Parmar,  
Additional Sessions Judge,  
Gurugram.

Parveen

Note: This order consists of 07 pages and all the pages have been signed by me.

Sudhir Parmar,  
Additional Sessions Judge,  
Gurugram.07.02.2020