



REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO(S). 1827-1829 OF 2019
DR. ABDUL HAMEED **....APPELLANT(S)**
VERSUS
STATE OF RAJASTHAN **....RESPONDENT(S)**
WITH
CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP (Criminal) No(s). 621 of 2020)
CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP (Criminal) No(s). 571 of 2020)
CRIMINAL APPEAL NO(S). 1830 OF 2019
CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP (Criminal) No(s). 681 of 2020)
CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP (Criminal) No(s). 143 of 2020)
CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP (Criminal) No(s). 3531 of 2021)

J U D G M E N T

Mehta, J.

For clarity of exposition and to facilitate structured consideration of the issues arising in the present matter, this judgment has been organised under the following heads: -

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I. THE PROLOGUE

3. The history of civilization is, in many aspects, a history of conflict, of order emerging from disorder and of laws fashioned to restrain the chaos that often lurks beneath human ambition. Throughout history wherever human life has thrived, discord and dissension have followed. Wherever human societies have flourished, there have inevitably arisen forces seeking to disturb the delicate balance upon which collective existence depends. The advancement of civilization has therefore been accompanied by a parallel evolution of legal institutions designed to

regulate human conduct, resolve disputes, and safeguard the social order from those who threaten its stability. At the heart of every organized legal system lies the recognition that while liberty is indispensable to human progress, it must coexist with responsibility, discipline, and respect for the rights and security of others.

3.1. Throughout history, societies have been confronted by individuals and groups who, driven by motives ranging from personal gain to ideological fanaticism, have sought to undermine public peace and security. The law has evolved not merely as an instrument of punishment but as a civilizational response to such threats. Its purpose extends beyond the imposition of sanctions, it seeks to preserve public confidence in the administration of justice, maintain societal equilibrium, and ensure that the response to crime remains governed by reason rather than emotion. In a constitutional democracy governed by the rule of law, the legitimacy of the criminal justice system is measured not by the severity of its punishments but by the fairness of the processes through which guilt is determined.

3.2. The true measure of justice does not lie in the swiftness of retribution, but in the discipline of restraint. It is a canonical maxim of criminal jurisprudence that it is better for a hundred guilty persons to escape than for one innocent person to be condemned and punished. This principle is neither a concession to crime nor a sign of institutional weakness, rather, it reflects the profound value that the law places upon individual liberty and human dignity. The criminal process is therefore structured around safeguards intended to minimize the possibility of wrongful conviction. Even where suspicion appears strong, public sentiment runs high, or the allegations are of the gravest character, the law insists that guilt must be established through legally admissible, reliable, and convincing evidence.

3.3. It is for this reason that the constitutional guarantee of a fair trial occupies a position of paramount importance in our legal system. The right to effective legal representation, the presumption of innocence, the burden upon the prosecution to establish guilt beyond reasonable doubt, and the requirement that evidence be scrutinized with objectivity and caution are not mere procedural

formalities. They are substantive guarantees that distinguish the rule of law from the rule of public opinion. Justice must not only be done but must manifestly be seen to be done. The legitimacy of a judicial verdict rests not merely upon the outcome reached, but equally upon the fairness, transparency, and integrity of the process by which that outcome is achieved.

3.4. These principles assume even greater significance when Courts are confronted with offences that shock the collective conscience of society. Acts of violence directed against innocent civilians, particularly those involving the use of explosives in public spaces, strike at the very foundations of social order and generate understandable feelings of fear, grief, and outrage. Yet, it is precisely in such cases that Courts must remain steadfast in their adherence to constitutional values. The gravity of the allegation cannot be permitted to dilute the standard of proof, nor can the enormity of the crime justify a departure from the settled principles governing criminal adjudication. The greater the public outcry, the greater becomes the responsibility of the Court to ensure that the

determination of guilt is based solely upon law and evidence.

3.5. The factual matrix of the present case, challenges the above principles to the hilt. The allegations pertain to a devastating bomb blast that occurred inside a Rajasthan Roadways bus near Samleti village while it was travelling from Agra towards Bikaner. The explosion claimed the lives of fourteen innocent persons and left numerous others seriously injured, causing immeasurable human suffering and widespread public anguish. The incident was not merely a crime against individual victims but an assault upon public peace and security itself, thereby warranting the most careful and rigorous judicial scrutiny.

3.6. The appeals before us arise from a complex and protracted prosecution spanning nearly three decades in which the Courts below returned differing conclusions regarding the culpability of the accused persons. While two accused persons came to be convicted and were awarded the sentence of death and imprisonment for life respectively, as many as seven other accused persons were ultimately

acquitted for want of sufficient evidence connecting them with the crime. It is pertinent to note that Accused No. 9-Dr. Abdul Hameed has remained incarcerated for almost twenty-nine years, whereas, Accused No. 12-Pappu @ Salim stands released on parole after having served more than twenty-three years of imprisonment. In these circumstances, the task before this Court is not merely to examine the gravity of the occurrence, which is undeniable, but to determine, upon a meticulous appraisal of the voluminous record, whether the findings of guilt recorded against the convicted accused withstand the rigorous standards of proof mandated by criminal law and whether the acquittals recorded in favour of the remaining accused call for any interference.

II. PROSECUTION'S STORY

4. The prosecution case emerging from the record, as also set out by the Courts below in the impugned judgments, is as under: -

A. Facts leading to the registration of FIR:

4.1. On 22nd May, 1996, at about 4:00 PM, the complainant, i.e., Ashok Kumar (PW-46)¹ the conductor on duty in the public transport bus, bearing registration number RJ-07-P-1038, *en-route* from Agra to Bikaner gave a *parcha* statement² to Sub-Inspector Bhawar Singh, Station House Officer, Police Station Mahwa alleging, *inter alia*, that the bus which was being driven by Ramji Lal left Agra at 11:00 AM with about 49-50 passengers. Two passengers had boarded the bus from Agra and purchased tickets up to Jaipur. However, they got down at Mahwa and returned the tickets to the conductor (PW-46) asking him to use the said tickets by issuing them to help some other needy passengers. The conductor (PW-46) further stated that both the aforesaid passengers appeared to be approximately 27-28 years of age and were conversing in Hindi.

4.2. As the bus continued its journey from Mahwa, the conductor (PW-46) in order to issue tickets to the

¹ Hereinafter, referred to as the “conductor (PW-46)”.

² Exhibit P-23.

three police constables including a lady constable went towards the rear end of the bus to the seats which these persons had occupied. After the bus had travelled about 3-4 kilometers from Mahwa towards Dausa, and had reached near village Samleti, a powerful explosion went off inside the bus. The impact of the explosion was devastating. The roof, windows and gate of the bus were blown apart; passengers were hurled from their seats and luggage was scattered over a considerable distance. The conductor (PW-46) himself sustained injuries and reported impairment of hearing owing to the intensity of the blast. Several passengers died on the spot, while many others suffered grievous injuries.

4.3. It was further alleged in the complaint that the explosion had been caused by a powerful bomb or other explosive substance and appeared to be the outcome of a pre-planned conspiracy intended to cause large-scale loss of life and destruction of property. On the basis of the said complaint, FIR bearing Crime No. 148 of 1996 came to be registered on 22nd May, 1996 at Police Station Mahwa, District Dausa against unknown persons for the offences punishable under Sections 302, 307 and 120-B of

Indian Penal Code, 1860³; Sections 4 and 5 of Explosive Substances Act, 1908⁴; and Section 3 of Prevention of Damage to Public Property Act, 1984.⁵

4.4. Pursuant to the registration of the aforesaid FIR, the high-ranking police officials of District Dausa; CID (Crime Branch); and a team of experts from the Forensic Science Laboratory rushed to the place of occurrence and commenced the proceedings. The investigation of the case was entrusted to Liyakat Ali Khan, Additional Police Commissioner, Dausa (PW-75)⁶.

B. Investigation conducted by the State Police:

5. The crime scene was immediately secured. A specialised forensic team carried out a comprehensive examination of the site, collected physical evidence and undertook scientific analysis to find out the precise cause of the explosion. Preliminary expert assessments suggested the use of a high-grade explosive, most likely RDX, though certain opinions also pointed towards the possible

³ Hereinafter, referred to as the “IPC”.

⁴ Hereinafter, referred to as the “Explosive Substances Act”.

⁵ Hereinafter, referred to as the “PDPP Act”.

⁶ Hereinafter, referred to as the “Investigation Officer (PW-75)”.

use of dynamite. The said opinion was founded upon the pattern of destruction observed on the seats and the bus floor directly beneath them.

5.1. During the investigation, it emerged that the explosion had claimed the lives of fourteen passengers and left thirty-seven others injured, with some of them suffering serious injuries. *Panchayatnamas* were prepared and thereafter, the dead bodies were sent for post-mortem examination. The injured passengers were initially shifted to nearby hospitals at Todabheem, Dausa and Mahwa and were thereafter referred to Jaipur for specialised treatment. The site plan was prepared, the damaged bus was seized, and all relevant material evidence was collected. The loss caused to public property was assessed at Rs.5,49,614.22/- (Rupees Five Lakh Forty-Nine Thousand Six Hundred Fourteen and Twenty-Two Paise Only) on the basis of the report received from the General Manager (Accidents & Training), RSRTC⁷, Jaipur. Post-mortem reports of the deceased persons and injury reports of the injured persons were obtained.

⁷ Rajasthan State Road Transport Corporation.

5.2. The conductor (PW-46) produced the two returned tickets bearing seat Nos. 22 and 23, on their back-side, that were issued by him to the two suspected individuals who were travelling from Agra to Jaipur. According to him the said suspected passengers had gotten down in Mahwa, one stop before the bomb blast occurred instead of their final destination for which they had bought the tickets i.e., Jaipur. The investigating agency treated these tickets as an important lead, particularly because the two passengers had abandoned their onward journey shortly before the explosion raising grave doubts about their role in the incident.

5.3. Acting upon the lead provided by the conductor (PW-46), and duly corroborated by the statements of several surviving passengers, the investigating agency identified the aforesaid passengers as persons of interest. Witness accounts, including those of passengers seated in close proximity to the suspects, revealed that the two individuals had initially occupied seats 22 and 23, with one of them subsequently shifting to seat 41. It is the case of the prosecution that in view of these consistent accounts and detailed descriptions, rough sketches of the

suspects were prepared and circulated widely through newspapers and law-enforcement agencies across multiple States, particularly Punjab, Delhi, and Jammu & Kashmir. The seriousness of the incident, coupled with indications of the involvement of organized extremist groups, also prompted the Criminal Investigation Department (CID), Rajasthan, to undertake a parallel and intensive investigation.

B.1. Expansion of Investigation and Alleged Conspiracy

5.4. The investigation acquired a wider dimension when Farooq Ahmed Engineer (Vice Chairman, Jammu and Kashmir Islamic Front⁸) took the responsibility for carrying out the explosion at Dausa by making calls to news agencies like NDTV, Zee News and BBC, Delhi. This development assumed significance during investigation as he had also allegedly claimed responsibility for the Lajpat Nagar bomb blast in Delhi. The ensuing inquiry was expanded to examine the involvement of extremist organisations and the possibility of a broader conspiracy. During interrogation in connection with

⁸ For short, “JKIF”.

the Lajpat Nagar bomb blast case, Farooq Ahmed Engineer disclosed that both the Samleti and Delhi blasts had been conceived under the leadership of Bilal Ahmed Baeg, Chairman of JKIF, with the objective of creating an atmosphere of terror, instability, and fear, and thereby disrupting the electoral process in Kashmir.

5.5. On 24th May, 1996, the file was transferred to the Crime Branch for further investigation. Pursuant thereto, a team was formed under the supervision of Police Commissioner-I, CID (CB), Jaipur and further investigation was assigned to the Additional Police Commissioner. Thereafter, several specialised teams were constituted to investigate different angles of the conspiracy, including identification of suspects, tracing their movements, collection of intelligence inputs, and coordinating with law-enforcement agencies in Delhi, Jammu & Kashmir, Uttar Pradesh, Gujarat and Nepal.

5.6. On 25th May, 1996 the Investigation Team headed by the Additional Police Commissioner prepared the seating plan of the bus with the help of the surviving injured passengers. Meanwhile, on 26th

May, 1996 the Superintendent of Police (Operation), Srinagar informed the Rajasthan state police that they had arrested Farukh Ahmad Khan (Accused No. 3-Farukh Ahmed Khan @ Swaroop Baba @ Anwar) and Smt. Farida.

5.7. The State Forensic Science Laboratory Rajasthan, Nehru Nagar, Jaipur⁹ submitted its report¹⁰ on 28th May, 1996. It was opined therein that a very powerful explosive substance was used in the bomb blast and the device containing the bomb was planted under seat Nos. 17 and 18 which were in the row ahead of seat Nos. 22 and 23. The reason for the said opinion was the extent of damage that was caused to these seats and the bus floor beneath them. The FSL experts also opined that there was a possibility that the explosive device was timer-operated and had detonated while the bus was in motion. In another FSL report dated 9th September, 1996¹¹, it was opined that the amount of explosive substance (RDX) that was used in the present bus explosion was approximately 2.5 Kilograms.

⁹ Hereinafter, being referred to as "FSL".

¹⁰ Exhibit P-175.

¹¹ Exhibit P-182.

B.2. Investigation Concerning the Alleged Operational Network

5.8. According to the police, the breakthrough came with the arrest of Farooq Ahmed Engineer in connection with the Lajpat Nagar bomb blast case. Upon interrogation, it was revealed that the bomb blasts at Delhi and Dausa were planned and carried out under the leadership of Bilal Ahmed Baeg (Chairman, JKIF) with the objective of spreading violence in the country in response to the delay in conducting the elections in Kashmir, which were scheduled to take place in May, 1996. The accused persons who played an important role in the aforesaid conspiracy *inter alia* included, Accused No. 1-Javed Khan @ Javed Junior¹² and Accused No. 2- Abdul Goni @ Asadulla @ Nasaruddin @ Nikka @ Umer @ Majeed Khan @ Raja¹³, who were arrested from Ahmedabad on 15th June, 1996 and 17th June, 1996 respectively. Later, the police also apprehended Accused No. 3-Farukh Ahmed Khan @ Swaroop Baba @ Anwar¹⁴; Accused No. 4-Lateef Ahmad Baja¹⁵;

¹² Hereinafter, being referred to as “Accused No. 1-Javed Khan”.

¹³ Hereinafter, being referred to as “Accused No. 2-Abdul Goni”.

¹⁴ Hereinafter, being referred to as “Accused No. 3-Farukh Ahmed Khan”.

¹⁵ Hereinafter, being referred to as “Accused No. 4-Lateef Ahmad Baja”.

Accused No. 5-Mohammad Ali Bhatt @ Mehamood Keeley¹⁶; and Accused No. 6-Mirza Nisar Hussain @ Naja¹⁷, from Delhi on 25th June, 1996; 4th July, 1996, 19th July, 1996 and 27th July, 1996 respectively.

5.9. Based on the extensive interrogation of the aforesaid accused persons, it came to light that Bilal Ahmed Baeg, former chief of JKIF and Khurshid Baeg @ Naeem had gathered a few terrorists hailing from Punjab and carried out bomb blasts in certain areas of Delhi and nearby places. In this regard, Accused No. 7-Kulwinderjit Singh @ Happy¹⁸, was also arrested on 3rd August, 1996 on the ground that he was operating the Khalistan Liberation Tiger Force, a proscribed organization. The prosecution further alleged that the conspiracy had been conceived outside India and executed through operatives functioning in different States. During investigation, material was collected regarding the movements of several accused persons/suspects between Pakistan, Nepal, Delhi, Ahmedabad and other locations.

¹⁶ Hereinafter, being referred to as “Accused No. 5-Mohammad Ali Bhatt”.

¹⁷ Hereinafter, being referred to as “Accused No. 6-Mirza Nisar Hussain”.

¹⁸ Hereinafter, being referred to as “Accused No. 7-Kulwinderjit Singh”.

Reliance was placed upon travel records, statements of co-accused, telephone records, diaries allegedly recovered during investigation, and intelligence inputs gathered by various agencies.

5.10. On 16th March, 1997, Accused No. 8-Riaz Ahmad Sheikh @ Maulvi¹⁹ came to be arrested on the suspicion that he had manufactured the bomb which was used to cause the explosion in the present case. Upon his interrogation and based on the information from other sources, it was found that Shahji Group of Harkat-ul-Ansar and Bilal Ahmed Baeg (Chairman, JKIF) had conspired to carry out explosions in different cities of the country. According to the prosecution, members of these banned organisations constituted a network that facilitated the procurement of explosives, movement of operatives, communication between conspirators and execution of the planned acts of violence. The prosecution further alleged that the Samleti bus explosion formed one component of a broader campaign intended to spread fear and disrupt public order in the country.

¹⁹ Hereinafter, being referred to as “Accused No. 8-Riaz Ahmad Sheikh”.

B.3. Investigation Relating to Dr. Abdul Hameed and Other Accused

5.11. The prosecution's case further rests on a letter purportedly received by the CID (Crime Branch) on 4th June, 1997, in which the involvement of Accused No. 9-Dr. Abdul Hameed, Accused No. 10-Raees Baeg and Accused No. 12-Pappu @ Salim in the Jaipur Stadium bomb blast case²⁰ which took place on 26th January, 1996 was indicated. However, notably, the said letter was never brought on record of the case. The prosecution further claims that the aforesaid accused persons were related to Harkat-ul-Ansar. Based on the interrogation notes of an accused named Abdul Mateen @ Iqbal involved in the Jaipur Stadium bomb blast case, Accused No. 9-Dr. Abdul Hameed and Accused No. 10-Raees Baeg were arrested in the said case from Firozabad and Agra respectively. It was found that the facial features of Accused No. 9-Dr. Abdul Hameed matched the description of one of the suspects who was sitting on seat No. 23 of the bus involved in the Samleti Bus bomb blast case. The prosecution heavily relied upon

²⁰ FIR No. 39 of 1996.

the Test Identification Proceedings conducted subsequently and the similarity between the facial sketches prepared during investigation and the appearance of Dr. Abdul Hameed, who was arrested in the instant bomb blast case on 26th June, 1997. The prosecution further claimed that Accused No. 9- Dr. Abdul Hameed suffered a disclosure statement in which he admitted that he along with Abdullah had purchased one biscuit packet from Shirdiwale Sai Baba Tea-stall at Bharatpur Bus stand while they were travelling to Jaipur. The said accused further admitted that he had also purchased a *Bal Hans* book from Ashok Book Stall situated at the same bus stand.

5.12. Accused No. 12-Pappu @ Salim was arrested in the Jaipur Stadium bomb blast case on 28th July, 1997 and his statement under Section 27 of the Indian Evidence Act, 1872²¹ was recorded. In the said statement, the name of Accused No. 11-Chandra Prakash Agarwal surfaced and his premises were identified, pursuant to which a search was conducted

²¹ For short, "IEA".

and an alleged recovery of explosive material, namely dynamite, was effected.

5.13. Thereafter, the confessional statement of Accused No. 12-Pappu @ Salim came to be recorded under Section 164 of Code of Criminal Procedure, 1973²² on 9th September, 1997 in the Jaipur Stadium bomb blast case. According to the prosecution, the said statement provided a detailed first-hand account of the activities of one Salaar, who was alleged to be closely associated with operatives linked to Harkat-ul-Ansar and other extremist organizations. In his statement, Accused No. 12-Pappu @ Salim narrated that Salaar had initially established contact with residents of Village Fareh under the guise of religious and charitable activities connected with a local seminary. Over a period of time, Salaar allegedly developed close links with the management of the seminary and used the premises for meetings with various individuals who were subsequently identified during investigation as persons involved in the conspiracy. The statement further disclosed that several persons, including Accused No. 8-Riaz

²² For short, “CrPC”.

Ahmad Sheikh, Abdullah, Accused No. 9-Dr. Abdul Hameed, Zilani, Iqbal and Yusuf, were frequent visitors to the seminary and participated in activities which, according to the prosecution, were connected with the larger conspiracy and the nefarious plan to cause the bomb blasts at various locations in India.

5.14. The prosecution further relied upon the confessional statement of Accused No. 12-Pappu @ Salim to trace the procurement and movement of explosive substances. According to the said statement, Accused No. 12-Pappu @ Salim had accompanied Salaar and his associates on several occasions to Roopwas in Rajasthan, where meetings were held with Accused No. 11-Chandra Prakash Agarwal. During these visits, cartons purportedly containing ordinary commercial goods were allegedly procured and transported to the seminary at Fareh. The prosecution case is that Accused No. 12-Pappu @ Salim subsequently came to know that the contents of these cartons comprised explosive substances. The statement further described the storage of such material at the seminary, its transfer into iron drums, and its subsequent transportation through different channels to other locations. The

prosecution also relied on this statement to explain the roles allegedly played by various conspirators in arranging finances, transportation, accommodation and other logistical support for the movement of the explosive material.

5.15. According to the prosecution, the statement further furnished details regarding a series of meetings allegedly held at a seminary situated at Village Fareh where different participants discussed the execution of proposed explosions at various locations. The statement referred to the presence of several persons, including Salaar, Abdul Samad, Iqbal, Yusuf, Accused No. 9-Dr. Abdul Hameed and others, at such meetings. The prosecution further alleged that the statement disclosed about the movement of explosive material from Fareh village to Firozabad and the use of certain premises there for storing and assembling explosive devices. Significantly, the prosecution relied upon Accused No. 12-Pappu @ Salim's statement to contend that, after the Samleti bus explosion, Salaar informed him that the timer used in the device had been procured through Accused No. 8-Riaz Ahmad Sheikh and that the explosive device had been placed in the bus by

Abdullah Dabran and Accused No. 9-Dr. Abdul Hameed, both of whom allegedly disembarked at Mahwa before the explosion occurred. According to the prosecution, the disclosures made by Accused No. 12-Pappu @ Salim enabled the investigating agency to identify additional suspects, trace various locations connected with the conspiracy, effect recoveries of explosive substances and reconstruct the sequence of events leading to the occurrence in question. On the basis of the material gathered during investigation, including the aforesaid disclosures and recoveries, Accused No. 11-Chandra Prakash Agarwal came to be arrested on 15th September, 1997.

5.16. The prosecution claimed that the cumulative effect of the aforesaid arrests and interrogation of accused persons and the consequent disclosures and recoveries, was the unearthing of the entire conspiracy. It was found that the instant bomb blast case was a joint conspiracy of two terrorist organizations i.e., JKIF and Harkat-ul-Ansar which was hatched in Pakistan by Bilal Ahmed Baeg (Chairman, JKIF) and Shahji (associated with Harkat-ul-Ansar). This plan was allegedly the

brainchild of Colonel Farooq of the Inter-Services Intelligence (ISI), Pakistan and Tiger Memon (main accused of the Bombay Bomb blast case), whose primary objective was to spread violence and terror in India before the May, 1996 elections which were to be held in Kashmir.

C. Details of the Chargesheet:

6. On the basis of the aforesaid investigation, including the statements recorded, the recoveries effected, the material collected from various locations, and the alleged links established between the accused persons, the investigating agency proceeded against the persons allegedly found to be involved in the offences under investigation. Accordingly, in relation to the present FIR dated 22nd May, 1996, which came to be registered in connection with Samleti Bus bomb blast case, the police submitted chargesheet against the accused persons alleged to be involved in the commission of the offences in question. As the investigation progressed and additional material was gathered, supplementary chargesheets were filed from time to time,

incorporating further evidence and the alleged involvement of other accused persons.

6.1. The particulars of all the accused persons and the offences for which they were charged are furnished hereunder in tabular form: -

Chargesheet Details	Accused Details	Sections Charged
Chargesheet No. 133 of 1996 submitted on 12 th September, 1996.	Accused No. 1- Javed Khan @ Javed Junior Accused No. 2- Abdul Goni @ Asadulla @ Nasaruddin @ Nikka @ Umer @ Majeed Khan @ Raja Accused No. 3- Farukh Ahmed Khan @ Swaroop Baba @ Anwar Accused No. 4- Lateef Ahmad Baja	Sections 115, 117, 118, 176, 302, 307 & 120B of IPC; Sections 4 & 5, Explosive Substances Act; and Section 3 of PDPP Act.
Supplementary-1: Chargesheet No. 133A of 1996 submitted on 16 th October, 1996.	Accused No. 5- Mohammad Ali Bhatt @ Mehamood Keeley Accused No. 6- Mirza Nisar Hussain @ Naja	-do-
	Chargesheet not filed against	

	Accused No. 7- Kulwinderjit Singh @ Happy. However, on 6th November, 1996, the trial Court took cognizance against the said accused.	
Supplementary-2: Chargesheet No. 133B of 1996 submitted on 18 th June, 1997.	Accused No. 8- Riaz Ahmad Sheikh @ Maulvi	-do-
Supplementary-3: Chargesheet No. 133C of 1996 submitted on 23 rd September, 1997.	Accused No. 9-Dr. Abdul Hameed Accused No. 10- Raees Baeg Accused No. 11- Chandra Prakash Agarwal	-do-
Supplementary-4: Chargesheet No. 133D of 1996 submitted on 12 th September, 2014.	Accused No. 12- Pappu @ Salim	Sections 115, 117, 118, 193, 302, 307 & 120B of IPC; Sections 4 & 5, Explosive Substances Act; and Section 3 & 4 of PDPP Act.

III. PROCEEDINGS BEFORE THE TRIAL COURT

A. All the accused persons except Accused No. 12-Pappu @ Salim

7. Pursuant to the chargesheet being filed, the Court of Additional Chief Judicial Magistrate, Dausa *vide* order dated 23rd April, 1997 committed the case to the Court of Sessions Judge, Dausa. During the pendency of trial, Accused No. 8-Riaz Ahmad Sheikh died and therefore, the criminal proceedings initiated against him were dropped on 24th August, 1999. Subsequently, Additional Sessions Judge, Bandikui *vide* order dated 15th February, 2003, discharged Accused No. 7-Kulwinderjit Singh of the charges levelled against him. Ultimately, trial of the case²³ against the remaining accused persons was commenced before the Court of Additional Sessions Judge, Bandikui Camp-Mahawa, District Dausa.²⁴

7.1. The High Court of Judicature for Rajasthan, Bench at Jaipur²⁵ *vide* order dated 9th November, 2013, allowed the quashing petition²⁶ filed by

²³ Sessions Case No. 35 of 2011.

²⁴ Hereinafter, referred to as the “trial Court”.

²⁵ Hereinafter, referred to as the “High Court”.

²⁶ S.B. Criminal Miscellaneous Petition No. 2890 of 2013.

Accused No. 11-Chandra Prakash Agarwal and quashed the proceedings of the case, in respect of the said accused person. In compliance of the aforesaid order, the trial Court *vide* order dated 9th January, 2014, dropped the proceedings against Accused No. 11-Chandra Prakash Agarwal. The trial therefore proceeded only against the remaining 8 accused persons. It may be noted that, owing to the non-production of certain accused from different prisons, the proceedings against Accused No. 9-Dr. Abdul Hameed, Accused No. 10-Raees Baeg, and Accused No. 11-Chandra Prakash Agarwal were initially conducted separately, during which the prosecution examined as many as 81 witnesses between 28th March, 2003 to 7th August, 2008. Subsequently, upon charges being framed against the remaining accused persons in the year 2012, they adopted the testimonies of the said 81 witnesses already recorded in the case, and the trial proceeded on that basis. The prosecution examined 99 witnesses and exhibited 197 documents and 8 articles in order to bring home the charges against the accused persons.

7.2. Thereafter, the statements of the accused persons were recorded under Section 313 of CrPC,

wherein they denied all incriminating circumstances put to them, asserted their innocence, and claimed false implication. Accused No. 9-Dr. Abdul Hameed specifically stated that he had been falsely implicated in the present case after his arrest in connection with another criminal case and denied having furnished any disclosure statement or having participated in any identification or site verification proceedings attributed to him by the prosecution. In support of his defence, Accused No. 9-Dr. Abdul Hameed examined himself under Section 315 of CrPC and exhibited 15 documents, including statements of prosecution witnesses recorded under Section 161 of CrPC, records pertaining to the arrest and pardon proceedings of Accused No. 12-Pappu @ Salim, and the subsequent statements made by the latter in the year 2011.

7.3. The trial Court *vide* judgment dated 29th September, 2014, concluded that based on the evidence on record, the prosecution was successful in proving the charges against Accused No. 9-Dr. Abdul Hameed, Accused No. 1-Javed Khan, Accused No. 2-Abdul Goni, Accused No. 4-Lateef Ahmad Baja,

Accused No. 5-Mohammad Ali Bhatt, Accused No. 6-Mirza Nisar Hussain and Accused No. 10-Raees Baeg.

7.4. The trial Court upon holistic appreciation of the evidence available on record, including the accounts of eye witnesses (surviving passengers of the bus bomb blast) and scientific evidence, concluded that Accused No. 9-Dr. Abdul Hameed and his associate Abdullah were the passengers who occupied seat Nos. 22 and 23 on the ill-fated bus. They clandestinely placed their luggage, in which they had carried the explosive substance, under seat Nos. 17 and 18 which were in front of their seats. The scientific evidence corroborated this aspect elaborating that the maximum impact of the bomb blast occurred at seat Nos. 17 and 18.

7.5. On the strength of this cumulative analysis of evidence, the trial Court returned a finding of guilt against the Accused No. 9-Dr. Abdul Hameed and others for their involvement in the bomb blast that occurred on 22nd May, 1996 aboard the Rajasthan Roadways bus near Samleti village. The conviction of Accused No. 9-Dr. Abdul Hameed was primarily founded on the testimony of the conductor (PW-46),

who identified the said accused as one of the two young men who alighted from the bus at Mahwa and, notably, returned their unused tickets with a peculiar and notable remark that they may be used to help a poor person, which act left a lasting impression upon the said witness. Additional corroboration came from PW-29 (Murari Lal), who described the accused as sitting on seat No. 41, continuously smoking, wearing a cap and dark glasses, and behaving in an anxious manner; and PW-30 (Rajesh Kumar Yadav), who too identified the accused as one of the persons who alighted from the bus at Mahwa. These identifications, though challenged by the defence, were found to be credible by the trial Court in light of the distinctive features evincing from the accused's appearance and conduct.

7.6. The trial Court further placed considerable reliance on the expert reports²⁷, which concluded that a powerful Improvised Explosive Device (IED) containing approximately 2.5 Kilograms of RDX had been planted beneath seat Nos. 17 and 18, and was detonated while the bus was in motion. The

²⁷ Exhibits P-176 and P-182.

prosecution's case was further bolstered by travel records, hotel registers, and border crossing logs, which demonstrated the movement of several accused in a coordinated manner across states and international borders. The confessional statement of Accused No. 12-Pappu @ Salim, recorded under Section 164 CrPC by the Magistrate, was also heavily relied upon by the trial Court, wherein he narrated the detailed role played by various co-accused, including the procurement of explosives and the planning of the attack.

7.7. However, the trial Court acquitted Accused No. 3-Farukh Ahmed Khan, on the ground that the evidence against him did not meet the threshold of proof beyond reasonable doubt. The trial Court noted that none of the witnesses had attributed any specific role to Accused No. 3-Farukh Ahmed Khan in either the planning or execution of the blast, nor was there any direct or reliable circumstantial evidence linking him to the incident. In the absence of incriminating material of the requisite legal standard, the benefit of doubt was extended in his favour.

7.8. The particulars of all the accused, other than Accused No. 3-Farukh Ahmed Khan; the offences for which they were convicted and the sentences awarded to them by the trial Court are tabulated hereunder: -

<u>Name of the Accused Person</u>	<u>In relation to crime under</u>	<u>Punishment awarded</u>
Accused No. 9- Dr. Abdul Hameed	IPC: - Section 302 Section 307 PDPP Act: - Section 4 Explosive Substances Act: - Section 4	Death Sentence Life Imprisonment + Fine = Rs. 1,00,000/- (in default to undergo 3 years rigorous imprisonment). 10 years rigorous imprisonment + Fine = 50,000/- (in default to undergo 2 years rigorous imprisonment). 10 years rigorous imprisonment + Fine = Rs. 25,000/- (in default to undergo 1-year rigorous imprisonment).

	Section 5	7 years rigorous imprisonment + Fine = Rs. 15,000/- (in default to undergo 6 months rigorous imprisonment).
Accused No. 1- Javed Khan @ Javed Junior	IPC: - Section 302 r/w Section 120-B	Life Imprisonment + Fine = Rs. 1,00,000 (in default to undergo 3 years rigorous imprisonment).
Accused No. 2- Abdul Goni @ Asadulla @ Nasaruddin @ Nikka @ Umer @ Majeed Khan @ Raja	Section 307 r/w Section 120-B	Life Imprisonment + Fine = Rs. 1,00,000 (in default to undergo 3 years rigorous imprisonment).
Accused No. 4- Lateef Ahmad Baja		
Accused No. 5- Mohammad Ali Bhatt @ Mehamood Keeley	PDPP Act: - Section 4 r/w Section 120-B	10 years rigorous imprisonment + Fine = Rs. 50,000 (in default to undergo 2 years rigorous imprisonment).
Accused No. 6- Mirza Nisar Hussain @ Naja		
Accused No.10- Rayees Beg.	Explosive Substances Act: - Section 4 r/w Section 120-B	10 years rigorous imprisonment + Fine = Rs. 25,000 (in default to undergo 1-year

		rigorous imprisonment).
	Section 5 r/w Section 120-B	7 years rigorous imprisonment + Fine = Rs. 15,000 (in default to undergo 6 months rigorous imprisonment).

7.9. The trial Court forwarded D.B. Criminal Death Reference No. 1 of 2014 under Section 366 of CrPC, for confirmation of the death sentence awarded to Accused No. 9-Dr. Abdul Hameed to the High Court. Aggrieved by the judgment of conviction and order of sentence dated 29th September, 2014, Accused No. 1-Javed Khan²⁸, Accused No. 2-Abdul Goni²⁹, Accused No. 9-Dr. Abdul Hameed³⁰ and Accused No. 10-Raees Baeg³¹ preferred separate criminal appeals; and Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt and Accused No. 6-Mirza Nisar Hussain preferred a joint criminal appeal³² before the High Court.

²⁸ D.B. Criminal Appeal No. 1092 of 2014.

²⁹ D.B. Criminal Appeal No. 1094 of 2014.

³⁰ D.B. Criminal Appeal No. 1024 of 2014.

³¹ D.B. Criminal Appeal No. 1073 of 2014.

³² D.B. Criminal Appeal No. 1093 of 2014.

7.10. Aggrieved by the acquittal of Accused No. 3-Farukh Ahmed Khan, the State of Rajasthan preferred a criminal appeal³³ praying for reversal of his acquittal and another criminal appeal³⁴ seeking enhancement of sentence in respect of the accused persons who were only awarded life imprisonment by the trial Court.

B. Accused No. 12-Pappu @ Salim

8. The confessional statement of Accused No. 12-Pappu @ Salim, in the present case was recorded on 21st October, 2002 (Exhibit P-189). However, upon a challenge by Accused No. 9-Dr. Abdul Hameed regarding the legality of its recording, the trial Court, by order dated 30th November, 2010, directed that the statement be recorded afresh. Pursuant thereto, a fresh statement was recorded on 4th January, 2011. As doubts regarding compliance with the order dated 30th November, 2010 persisted, the statement of Accused No. 12-Pappu @ Salim was again recorded in open Court on 19th February, 2011 before the learned Additional Chief Judicial Magistrate, Dausa,

³³ D.B. Criminal Appeal No. 341 of 2018.

³⁴ D.B. Criminal Appeal No. 188 of 2016.

where he categorically disowned his earlier statements, denied having acted as an approver in any case, and asserted that no statement had ever been recorded by him before a Magistrate in the manner alleged by the prosecution.

8.1. *Vide* judgment dated 29th September, 2014, the trial Court while observing that Accused No. 12-Pappu @ Salim has not satisfied the conditions of tendering pardon under Section 306 of CrPC, ordered a separate trial of Accused No. 12-Pappu @ Salim. Based on the same, police filed Chargesheet No. 133D of 1996 on 12th September, 2014 (*supra*) before the trial Court. The cognizance of the same was taken on 8th June, 2016 and the case was registered as Sessions Case No. 12 of 2016. On 10th June, 2016, the trial Court framed charges against Accused No. 12-Pappu @ Salim for offences punishable under Sections 302 r/w 120B, 307 r/w 120B and 193 of IPC; Sections 3 and 4 of PDPP Act and Sections 4 and 5 of Explosive Substances Act.

8.2. Accused No. 12-Pappu @ Salim denied the charges and claimed to be tried. In support of its case, the prosecution examined 25 witnesses and

exhibited 63 documents. Thereafter, the statement of Accused No. 12-Pappu @ Salim was recorded under Section 313 of CrPC, wherein he denied all incriminating circumstances appearing against him, asserted that he had been falsely implicated in the case, and contended that the statements attributed to him had been recorded without proper knowledge and were incorrectly relied upon by the prosecution. He maintained that he had never been involved in any such criminal activity and claimed innocence. The accused did not lead any evidence in defence.

8.3. The trial Court *vide* judgment dated 7th March, 2017, concluded that based on the evidence, the prosecution was successful in proving the charges against Accused No. 12-Pappu @ Salim beyond reasonable doubt and convicted him of all the offences for which he was charged except for the offence punishable under Section 3 of PDPP Act. The details of the conviction and sentences awarded to Accused No. 12-Pappu @ Salim are provided hereinbelow: -

Accused Name	In relation to crime under	Punishment awarded
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Accused 12-Pappu Salim	No. @	IPC: - Section 302 r/w 120B	Life Imprisonment + Fine = Rs. 1,00,000/- (in default to undergo 3 years rigorous imprisonment).
		Section 307 r/w 120B	Life Imprisonment + Fine = Rs. 1,00,000/- (in default to undergo 3 years rigorous imprisonment).
		Section 120B	Life Imprisonment + Fine = Rs. 1,00,000/- (in default to undergo 3 years rigorous imprisonment).
		Section 193	7 years rigorous imprisonment + Fine = Rs. 15,000/- (in default to undergo 6 months rigorous imprisonment).
		PDPP Act: - Section 4	10 years rigorous imprisonment + Fine = 50,000/- (in default to undergo 2 years rigorous imprisonment).
		Explosive Substances Act: - Section 4	10 years rigorous imprisonment + Fine

	Section 5	= Rs. 25,000/- (in default to undergo 1-year rigorous imprisonment). 7 years rigorous imprisonment + Fine = Rs. 15,000/- (in default to undergo 6 months rigorous imprisonment).
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8.4. Aggrieved by the judgment of conviction and order of sentence dated 29th September, 2014, Accused No. 12-Pappu @ Salim filed criminal appeal³⁵ before HC.

IV. PROCEEDINGS BEFORE THE HIGH COURT

9. The High Court *vide* order dated 30th April, 2015, remanded the case of Accused No. 9-Dr. Abdul Hameed to the trial Court for passing a fresh order of sentence within 3 months on the ground of non-consideration of mitigating and aggravating circumstances by the trial Court, observing that the sentence of death had been imposed on the very same day on which the conviction was recorded and that, at the stage of hearing on sentence, no counsel

³⁵ D.B. Criminal Appeal No. 866 of 2017.

representing Accused No. 9-Dr. Abdul Hameed was present before the trial Court. In pursuance of the said direction, the trial Court passed a fresh order of sentence dated 17th December, 2015, again awarding death sentence to Accused No. 9-Dr. Abdul Hameed for the offence punishable under Section 302 of IPC. The details of the said order of sentences are provided hereinbelow: -

Accused Name	In relation to crime under	Punishment awarded
Accused No. 9- Dr. Abdul Hameed	IPC: - Section 302 Section 307 Section 120B PDPP Act: - Section 4	Death Sentence Life Imprisonment + Fine = Rs. 1,00,000/- (in default to undergo 3 years rigorous imprisonment). Life Imprisonment + Fine = Rs. 1,00,000/- (in default to undergo 3 years rigorous imprisonment). 10 years rigorous imprisonment + Fine = 50,000/- (in default to undergo 2 years rigorous imprisonment).

	Explosive Substances Act: - Section 4 Section 5	10 years rigorous imprisonment + Fine = Rs. 25,000/- (in default to undergo 1-year rigorous imprisonment). 7 years rigorous imprisonment + Fine = Rs. 15,000/- (in default to undergo 6 months rigorous imprisonment).
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9.1. The trial Court again forwarded D.B. Criminal Death Reference No. 1 of 2016 for confirmation of the death sentence awarded to Accused No. 9-Dr. Abdul Hameed. Aggrieved by the judgment of conviction and aforesaid order of sentence awarded by the trial Court Accused No. 9-Dr. Abdul Hameed also preferred criminal appeal³⁶ before the High Court.

9.2. The High Court *vide* common judgment and order dated 22nd July, 2019,³⁷ disposed of the death

³⁶ D.B. Criminal Appeal No. 113 of 2016.

³⁷ Impugned Judgment in Criminal Appeal Nos. 1827-1829 of 2019; Criminal Appeal @ SLP(Crl.) No. 621 of 2020; Criminal Appeal @ SLP(Crl.) No. 571 of 2020; Criminal Appeal @ SLP(Crl.) No. 681 of 2020; and Criminal Appeal @ SLP(Crl.) No. 143 of 2020.

reference forwarded by the trial Court for confirmation of death sentence awarded to Accused No. 9-Dr. Abdul Hameed; criminal appeals preferred by the accused persons against conviction and the criminal appeals preferred by the State of Rajasthan against the acquittal of Accused No. 3-Farukh Ahmed Khan and for enhancement of sentence in respect of the accused persons who were awarded Life Imprisonment.

9.3. The Division Bench of the High Court, *vide* the impugned common judgment rendered in D.B. Criminal Death Reference No. 1 of 2016 and connected matters, affirmed the conviction and death sentence awarded to Accused No. 9-Dr. Abdul Hameed by the trial Court, while acquitting several co-accused persons including Accused No. 10-Raees Baeg, Accused No. 1-Javed Khan, Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt, Accused No. 6-Mirza Nisar Hussain, and Accused No. 2-Abdul Goni @ Asadulla @ Nikka. The High Court, upon the scrutiny of the evidence on record, found that the prosecution had succeeded in establishing beyond reasonable doubt the involvement of Accused No. 9-Dr. Abdul Hameed, in

planting the bomb in the Rajasthan Roadways bus on 22nd May, 1996, which resulted in the death of fourteen persons and injuries to thirty-seven others.

9.4. According to the High Court, the conviction of Accused No. 9-Dr. Abdul Hameed was fit to be confirmed primarily based upon the testimony of the conductor (PW-46) and other injured eyewitnesses, who had consistently identified him as one of the two passengers who alighted from the bus at Mahwa shortly before the blast, coupled with his unusual act of returning the bus ticket, a crucial detail that was found to be both striking and incriminating. The High Court also relied on the forensic evidence establishing that approximately 2.5 Kilograms of RDX was used in the explosion. Additionally, the High Court drew support from the confessional statement of Accused No. 12-Pappu @ Salim recorded under Section 164 of CrPC, which, though retracted, was found to be corroborated in material particulars by the ocular and forensic evidence. Considering the grave and calculated nature of the act, its terror motivation, and the prior conviction of Accused No. 9-Dr. Abdul Hameed in the Jaipur Stadium bomb blast case, the High Court held that the imposition of

the death penalty was justified and proportionate to the enormity of the crime committed by him.

9.5. At the same time, the High Court acquitted the co-accused persons on the ground that the evidence against them was either derivative in nature or insufficient to meet the standard of proof required in a criminal trial. It held that the conviction of the other accused persons by the trial Court was largely based on the confessional statement of a co-accused recorded in a different case (the Jaipur Stadium bomb blast case), without adequate and independent corroboration. In respect of these accused, including Accused No. 10-Raees Baeg and Accused No. 1-Javed Khan, the High Court noted that no direct evidence linked them to the present bomb blast, and that their prior involvement or arraignment in other bomb blast cases, in which they subsequently stood acquitted, could not be treated as trustworthy substantive evidence in the instant case. The High Court particularly noted the absence of recovery, identification, or corroborative evidence against these accused persons, and held that their conviction violated settled evidentiary standards and principles of criminal jurisprudence.

9.6. As regards the State's appeal against the acquittal of Accused No. 3-Farukh Ahmed Khan, the High Court found no error in the trial Court's view, holding that there was no admissible or credible evidence connecting him to the conspiracy or the execution of the crime, and therefore, upheld his acquittal as well.

9.7. The High Court accordingly, *vide* common judgment and order dated 22nd July, 2019: -

A. Answered the death reference forwarded by the trial Court in the affirmative and confirmed the judgment of conviction and order of sentence awarding death penalty to Accused No. 9-Dr. Abdul Hameed passed by the trial Court. Resultantly, the Criminal Appeal preferred by Accused No. 9-Dr. Abdul Hameed was dismissed.

B. Allowed the criminal appeals preferred by Accused No. 1-Javed Khan @ Javed Junior; Accused No. 2-Abdul Goni @ Asadulla @ Nasaruddin @ Nikka @ Umer @ Majeed Khan @ Raja; Accused No. 4-Lateef Ahmad Baja; Accused No. 5-Mohammed Ali Bhatt @

Mehamood Keeley; Accused No. 6-Mirza Nisar Hussain @ Naja; and Accused No.10-Raees Baeg.

C. Dismissed the criminal appeals filed by the State of Rajasthan against the acquittal of Accused No. 3-Farukh Ahmed Khan and for enhancement of sentence in respect of the accused persons who were awarded Life Imprisonment.

9.8. The High Court *vide* separate judgment and order dated 22nd July, 2019,³⁸ dismissed the criminal appeal preferred by Accused No. 12-Pappu @ Salim and affirmed the judgment of conviction and order of sentence passed by the trial Court.

9.9. Accused No. 12-Pappu @ Salim had thereafter filed writ petition³⁹ seeking quashing and setting aside of order dated 27th January, 2020, by which his parole application was rejected based on the recommendation made by the Permanent Parole Committee and the consequential grant of permanent parole. The High Court *vide* judgment and order

³⁸ Impugned in Criminal Appeal No. 1830 of 2019.

³⁹ D.B. Criminal Writ Petition No. 102 of 2020.

dated 29th September, 2020⁴⁰ allowed the writ petition filed by Accused No. 12-Pappu @ Salim. The Division Bench directed the District Authority to release Accused No. 12-Pappu @ Salim on permanent parole, subject to his furnishing a personal bond of the sum of Rs. 1,00,000/- with two sureties of Rs. 50,000/- each to the satisfaction of the concerned District Magistrate. It was further stipulated that in case, during period of his permanent parole, if the said accused commits any undesirable activity, he can be called upon to serve out his remaining sentence and at the same time he shall also maintain peace and tranquility during the parole period and will abide by any other condition imposed by the authority concerned.

10. The aforesaid judgments passed by the High Court are under challenge in this batch of appeals by special leave preferred at the instance of Accused No. 9-Dr. Abdul Hameed⁴¹; State of Rajasthan⁴² against

⁴⁰ Impugned in SLP(Crl.) No. 3531 of 2021.

⁴¹ Criminal Appeal No. 1827-1829 of 2019.

⁴² Criminal Appeals arising out of SLP(Crl) No. 621 of 2020; SLP(Crl) No. 571 of 2020; SLP(Crl) No. 681 of 2020; SLP(Crl) No. 143 of 2020; and SLP(Crl) No. 3531 of 2021.

acquittal of various co-accused; and Accused No. 12-Pappu @ Salim.⁴³

V. SUBMISSIONS ON BEHALF OF THE ACCUSED PERSONS

A. Accused No. 9-Dr. Abdul Hameed

11. Ms. Kamini Jaiswal, learned counsel appearing for Accused No. 9-Dr. Abdul Hameed, vehemently and fervently contended that the entire prosecution case is founded upon conjectures, surmises and legally inadmissible material and that the Courts below gravely erred in recording and sustaining the conviction of the said accused. It was urged that the case rests substantially upon circumstantial evidence and alleged confessional statements, and that the prosecution has miserably failed to establish a complete and unbroken chain of circumstances leading only to the hypothesis of guilt of the said accused. Learned counsel submitted that the well-settled principles governing conviction on circumstantial evidence, as enunciated by this Court in ***Sharad Birdhichand Sarda v. State of***

⁴³ Criminal Appeal No. 1830 of 2019.

Maharashtra⁴⁴, have been wholly disregarded and that none of the indispensable conditions constituting the “*panchsheel*” of circumstantial evidence has been satisfied. According to the learned counsel, the circumstances relied upon by the prosecution are neither fully established nor of such a convincing nature as to exclude every hypothesis consistent with the innocence of Accused No. 9-Dr. Abdul Hameed. On the contrary, the prosecution case is riddled with material inconsistencies, unexplained gaps, and conjectural inferences, rendering the conviction wholly unsustainable.

11.1. Learned counsel further submitted that the Courts below erred in placing reliance upon the alleged disclosure statements attributed to Accused No. 9-Dr. Abdul Hameed without properly appreciating the scope and ambit of Section 27 of IEA. It was submitted that, in light of the law laid down in ***Pulukuri Kotayya v. King-Emperor***⁴⁵, only such portion of information which distinctly relates to the fact discovered is admissible and that the prosecution and the Courts below impermissibly

⁴⁴ (1984) 4 SCC 116.

⁴⁵ 1946 SCC OnLine PC 47.

relied upon material beyond the limited scope of Section 27 of IEA. It was urged that the alleged discoveries do not satisfy the legal requirements under the IEA and, therefore, cannot constitute incriminating circumstances against the said accused. The Courts below, however, erroneously treated inadmissible portions of the disclosure statements as substantive evidence against Accused No. 9-Dr. Abdul Hameed, thereby causing serious prejudice to him and tainting the impugned judgments with gross illegality.

11.2. Learned counsel next assailed the reliance placed by the prosecution and the Courts below upon the alleged confessional statements of Accused No. 12-Pappu @ Salim. It was contended that the conviction of Accused No. 9-Dr. Abdul Hameed has been substantially influenced by a retracted confession⁴⁶ of Accused No. 12-Pappu @ Salim recorded in the present case as well as another confessional statement recorded in an entirely different case, i.e., the Jaipur Stadium bomb blast case.⁴⁷ Learned counsel submitted that both these

⁴⁶ Exhibit P-189.

⁴⁷ Exhibit P-174.

statements were treated by the Courts below as having significant evidentiary value against Accused No. 9-Dr. Abdul Hameed, despite the well-settled legal restrictions governing the use of such material in criminal trials. According to learned counsel, the law is well-settled that the confession of a co-accused is not substantive evidence and can, at best, be taken into consideration only to lend assurance to other independent evidence already found reliable. It was emphasized that the confession of a co-accused cannot form the foundation of conviction and may be looked into only by way of corroboration after the prosecution has, by independent and legally admissible evidence, established the guilt of the accused concerned. Learned counsel submitted that the High Court committed a grave error in relying upon the confessional statements of Accused No. 12-Pappu @ Salim as substantive evidence against Accused No. 9-Dr. Abdul Hameed and in treating such statements as having independent probative value sufficient to sustain the conviction.

11.3. Learned counsel further urged that the High Court as well as the trial Court failed to appreciate the principles laid down by this Court in

Kashmira Singh v. State of Madhya Pradesh⁴⁸
and Haricharan Kurmi v. State of Bihar.⁴⁹ It was submitted that this Court has consistently held that the confession of a co-accused is not evidence within the meaning of Section 3 of IEA and cannot form the sole basis or foundation of a conviction. Such material may be considered only as a supplementary circumstance after the prosecution has, through independent and legally admissible evidence, established the guilt of the accused concerned. In the present case, however, the High Court sustained the conviction of Accused No. 9-Dr. Abdul Hameed by placing heavy reliance upon the confessional statements of Accused No. 12-Pappu @ Salim, thereby departing from the settled legal position governing the evidentiary value of the confession made by a co-accused. It was submitted that the use of such inadmissible material as a primary basis for conviction has caused grave prejudice to Accused No. 9-Dr. Abdul Hameed and renders the impugned judgments unsustainable in law.

⁴⁸ (1952) 1 SCC 275.

⁴⁹ 1964 SCC OnLine SC 28; (1964) 6 SCR 623.

11.4. Learned counsel also contended that the Courts below erred in overlooking the serious infirmities surrounding the statement of Accused No. 12-Pappu @ Salim recorded as an approver. It was submitted that the said witness was not jointly tried with Accused No. 9-Dr. Abdul Hameed and therefore could not legally be treated as an approver in the trial of Accused No. 9-Dr. Abdul Hameed. Learned counsel emphasized that the very foundation for treating Accused No. 12-Pappu @ Salim as an approver stood vitiated in the absence of a joint trial, thereby rendering the alleged confession legally suspect and incapable of being relied upon against Accused No. 9-Dr. Abdul Hameed. Furthermore, the procedure adopted in recording the confessional statements of Accused No.12-Pappu @ Salim suffered from serious irregularities, resulting in repeated challenges before the trial Court and multiple directions for fresh recording of his statement. It was argued that these recurring procedural lapses were substantive in nature and not only cast a serious doubt on the voluntariness and authenticity of the statements allegedly made by Accused No. 12-Pappu @ Salim but

also undermine the overall credibility of the prosecution's reliance on such evidence.

11.5. Learned counsel further submitted that in the trial pertaining to the present incident, Accused No. 12-Pappu @ Salim implicitly retracted from his earlier versions and denied having made the statements attributed to him. The retraction, according to learned counsel, seriously undermines the prosecution case insofar as it sought to implicate Accused No. 9-Dr. Abdul Hameed through approver testimony. As a sequel to the retraction, the approver status of Accused No. 12-Pappu @ Salim was rescinded and he was subsequently tried and convicted in a separate trial arising out of the same incident. According to learned counsel, the evidentiary value of such vacillating and retracted testimony is incapable of sustaining a conviction, particularly in the absence of independent evidence and reliable corroboration connecting Accused No. 9-Dr. Abdul Hameed with the alleged offence.

11.6. Learned counsel further elaborated upon the procedural irregularities vitiating the prosecution's reliance on the alleged confessional statements made by Accused No. 12-Pappu @ Salim.

In particular, it was submitted that the statement of the approver recorded on 21st October, 2002 (Exhibit P-189) in the present case was not recorded in accordance with law, resulting in a challenge to its sanctity by Accused No. 9-Dr. Abdul Hameed through an application dated 28th September, 2007. Significantly, the trial Court, by order dated 30th November, 2010, found merit in the objection and directed that the statement be recorded afresh. Pursuant thereto, a fresh statement was recorded on 4th January, 2011.⁵⁰ However, doubts regarding compliance with the order dated 30th November, 2010 persisted, compelling Accused No. 9-Dr. Abdul Hameed to seek recording of the statement in open Court. Consequently, the statement of Accused No. 12-Pappu @ Salim was again recorded on 19th February, 2011⁵¹ before the learned Additional Chief Judicial Magistrate, Dausa, wherein he categorically disowned his earlier statements and asserted that he had never acted as an approver in any case and that no statement had been made by him before a Magistrate in the manner alleged by the prosecution.

⁵⁰ Exhibit D-13.

⁵¹ Exhibit D-14.

11.7. Learned counsel further submitted that the subsequent proceedings only reinforced the unreliability of the purported confessional statements of Accused No. 12-Pappu @ Salim. In view of these categorical retractions made by him, neither the alleged confessional statement (Exhibit P-174), recorded in connection with another case relating to the Jaipur Stadium bomb blast, nor the subsequently retracted statement (Exhibit P-189) recorded in the present case, could legally be treated as either substantive or corroborative evidence against Accused No. 9-Dr. Abdul Hameed, much less constitute the foundation of his conviction. According to learned counsel, once the maker of the statements had expressly disowned them, the evidentiary value of such material stood substantially diluted and could not be relied upon in the absence of strong independent corroboration.

11.8. Learned counsel next contended that the prosecution failed to adduce any independent evidence whatsoever to corroborate the alleged confessional statements of Accused No. 12-Pappu @ Salim. It was submitted that substantial portions of the statements were hearsay in nature and remained

unverified during investigation. No incriminating circumstance, discovery, or other independent evidence was unearthed pursuant to the information allegedly furnished by him. In such circumstances, the statements remained wholly uncorroborated and lacked the degree of assurance required in law for placing reliance upon approver or accomplice evidence.

11.9. Learned counsel further submitted that the investigating agency failed to pursue several material leads emerging from the alleged confessional statements. In particular, despite references to one Salar and to meetings purportedly held at a hotel after the incident, neither was the said individual traced nor were the owner or staff of the hotel meaningfully examined. It was also urged that the prosecution's suggestion that Accused No. 12-Pappu @ Salim retracted his statements under the influence or pressure of Accused No. 9-Dr. Abdul Hameed is wholly untenable. In this regard, learned counsel pointed out that Accused No. 12-Pappu @ Salim had remained lodged in Central Jail, Jaipur only between 12th August, 1997 and 26th January, 2000 and was housed separately at the time when the subsequent

statements were recorded and retractions were made. These circumstances, according to learned counsel, demonstrate that the prosecution's imputation against Accused No. 9-Dr. Abdul Hameed for the retraction is speculative and unsupported by credible evidence. Consequently, the High Court gravely erred in placing reliance upon such unverified and unsupported material to sustain the conviction of Accused No. 9-Dr. Abdul Hameed.

11.10. Assailing the prosecution case insofar as it rests on the identification of Accused No. 9-Dr. Abdul Hameed, learned counsel vehemently contended that the entire process of identification is vitiated by serious infirmities and is therefore wholly unreliable. It was urged that Accused No. 9-Dr. Abdul Hameed had consistently and unequivocally maintained that he had been exposed and shown to the witnesses prior to the conduct of the Test Identification Parade⁵², thereby compromising the fairness and sanctity of the identification process. Learned counsel pointed out that this specific objection was not only raised by the accused at the relevant time

⁵² For short, "TIP".

but was also duly recorded by the Munsif Magistrate, Nand Lal Sharma (PW-98) who conducted the TIP proceedings, lending credence to the grievance raised by the Accused No. 9-Dr. Abdul Hameed's regarding prior exposure. It was further argued that the very purpose of a TIP is to test the memory and observational capacity of witnesses under conditions free from external influence, and once there exists a reasonable possibility that the accused had been shown to the witnesses before the TIP, the exercise loses much of its probative value. In such circumstances, it was submitted that the evidentiary value ordinarily attached to a TIP stands substantially diluted, if not entirely eroded, and that the prosecution could derive little, if any, corroborative support therefrom, particularly when the identification process itself was shrouded in grave suspicion, thereby creating grave doubt on the involvement of Accused No. 9-Dr. Abdul Hameed, in the alleged offence.

11.11. Learned counsel further submitted that the evidence tendered by the prosecution witnesses regarding the identification of Accused No. 9-Dr. Abdul Hameed is wholly unreliable and incapable of

sustaining his conviction. It was contended that serious doubts arise regarding the sanctity of the investigation, particularly in view of the list of witnesses bearing their signatures that was filed along with the application seeking preponement of the TIP. Learned counsel further pointed out that Jagan Ram (PW-28), a constable, deposed that he had boarded the bus at Mahwa and could identify certain passengers who had alighted there on the date of the occurrence. Although the witness purported to identify Accused No. 9-Dr. Abdul Hameed before the trial Court, he admittedly did not participate in the TIP conducted on 29th June, 1997. This omission substantially undermines the prosecution case, as it would be highly improbable if not impossible for a person to accurately retain the facial image of a casual co-passenger in a public transport bus for a prolonged period of more than 7 years. It was, therefore, argued that the purported dock identification after an inordinate lapse of time, coupled with the witness's failure to participate in the TIP, renders the identification evidence inherently doubtful, unsafe, and unworthy of reliance for the purpose of recording conviction.

11.12. Learned counsel further contended that the prosecution case suffered from significant investigative lapses. It was pointed out that an important witness had earlier identified an entirely different individual during TIP, who was subsequently discharged from the case. This circumstance, according to learned counsel, demonstrates the inherent unreliability of the identification process and raises serious doubts regarding the sanctity of the prosecution case against Accused No. 9-Dr. Abdul Hameed.

11.13. Learned counsel contended that the testimony of the independent witnesses associated with the identification and site verification proceedings in respect of the events at Tea Stall and Book Shop substantially demolishes the prosecution case. It was submitted that Lala Ram (PW-74), the *panch* witness to the identification proceedings conducted at Bharatpur Bus Stand, categorically deposed that his signatures were obtained on blank papers, and that the police officials did not conduct any inquiry whatsoever from Accused No. 9-Dr. Abdul Hameed in his presence. He further stated that the accused was never brought before him during the

alleged identification proceedings and that he was merely asked to append his signatures on documents prepared by the investigating officer. Lala Ram (PW-74) further stated that identification memos bearing Exhibit P-121 and P-122 were prepared while the officials were sitting in the office and not at the place where the proceedings were purportedly conducted. According to learned counsel, this admission strikes at the authenticity of the entire identification exercise and raises serious doubts regarding the manner in which the proceedings were allegedly carried out. This version was further corroborated by Kartar Singh (PW-76), who also admitted that identification memos bearing Exhibit P-121 and P-122 were prepared in the office rather than at the place of identification, thereby lending further support to the defence contention that the proceedings were not conducted faithfully and, in the manner, projected by the prosecution.

11.14. Learned counsel further submitted that Kartar Singh (PW-76), while deposing about the spot verification proceedings, stated that a person with a muffled face accompanied the police when the alleged site verification was undertaken and that the relevant

exhibits were prepared in his presence. However, no one had seen the face of the said person and the witness (PW-76) was, therefore, unable to ascertain or verify the identity of the individual accompanying the police party. Significantly, despite having been associated with the proceedings, Kartar Singh (PW-76) neither identified Accused No. 9-Dr. Abdul Hameed as the person who allegedly pointed out and identified the shops, nor furnished any physical description or other particulars capable of linking the accused to the alleged verification exercise. Learned counsel argued that the total absence of identification of Accused No. 9-Dr. Abdul Hameed by an independent witness renders the alleged recovery and verification proceedings devoid of evidentiary value. These circumstances, according to learned counsel, cast a serious shadow of doubt over the prosecution case and render the identification and verification proceedings purportedly made pursuant to the disclosure statement suffered by the said accused wholly unreliable.

11.15. Learned counsel next questioned the prosecution theory regarding the alleged recovery and seizure of two bus tickets purportedly connecting

Accused No. 9-Dr. Abdul Hameed with the crime in question. It was submitted that the prosecution failed to establish any nexus between the recovered tickets and the ticket books allegedly issued to the conductor (PW-46) on the date of the incident. The serial numbers of the two recovered tickets, namely, 091440 and 079718, did not correspond with the serial numbers 83025346 and 83025350 of the ticket books allegedly issued to the conductor (PW-46) for issuance of tickets to passengers on the relevant day. Learned counsel further contended that the prosecution advanced mutually destructive versions concerning the source and recovery of the tickets. While Om Prakash (PW-32), one of the *panch* witness to the seizure memo, deposed that the tickets were brought to the police station by one Manucha and that the seizure memo was prepared there in his presence, the prosecution simultaneously sought to project a different case that the said tickets had been re-issued by the conductor (PW-46) to Bal Krishan (PW-6), an injured witness, and were subsequently recovered from him while he was undergoing treatment at SMS Hospital, Jaipur. These irreconcilable contradictions, coupled with the

unexplained circumstance as to why two tickets would have been issued to a person allegedly travelling alone, render the alleged recoveries wholly unreliable.

11.16. Learned counsel further submitted that the prosecution failed to examine material witnesses connected with the alleged recovery of the tickets. One Manucha, who allegedly produced the tickets before the police, was neither examined during investigation under Section 161 of CrPC nor cited as a prosecution witness. Significantly, his name surfaced for the first time only during the deposition of Om Prakash (PW-32) before the trial Court. According to learned counsel, such material omissions erode the credibility of the prosecution case and cast serious doubt on the authenticity of the alleged seizure. In view of the inconsistent versions regarding the source of the tickets and the failure to examine the very person who allegedly produced them, it was urged that the prosecution has failed to prove the recovery beyond reasonable doubt, thereby entitling Accused No. 9-Dr. Abdul Hameed, to the benefit of doubt.

11.17. Learned counsel further contended that there exist discrepancies and infirmities casting grave doubt upon the testimony of the prosecution's star witness, namely, the conductor (PW-46), who was heavily relied upon by the prosecution for the identification of Accused No. 9-Dr. Abdul Hameed. It was submitted that the prosecution sought to portray the alleged return of two tickets by Accused No. 9-Dr. Abdul Hameed as a unique and unusual feature which enabled the conductor (PW-46) to distinctly remember his face and subsequently identify him. However, once the very recovery and provenance of the alleged tickets become doubtful owing to the contradictory versions advanced by the prosecution and its failure to establish a credible chain of custody, the foundational circumstance on which the identification rests stand seriously undermined. In such circumstances, learned counsel urged that the alleged theory of return of two tickets ceases to have any evidentiary value as a distinguishing feature capable of aiding identification. Consequently, the identification of Accused No. 9-Dr. Abdul Hameed by the conductor (PW-46) becomes unsafe and unworthy of reliance.

11.18. Learned counsel also questioned the authenticity and evidentiary value of certain documentary material relied upon by the prosecution. Referring to Exhibit P-123, a purported bill evidencing the purchase of *Bal Hans* book, it was submitted that a bare perusal of the document itself gives rise to serious doubts regarding its genuineness and probative value. Learned counsel pointed out that the document purportedly emanated from Poonam Book Stall, which was situated at Bharatpur Railway Station and not at the Bharatpur Bus Stand, thereby rendering it inconsistent with the prosecution narrative regarding the movements and activities allegedly attributed to Accused No. 9-Dr. Abdul Hameed. It was further contended that the prosecution failed to satisfactorily explain this stark discrepancy or establish how a document originating from a location different from that projected by the prosecution could lend support to its case.

11.19. It was further contended that the date appearing on Exhibit P-123 appeared to have been altered from 31st May, 1997 to 31st May, 1996, ostensibly to bring it in conformity with the prosecution case and thereby implicate Accused No.

9-Dr. Abdul Hameed. According to learned counsel, the apparent alteration of the date mentioned in the document, coupled with the discrepancy regarding the place of issuance, casts a serious shadow on its authenticity and reliability. It was argued that no satisfactory evidence was adduced by the prosecution to dispel the suspicion of tampering or to establish the document's provenance through legally admissible and credible evidence. Likewise, the sanctity and genuineness of the letter allegedly received by the Superintendent of Police purportedly implicating Accused No. 9-Dr. Abdul Hameed in the crime in question was never established through legally admissible evidence. The letter though referred to in the chargesheet was never brought on record and proved as per law thereby warranting adverse inference against the prosecution. In the absence of proper proof regarding its authorship, source, and receipt, the said letter could not have been treated as corroborative material. It was fervently urged that the Courts below erroneously relied upon these doubtful documents as corroborative circumstances against Accused No. 9-Dr. Abdul Hameed, despite the serious infirmities

surrounding their authenticity, thereby causing grave prejudice to his defence.

11.20. Learned counsel further submitted that the investigation conducted in the present case was marked by serious irregularities, omissions, and inconsistencies, rendering it fundamentally tainted and wholly unreliable. It was urged that the investigating agency, instead of undertaking a fair, objective, and scientifically driven inquiry, proceeded on preconceived assumptions and sought to build a case around selected individuals by collecting material suited to a predetermined narrative. According to learned counsel, several vital leads were either left unexplored or abandoned without justification; material witnesses were not examined; crucial documents were neither proved nor brought on record in accordance with law; and contradictory versions regarding recoveries, identification proceedings, and the arrest of the accused remained unresolved. The investigation also suffered from unexplained gaps in the chain of circumstances, stark procedural lapses in the recording of confessional and approver statements, and utter failure to secure reliable corroborative evidence

despite the gravity of the allegations. Learned counsel submitted that these deficiencies were not isolated irregularities but reflected a pattern of investigative impropriety/apathy that substantially undermined the credibility of the prosecution case. In such circumstances, it was contended that the Courts below ought to have approached the prosecution evidence with heightened caution, for a conviction, particularly in a case involving allegations of terrorism and carrying the possibility of the gravest penal consequences, cannot rest upon an investigation that is demonstrably casual, deficient, and tainted by serious procedural infirmities.

11.21. Learned counsel lastly and most fervently assailed the fundamental procedural flaw in the trial of Accused No. 9-Dr. Abdul Hameed and the manner in which the trial was conducted, contending that the said accused remained effectively unrepresented throughout substantial stages of the proceedings. It was submitted that despite facing charges of the utmost gravity, carrying the possibility of capital punishment, no effective legal assistance was ever offered or provided to him by the trial Court. Learned counsel urged that the right to legal representation

constitutes an integral facet of the guarantee of a fair, just and reasonable procedure and forms an indispensable component of the constitutional protection of life and personal liberty. According to learned counsel, the trial Court was under a constitutional obligation to ensure that Accused No. 9-Dr. Abdul Hameed be provided competent legal assistance and not left undefended during the proceedings. However, no such meaningful assistance was ensured in the present case. The trial Court never offered the services of a legal aid counsel or an *amicus curiae* to Accused No. 9-Dr. Abdul Hameed who was under these circumstances, left to fend for himself and was compelled to cross examine the witnesses on his own and also to address arguments at various crucial stages of trial.

11.22. Learned counsel further submitted that the absence of effective legal representation caused serious and irremediable prejudice to Accused No. 9-Dr. Abdul Hameed in defending himself against the charges levelled against him. It was contended that the accused was clearly deprived of a fair opportunity to effectively challenge the prosecution evidence, cross-examine material witnesses, raise appropriate

legal objections, and present his defence in accordance with law. The failure of the trial Court to secure effective legal representation for Accused No. 9-Dr. Abdul Hameed, it was urged, strikes at the very root of a fair criminal trial and renders the proceedings fundamentally unfair and constitutionally vitiated. In such circumstances, learned counsel submitted that the conviction and sentence recorded against Accused No. 9-Dr. Abdul Hameed stand vitiated for violation of the constitutional guarantees of a fair trial and effective access to justice.

11.23. On these grounds, learned counsel submitted that the impugned judgments suffer from serious errors in appreciation of law and evidence. It was urged that the conviction of Accused No. 9-Dr. Abdul Hameed rests upon inadmissible and uncorroborated confessional statements, unreliable identification evidence, doubtful recoveries, unexplained contradictions, serious investigative deficiencies and a tainted and fundamentally flawed investigation that failed to inspire confidence or meet the standards of fairness expected in a criminal prosecution of such gravity. The prosecution has

failed to establish the guilt of Accused No. 9-Dr. Abdul Hameed beyond reasonable doubt and has fallen far short of the exacting standard required in a case involving capital punishment. It was, therefore, prayed that the impugned judgment and order be set aside and Accused No. 9-Dr. Abdul Hameed be acquitted of all charges by extending to him the benefit of doubt.

B. Accused No. 1-Javed Khan; Accused No. 2- Abdul Goni; Accused No. 4-Lateef Ahmad Baja; Accused No. 5-Mohammad Ali Bhatt; Accused No. 6-Mirza Nisar Hussain; and Accused No.10-Raees Baeg

11.24. Learned counsel further submitted that the High Court rightly acquitted Accused No. 1-Javed Khan; Accused No. 2-Abdul Goni; Accused No. 4-Lateef Ahmad Baja; Accused No. 5-Mohammad Ali Bhatt; Accused No. 6-Mirza Nisar Hussain; and Accused No.10-Raees Baeg, as the prosecution had failed to adduce any cogent evidence connecting them with the crime in question. It was submitted that the High Court, upon a careful appraisal of the material on record, correctly concluded that the evidence relied upon by the prosecution related either to other

bomb blast cases or, at best, disclosed association amongst certain accused persons without establishing their participation in the Samleti Bus bomb blast case. Learned counsel emphasized that mere suspicion, prior association, or involvement in other criminal proceedings could not act as a substitute for proof of participation in the present offence.

11.25. Insofar as Accused No. 1-Javed Khan @ Javed Junior was concerned, learned counsel submitted that his confessional statement recorded under Section 164 of CrPC⁵³ primarily referred to the transportation of explosive substances and the movements of various individuals in connection with distinct incidents at Kathmandu, Delhi, Patna, Mumbai, and Ahmedabad. Significantly, the confessional statement neither contained any reference regarding the Samleti Bus bomb blast nor did it disclose any role played by him in the commission of the present offence. Learned counsel pointed out that the High Court rightly noted that, if at all, the statement pertained to the alleged

⁵³ Exhibit P-153.

transportation of explosives to Delhi, which formed the basis of proceedings in the Lajpat Nagar bomb blast case. The statement did not furnish any material connecting Accused No. 1-Javed Khan @ Javed Junior with the present crime.

11.26. Learned counsel further submitted that the case of prosecution against Accused No. 2-Abdul Goni; Accused No. 4-Lateef Ahmad Baja; Accused No. 5-Mohammad Ali Bhatt; Accused No. 6-Mirza Nisar Hussain stood on an even weaker footing. These accused were sought to be implicated principally on the basis of the confessional statement of Accused No. 1-Javed Khan. However, even a plain reading of the said statement revealed no allegation regarding their involvement in the Samleti Bus bomb blast case. At the highest, the statement referred to their presence or movements alongside other persons at different points of time. Learned counsel submitted that such vague references, in the confession of a co-accused without any evidence connecting them to the planning, execution, or facilitation of the present offence, were wholly insufficient to sustain conviction.

11.27. Learned counsel further submitted that the acquittal of Accused No. 10-Raees Baeg was equally justified. Although his name figured in the confessional statement of Accused No. 12-Pappu @ Salim recorded in Jaipur Stadium bomb blast case, there was no reference therein to any involvement of Accused No. 10-Raees Baeg in the Samleti Bus bomb blast case. The prosecution failed to produce any independent evidence linking him with the incident in question. Learned counsel emphasized that the mere fact that Accused No. 10-Raees Baeg had been convicted in the Jaipur Stadium bomb blast case could not constitute evidence of his involvement in the present case. In the absence of any material establishing participation of the said accused in the incident under consideration, the High Court correctly held that the prosecution had failed to prove its case against him.

11.28. On these grounds, learned counsel submitted that the High Court rightly acquitted Accused No. 1-Javed Khan; Accused No. 2-Abdul Goni; Accused No. 4-Lateef Ahmad Baja; Accused No. 5-Mohammad Ali Bhatt; Accused No. 6-Mirza Nisar Hussain; and Accused No.10-Raees Baeg. It was

urged that the prosecution failed to produce cogent, reliable, or independent evidence connecting the aforesaid accused with the Samleti Bus bomb blast case. The material relied upon by the prosecution neither established their participation in the planning or execution of the offence nor disclosed any circumstance incriminating them in the present case. In these circumstances, learned counsel submitted that the High Court correctly extended the benefit of doubt to the aforesaid accused persons and their acquittal calls for no interference.

C. Accused No. 12-Pappu @ Salim

11.29. Learned counsel appearing on behalf of Accused No. 12-Pappu @ Salim assailed the findings recorded by the Courts below and submitted that the conviction of the said accused is wholly unsustainable as there is not even an iota of evidence connecting him with the alleged offence. It was urged that neither any explosive substance, incriminating article, weapon, or any other material object was recovered at the instance of Accused No. 12-Pappu @ Salim during investigation nor was the accused charged for possession of any incriminating article

connected to the case at hand. Learned counsel drew attention to the testimony of prosecution witnesses, including the officers associated with the investigation, who admitted that no recovery whatsoever had been effected from Accused No. 12-Pappu @ Salim. According to learned counsel, the absence of any recovery linking Accused No. 12-Pappu @ Salim to the alleged conspiracy or commission of the offence constitutes a fundamental *lacuna* in the prosecution case and completely undermines the theory of his involvement in the case at hand.

11.30. Learned counsel further submitted that the entire prosecution case against Accused No. 12-Pappu @ Salim rests solely upon circumstantial evidence, there being no direct evidence whatsoever implicating him in the alleged crime. It was urged that the prosecution has failed to establish a complete and unbroken chain of circumstances leading exclusively to the guilt of Accused No. 12-Pappu @ Salim. Several material links remain unproved, while other circumstances relied upon by the prosecution are based upon assumptions and inferences rather than on legally admissible evidence.

In such circumstances, it was submitted that the Courts below gravely erred in recording a finding of guilt despite the prosecution having failed to establish the charges beyond reasonable doubt.

11.31. Learned counsel next contended that the testimony of the prosecution witnesses suffers from serious inconsistencies, contradictions and inherent improbabilities which strike at the very root of the prosecution case. It was submitted that material witnesses gave divergent versions on crucial aspects of the case and several prosecution witnesses failed to support and rather contradicted the prosecution narrative in material particulars. According to learned counsel, the Courts below ignored these glaring discrepancies and proceeded to convict Accused No. 12-Pappu @ Salim on the basis of evidence which was neither consistent nor reliable. It was urged that since the prosecution evidence itself is riddled with material contradictions, Accused No. 12-Pappu @ Salim is entitled to the benefit of doubt.

11.32. Learned counsel further submitted that the prosecution failed to establish any motive whatsoever for Accused No. 12-Pappu @ Salim to participate in the alleged offence. It was urged that

no evidence was led to demonstrate any association of Accused No. 12-Pappu @ Salim with the principal accused persons or any circumstance even suggestive of his involvement in the alleged conspiracy. On the contrary, evidence on record indicated that Accused No. 12-Pappu @ Salim was a driver by profession, belonging to a modest background and earning his livelihood by lawful means. Learned counsel further pointed out that a prosecution witness, namely, Pramod Kumar (PW-7), who was acquainted with Accused No. 12-Pappu @ Salim for a considerable period, specifically stated in his deposition that he was not involved in any anti-national activity and was known to be a peace-loving and patriotic individual. These circumstances, according to learned counsel, completely belie the prosecution's attempt to portray Accused No. 12-Pappu @ Salim as a participant in the alleged offence.

11.33. Learned counsel also questioned the reliance placed by the Courts below upon the alleged confessional statement attributed to Accused No. 12-Pappu @ Salim under Section 164 of CrPC. It was submitted that Accused No. 12-Pappu @ Salim himself, while deposing as a witness (PW-95) in

connected proceedings, i.e., Sessions Case No. 35 of 2011, categorically asserted that the statement had not been made voluntarily and that it had been recorded under pressure exerted by the investigating authorities. According to learned counsel, once the voluntary nature of the alleged statement stood seriously disputed, the Courts below ought to have scrutinized such material with great caution. Instead, the statement was implicitly relied upon ignoring the suspicious circumstances in which it came to be recorded and Accused No. 12-Pappu @ Salim's subsequent explanation regarding the same.

11.34. Learned counsel lastly submitted that the cumulative effect of the aforesaid circumstances unmistakably demonstrates that the prosecution has failed to establish the guilt of Accused No. 12-Pappu @ Salim beyond reasonable doubt. It was urged that there exists no recovery, no direct evidence, no proved motive, no reliable chain of circumstances and no credible material connecting Accused No. 12-Pappu @ Salim with the alleged crime. The findings recorded by the trial Court and affirmed by the High Court are based purely on conjectures and surmises rather than legally admissible evidence. In these

circumstances, learned counsel submitted that Accused No. 12-Pappu @ Salim is entitled to the benefit of doubt and that the conviction and sentence recorded against him deserve to be set aside.

11.35. Learned counsel further opposed the challenge laid by the State of Rajasthan [Criminal Appeal @ Special Leave Petition (Criminal) No. 3531 of 2021] to the judgment and order dated 29th September, 2020 granting permanent parole to Accused No. 12-Pappu @ Salim. It was submitted that the said order does not suffer from any legal or factual infirmity warranting interference by this Court. Learned counsel pointed out that Accused No. 12-Pappu @ Salim was convicted on 7th March, 2017 and sentenced to undergo imprisonment for life and had remained in custody even prior to his conviction. Consequently, he has undergone more than twenty-three years of actual incarceration. It was urged that the High Court, while granting permanent parole, rightly took into consideration the prolonged period of imprisonment undergone by Accused No. 12-Pappu @ Salim, his satisfactory conduct in prison, and the object underlying the parole framework,

namely, the reformation and social reintegration of prisoners.

11.36. Learned counsel further submitted that Accused No. 12-Pappu @ Salim had earlier been released on first and second paroles and had faithfully complied with all conditions imposed by the competent authorities. He never misused the liberty granted to him and, upon completion of each parole period, surrendered before the concerned authorities within the stipulated time. It was contended that his conduct and behaviour both during incarceration and while on parole remained satisfactory throughout. In view of his long incarceration, unblemished conduct, successful availing of earlier paroles without any breach of conditions, and fulfilment of the requirements prescribed under the Rajasthan Prisoners Release on Parole Rules, 1958, the High Court was fully justified in directing his release on permanent parole. Accordingly, it was submitted that the challenge laid by the State of Rajasthan to the order dated 29th September, 2020 is devoid of merit and deserves to be rejected.

VI. SUBMISSIONS ON BEHALF OF THE STATE OF RAJASTHAN

A. Accused No. 9-Dr. Abdul Hameed

12. *Per contra*, Mr. Raja Thakare, learned Additional Solicitor General appearing on behalf of the State of Rajasthan submitted that the trial Court and the High Court have concurrently recorded findings of guilt against Accused No. 9-Dr. Abdul Hameed upon a comprehensive appreciation of oral, documentary and forensic evidence. It was contended that such concurrent findings, having been arrived at upon a proper evaluation of the evidence and in accordance with settled principles of criminal jurisprudence, carry substantial persuasive value and do not warrant interference by this Court in exercise of its appellate jurisdiction. It was further urged that the prosecution has succeeded in establishing beyond reasonable doubt that Accused No. 9-Dr. Abdul Hameed was not merely associated with the events in question but was one of the principal conspirators who played a significant and active role in the planning and execution of the conspiracy culminating in the Samleti Bus bomb blast of 22nd May, 1996. The said incident constituted a dastardly

and heinous terrorist act, resulting in widespread public harm, leading to the death of fourteen innocent passengers, causing injuries to several others, and occasioning the destruction of public property, while spreading terror in the society at large.

12.1. According to learned senior counsel, the evidence on record establishes a complete and unbroken chain of circumstances pointing towards the guilt of Accused No. 9-Dr. Abdul Hameed, demonstrating not merely his presence at the scene but also his active involvement in the formulation, coordination, and execution of the conspiracy. It was submitted that the testimonies of prosecution witnesses, read together with the documentary and forensic evidence, clearly corroborate the prosecution case and conclusively establish the complicity of Accused No. 9-Dr. Abdul Hameed, leaving no room for doubt as to his guilt.

12.2. Learned senior counsel submitted that the identity and presence of Accused No. 9-Dr. Abdul Hameed in the ill-fated Rajasthan Roadways bus immediately prior to the explosion stand firmly established through the testimony of multiple

independent witnesses. In this regard, reliance was heavily placed on the evidence of Ashok Kumar (PW-46), the conductor of the bus, who consistently identified Accused No. 9-Dr. Abdul Hameed during the TIP as well as in the dock during his deposition before the trial Court. The conductor (PW-46) specifically deposed that two young men, one of whom was Accused No. 9-Dr. Abdul Hameed, got down at Mahwa and returned their tickets requesting that they be given to a poor person. Learned senior counsel submitted that the peculiar and uncommon nature of this action made a lasting impression on the witness (PW-46), thereby enabling him to distinctly remember the said accused and to identify him with confidence and consistency at the stages of investigation and trial. Such identification, it was argued, constitutes unimpeachable evidence connecting Accused No. 9-Dr. Abdul Hameed with the events immediately preceding the explosion.

12.3. It was further submitted that on the crucial aspect of identification, the testimony of the conductor (PW-46) receives substantial corroboration from Guman Singh (PW-3), Jhabbu (PW-19), Dashrath Singh (PW-23), Constable Jagan Ram (PW-

28), Murari Lal (PW-29), and Constable Rajesh Kumar (PW-30). Each of these witnesses, while deposing independently, furnished materially consistent accounts regarding the physical appearance and conduct of Accused No. 9-Dr. Abdul Hameed, describing features such as his unshaven beard, spectacles, cap, clothing, and generally suspicious demeanour during the journey. Their testimonies further converge on the crucial circumstance that the said accused was one of the passengers who disembarked from the bus shortly before the explosion took place. Although the statements of these witnesses were recorded after a considerable lapse of time, the consistency maintained by them on the material particulars of identification and highlighted conduct of Accused No. 9-Dr. Abdul Hameed assumes seminal evidentiary value. The thread of consistency running through the testimonies of these witnesses, despite being recorded years after the incident, therefore lends considerable assurance to the prosecution case and reinforces the reliability of the conductor's account on the material aspects of the incident.

12.4. Learned senior counsel submitted that the challenge to the TIP is wholly misconceived. The evidence of Nand Lal Sharma (PW-98), the Munsiff Magistrate who conducted the TIP, clearly establishes that all material witnesses correctly identified Accused No. 9-Dr. Abdul Hameed during the identification proceedings. The identification memos prepared consistently bear the signatures of the witnesses and form part of the record, thereby providing contemporaneous documentary corroboration of the identification process and the participation of the witnesses therein. Significantly, the evidence of Nand Lal Sharma (PW-98) remained unshaken during cross-examination, and no material contradiction, inconsistency, or procedural irregularity could be elicited so as to cast any doubt on the manner in which the proceedings were conducted. His testimony, read together with the identification memos and the direct evidence of the identifying witnesses, unequivocally demonstrates that the TIP was conducted in a fair, transparent, and legally compliant manner, and conclusively establishes the fairness and reliability of the identification proceedings.

12.5. Learned senior counsel appearing for the State vehemently refuted the contention advanced on behalf of Accused No. 9-Dr. Abdul Hameed that he had been shown to the witnesses prior to the conduct of the TIP as being wholly misconceived and unsupported by the record. On the contrary, it was urged that the evidence on record affirmatively demonstrates that all necessary precautions were taken to ensure the fairness and sanctity of the identification proceedings. The testimony of Nand Lal Sharma (PW-98), the Munsiff Magistrate who conducted the TIP, clearly establishes that Accused No. 9-Dr. Abdul Hameed was kept properly segregated and that the TIP was conducted strictly in accordance with the prescribed procedure. Significantly, no credible material was brought on record during cross-examination to substantiate the allegation that Accused No. 9-Dr. Abdul Hameed had been exposed to the witnesses before the conduct of TIP. The defence theory that Accused No. 9-Dr. Abdul Hameed was previously shown to the identifying witnesses remains a bald assertion, unsupported by any credible evidence whatsoever, and stands squarely contradicted by the contemporaneous

record and the unimpeached testimony of Nand Lal Sharma (PW-98). In these circumstances, the allegation deserves to be rejected outright as an afterthought raised solely to undermine an otherwise reliable identification process conducted with due diligence.

12.6. Learned senior counsel further submitted that the inability of certain witnesses to identify Accused No. 9-Dr. Abdul Hameed in Court after a considerable lapse of time does not dilute the evidentiary value of TIP. It was contended that the law has consistently recognized the fallibility of human memory and the natural fading of recollection with the passage of time, particularly in cases where witnesses are required to identify individuals whom they had seen only briefly and several years or decades earlier. What assumes significance is that such witnesses had correctly identified Accused No. 9-Dr. Abdul Hameed during the TIP conducted at a much earlier stage, when the events were relatively fresh in their memory and the possibility of mistaken recollection was substantially lower. The subsequent inability to identify the accused in Court, therefore, cannot dilute or undermine the reliability of the

identification made during the TIP, which was conducted within a reasonable period after the incident. The evidence of Nand Lal Sharma (PW-98), read with Exhibit Nos. P-1, P-8 and P-9, therefore conclusively establishes the identity of Accused No. 9-Dr. Abdul Hameed for the purposes of the present case.

12.7. Learned counsel next submitted that the conduct of Accused No. 9-Dr. Abdul Hameed immediately before the explosion constitutes a highly incriminating circumstance that cannot be viewed in isolation but must be assessed in light of the surrounding facts and attendant circumstances. Despite purchasing tickets valid up to Jaipur, he unexpectedly and without any apparent reason disembarked at Mahwa shortly before the blast. Several witnesses consistently deposed that his demeanour during the journey was unusual and conspicuously anxious. He appeared visibly nervous, continuously smoked cigarettes, and displayed signs of restlessness that attracted the attention of fellow passengers. He firmly objected when another passenger attempted to move a suitcase believed to belong to him, yet ultimately left the bus without that

suitcase, a circumstance that is both unnatural and difficult to reconcile with normal human conduct. According to learned counsel, the cumulative effect of these circumstances, namely, the sudden disembarking from the bus, his nervous behaviour, his unusual concern for the suitcase, and his decision to leave it behind, forms a coherent chain of incriminating facts that is wholly inconsistent with innocent conduct and strongly indicates prior knowledge of the impending explosion.

12.8. It was further submitted that the returned bus tickets constituted a crucial link in the chain of circumstances connecting Accused No. 9-Dr. Abdul Hameed to the events immediately preceding the occurrence. The prosecution proved this circumstance through the testimony of Bal Krishan (PW-6), who boarded the bus at Mahwa and was handed over the very tickets earlier returned by the two passengers who had alighted. The testimony of Bal Krishan (PW-6) corroborates the version put forth by the conductor (PW-46) regarding the return of the tickets and establishes the suspicious movements of Accused No. 9-Dr. Abdul Hameed immediately before the occurrence. This circumstance assumes great

significance because it independently corroborates the identification evidence led by the prosecution.

12.9. Learned senior counsel submitted that the prosecution has conclusively established the procurement, recovery and planting of explosive substances in the bus through unimpeachable scientific and documentary evidence. Bhoop Singh (PW-91) proved the recoveries of substantial quantities of ammonium nitrate, detonators and fuse wires at the instance of one of the co-accused persons. Chetan Das Ravatani (PW-93), the FSL expert, categorically confirmed that the recovered materials were not innocuous substances but essential components capable of being used in the manufacture and detonation of explosive devices, thereby lending strong scientific support to the prosecution case. Prem Sagar Manocha (PW-96) further deposed that approximately 2.5 kilograms of RDX, a highly potent military-grade explosive, had been used in the blast and that the explosive substance had been strategically concealed beneath a seat inside the bus with the intention of causing maximum destruction and loss of life. The forensic findings regarding the nature, quantity, and

placement of the explosive material are wholly consistent with the eyewitness account and other prosecution evidence and leave no room for doubt as to the manner in which the offence was planned and executed. The scientific evidence, therefore, fully corroborates and materially strengthens the prosecution case regarding the commission of the offence and the means employed for carrying out the same.

12.10. Learned senior counsel further submitted that the evidence of Guman Singh (PW-3) regarding the large suitcase with an army-coloured cover assumes considerable significance when read alongside the forensic evidence. Guman Singh (PW-3) specifically deposed that a passenger matching the description of Accused No. 9-Dr. Abdul Hameed not only objected when an attempt was made to move the suitcase but also subsequently disembarked from the bus leaving the suitcase behind. This conduct assumes particular significance in light of the forensic evidence establishing that the explosive device was concealed beneath a seat in the bus. The testimony of Guman Singh (PW-3), when read conjointly with the forensic findings, lends tangible

support to the prosecution case that the suitcase contained the explosive material and was clandestinely used to transport and place the device in the bus, thereby forming a crucial link in the chain of incriminating circumstances against the accused.

12.11. Learned counsel also emphasized that the prosecution evidence does not merely establish isolated circumstances but consistently proves the participation of Accused No. 9-Dr. Abdul Hameed in a wider terrorist conspiracy. The evidence on record demonstrates his association with persons connected to organised terrorist networks and his involvement in activities extending beyond the present incident, thereby indicating a continuing nexus with individuals and groups engaged in terrorist operations. It was further submitted that the material brought on record, when viewed cumulatively, reflects not only the knowledge of the said accused about such unlawful activities but also his conscious participation in a broader conspiracy aimed at proliferating terrorist objectives. The fact that Accused No. 9-Dr. Abdul Hameed has also been convicted in the Jaipur Stadium bomb blast case, which judgment has attained finality, assumes

considerable significance and provides additional corroboration regarding his role and association with terrorist activities, strengthening the prosecution's case as to his sustained involvement in terrorist networks and related unlawful acts.

12.12. It is further submitted that the confessional statements of Accused No. 12-Pappu @ Salim, which, according to the prosecution, stands duly proved in accordance with law through the testimony of the approver (PW-95) himself as well as the evidence of the Magistrates, namely, Suresh Chand Sharma (PW-97) and K.P. Saxsena (PW-99), who recorded the confessions, assumes considerable significance in establishing the existence of the larger conspiracy underlying the terrorist activities in question. A perusal of the said confession clearly reveals the involvement of Accused No. 9-Dr. Abdul Hameed along with other accused persons in the conspiracy and discloses their association with the terrorist networks responsible for orchestrating and facilitating the commission of various terrorist acts. The confession not only identifies Accused No. 9-Dr. Abdul Hameed as a participant in the conspiracy but also demonstrates the interconnectivity of the

accused persons in furtherance of the common unlawful design. The disclosures made therein constitute a vital link in the chain of evidence proving the larger conspiracy and lend substantial corroboration to the prosecution case regarding the coordinated role played by Accused No. 9-Dr. Abdul Hameed and the other accused in advancing the objectives of the terrorist organisation. In view of the fact that the confessional statements stand duly proved and their voluntariness and authenticity have been established through legally admissible evidence, the contents thereof constitute a relevant and reliable piece of evidence for establishing the role of the accused persons in the larger conspiracy.

12.13. Learned counsel lastly submitted that the prosecution has successfully established a complete, coherent and unbroken chain of clinching incriminating circumstances which unequivocally points towards the guilt of Accused No. 9-Dr. Abdul Hameed, and excludes every reasonable hypothesis consistent with his innocence. It was contended that the presence of the said accused in the bus at the relevant time, his identification by several independent witnesses, his suspicious conduct

immediately preceding the blast, his premature disembarkation at Mahwa, the return of the bus tickets, his continuous connection with the suitcase containing the explosive device, the forensic evidence confirming the use of RDX, and his links with the larger conspiracy are all circumstances which stand firmly proved and mutually reinforce one another. According to learned counsel, when these circumstances are considered cumulatively and in their proper perspective, they form a complete chain that leaves no gap in the prosecution case and leads to the only irresistible conclusion of his guilt. It was, therefore, submitted that both the trial Court and the High Court rightly appreciated the evidence on record and correctly recorded findings of guilt, and consequently, the conviction and sentence imposed upon Accused No. 9-Dr. Abdul Hameed, warrant no interference by this Court.

12.14. Learned senior counsel further submitted that, assuming the conviction of Accused No. 9-Dr. Abdul Hameed is upheld, the present case squarely falls within the category of the “rarest of rare” cases warranting confirmation of the death sentence imposed by the trial Court. It was urged that the

offence was not an act of individual vendetta or a crime committed in the heat of passion, but a cold-blooded and meticulously planned terrorist attack directed against unsuspecting civilians travelling in a public transport bus. The explosive device, comprising highly destructive material including RDX, was planted in a State Roadways bus pursuant to a calculated design to cause maximum casualties and spread terror amongst the public at large. The consequences of the act were catastrophic, resulting in the loss of fourteen innocent lives, grievous injuries to numerous others, and widespread fear and insecurity within society. Learned counsel submitted that the enormity of the crime, the vulnerability of the victims, the ghastly nature of the attack, and the profound impact of the incident upon public order and national security constitute aggravating circumstances of the highest order.

12.15. It was further contended that offences of this nature strike at the very foundations of civilised society and represent an assault not merely upon individual victims but upon the collective conscience of the nation. Learned counsel submitted that the principles governing the imposition of capital

punishment, as authoritatively enunciated by this Court in ***Bachan Singh v. State of Punjab***⁵⁴, require the death penalty to be reserved for the “rarest of rare” cases where the alternative option of life imprisonment is unquestionably foreclosed. According to learned counsel, the present case satisfies that exacting standard. The magnitude of the crime, the number of lives lost, the severe injuries inflicted upon numerous victims, the use of sophisticated explosive material, and the wider impact of the incident on public order and societal security constitute aggravating circumstances of the highest degree. In these circumstances, learned counsel urged that the balance between aggravating and mitigating factors overwhelmingly tilts in favour of the extreme penalty and that no punishment short of death would adequately reflect the gravity of the offence, satisfy the demands of justice, or serve the legitimate societal interest in deterring acts of terrorism. It was, therefore, prayed that the death sentence awarded to Accused No. 9-Dr. Abdul Hameed be affirmed.

⁵⁴ (1980) 2 SCC 684.

**B. Accused No. 1-Javed Khan; Accused No. 2-
Abdul Goni; Accused No. 4-Lateef Ahmad Baja;
Accused No. 5-Mohammad Ali Bhatt; Accused
No. 6-Mirza Nisar Hussain; and Accused No.10-
Raees Baeg**

12.16. Learned senior counsel assailed the acquittal of Accused No. 1-Javed Khan; Accused No. 2-Abdul Goni; Accused No. 4-Lateef Ahmad Baja; Accused No. 5-Mohammad Ali Bhatt; Accused No. 6-Mirza Nisar Hussain; and Accused No.10-Raees Baeg by the High Court, contending that the impugned judgment is vitiated by a manifest misappreciation and erroneous appreciation of the evidence on record. It was submitted that the trial Court, upon a comprehensive and meticulous evaluation of the oral, documentary, and circumstantial evidence, had rightly recorded findings of conviction against the aforesaid accused for offences arising out of the larger criminal conspiracy culminating in the Samleti Bus bomb blast. According to the learned senior counsel, the High Court fell into grave error in discarding crucial incriminating material, including evidence demonstrating the accused persons’

association with and active participation in the conspiracy, despite the existence of a consistent, cogent, and interlinked chain of circumstances which unmistakably connected them with the terrorist network responsible for the commission of the offence and established their culpability beyond reasonable doubt.

12.17. Learned senior counsel submitted that the prosecution case demonstrates that the aforesaid accused persons were not isolated actors but members of a coordinated terrorist conspiracy linked with organisations such as JKIF and Harkat-ul-Ansar. The evidence on record reveals their participation in activities extending beyond the present incident and forming part of a broader design to carry out terrorist attacks in different parts of the country. Learned counsel for the State emphasized that several of the accused persons have also been convicted in other bomb blast cases, including the Lajpat Nagar bomb blast and Jaipur Stadium bomb blast cases, thereby providing significant insight and corroboration regarding their association with terrorist organisations and the conspiracy in question. It was further contended that these

convictions are not merely indicative of prior criminal involvement but constitute strong circumstantial evidence demonstrating a continuing nexus between the accused persons and organised terrorist networks operating across different regions and even abroad. According to the prosecution, the pattern of conduct emerging from the evidence establishes that the present offence formed part of a larger and well-defined conspiracy aimed at destabilising public order and creating widespread fear among the civilian population.

12.18. It was further submitted that the confessional statements of Accused No. 12-Pappu @ Salim, though requiring corroboration, furnish a comprehensive and detailed account of the broader criminal conspiracy, including the planning, coordination, and execution of the acts culminating in the explosion, and specifically implicate the acquitted accused in various stages of the conspiracy. It was contended that material aspects set out in the confessional narratives stand independently corroborated by evidence relating to the transportation of explosives, recovery of incriminating articles, identification of conspirators,

and the chain of events leading to the explosion. According to the learned counsel for the State, the High Court adopted an unduly hyper-technical approach in evaluating this evidence and failed to appreciate the cumulative effect of the circumstances established by the prosecution, which, taken together, pointed towards the involvement of the acquitted accused in the conspiracy.

12.19. Learned senior counsel lastly submitted that the trial Court had rightly recorded findings of guilt upon a comprehensive appreciation of the entire evidentiary record, including the testimony of prosecution witnesses, recoveries effected and discoveries made during investigation, forensic and scientific evidence, as well as the conduct of the accused before, during, and after the commission of the offence. It was submitted that the High Court, while acquitting Accused No. 1-Javed Khan; Accused No. 2-Abdul Goni; Accused No. 4-Lateef Ahmad Baja; Accused No. 5-Mohammad Ali Bhatt; Accused No. 6-Mirza Nisar Hussain; and Accused No.10-Raees Baeg, failed to accord due weight to the overall probative worth of the incriminating circumstances established on record and clearly erred in upsetting

well-reasoned findings of conviction rendered by the trial Court. According to the learned senior counsel, such acquittal has resulted in a serious and manifest miscarriage of justice, particularly in the context of a large-scale terrorist attack of exceptional gravity that led to the loss of numerous innocent civilian lives and breached public order and threatened national security. It was, therefore, prayed that the impugned judgment of the High Court, insofar as it acquits the aforesaid accused, be set aside as legally unsustainable and that the convictions and sentences recorded by the trial Court be restored in the interests of justice.

C. Accused No. 12-Pappu @ Salim

12.20. Learned senior counsel appearing on behalf of the State submitted that the conviction of Accused No. 12-Pappu @ Salim is fully justified and firmly supported by overwhelming oral, documentary, and circumstantial evidence available on record. It was contended that he had initially been granted pardon on the specific condition that he would make a full, complete, and truthful disclosure of all facts within his knowledge concerning the larger

criminal conspiracy, including the Samleti Bus bomb blast and related incidents. In compliance with the terms of the pardon, he made detailed confessional statements in both the Jaipur Stadium bomb blast case and the Samleti Bus bomb blast case, wherein he disclosed the genesis of the conspiracy, identified the various conspirators, described their respective roles, and explained the manner in which explosives and other incriminating materials were procured, transported, and utilised. However, pursuant to obtaining the benefit of pardon, he subsequently resiled from his earlier statements, failed to adhere to the conditions subject to which the pardon had been granted, and deliberately withheld the truth behind the larger conspiracy. Consequently, the protection afforded to him under the pardon stood forfeited, leading to his lawful prosecution and eventual conviction.

12.21. Learned counsel submitted that the offence punishable under Section 193 of IPC stood fully and independently established the moment Accused No. 12-Pappu @ Salim chose to retract from and materially contradict the confessional statements voluntarily made by him earlier. It was

contended that the confessions had been duly proved in accordance with law, formally exhibited before the Court, and were found to be consistent on material particulars, thereby lending assurance to their reliability and evidentiary worth. The statements, according to the prosecution, not only disclosed and established the existence of the larger criminal conspiracy but also provided a detailed and coherent account of the procurement, transportation, storage, and eventual use of explosives in furtherance of the conspiracy. In these circumstances, it was argued that the trial Court as well as the High Court were fully justified in placing reliance upon the said confessional statements, treating them as substantive and corroborative evidence, and consequently recording the conviction of Accused No. 12-Pappu @ Salim on that basis.

12.22. It was further submitted that substantial independent corroboration exists for the confessional statements. The testimony of Bhoop Singh (PW-91) not only corroborates the recovery of fuse wires, detonators, and ammonium nitrate from one of the conspirators, but also provides an important link connecting the accused with the procurement and

possession of materials capable of being used in the commission of the offence. The evidence of the FSL expert further strengthens the prosecution case by scientifically establishing that the recovered materials were of the nature and composition commonly used for the manufacture of explosive substances, thereby confirming the incriminating character of the recovery. Likewise, the evidence relating to the transportation of explosives through different transport companies stands duly corroborated by the testimony of Phool Bahadur (PW-9), Ashok Raj Kapoor (PW-10), and Ramesh Chand Tyagi (PW-13), whose depositions collectively verify the movement, booking, and delivery of consignments connected to the conspiracy. The recovery of an identity card from the possession of Accused No. 12-Pappu @ Salim bearing an address in Anantnag, Kashmir, constitutes an additional incriminating circumstance, corroborating the prosecution case regarding his association with the wider conspiracy, his connections with co-conspirators operating from Kashmir, and the movement and concealment of explosives as part of the larger unlawful design.

12.23. Learned senior counsel submitted that the evidence on record unequivocally demonstrates that Accused No. 12-Pappu @ Salim was not merely associated with, but was an active and knowing participant in the criminal conspiracy that culminated in a series of coordinated explosions at multiple locations, including Rajasthan and Delhi. It was contended that these acts were carried out pursuant to a well-orchestrated plan and resulted in extensive loss of human life, serious injuries to numerous individuals, and widespread destruction of public and private property, thereby posing a grave threat to public order and national security. In view of the cogent and reliable evidence establishing the involvement of Accused No. 12-Pappu @ Salim in the crime in question, learned senior counsel argued that the findings recorded by the trial Court and affirmed by the High Court are fully justified and supported by the material on record. Consequently, it was submitted that the conviction of Accused No. 12-Pappu @ Salim for the offence of criminal conspiracy, along with the allied offences arising therefrom, suffers from no legal or factual infirmity warranting interference.

12.24. Insofar as the judgment and order dated 29th September, 2020 granting permanent parole to Accused No. 12-Pappu @ Salim is concerned, learned senior counsel submitted that the High Court committed a serious error in extending such relief while proceedings arising out of the conviction and sentence were still pending consideration before this Court, and without assigning due weight to the exceptionally grave and sensitive nature of the offences involved. It was contended that the High Court failed to undertake a proper assessment of the findings concurrently recorded by the Courts below regarding Accused No. 12-Pappu @ Salim's active participation in a terrorist conspiracy and activities prejudicial to national security, and further overlooked the statutory limitations and eligibility conditions prescribed under the Rajasthan Prisoners Release on Parole Rules, 1958, which govern the grant of parole in such cases. According to the learned senior counsel for the State, the impugned order suffers from a manifest error of law and an improper exercise of judicial discretion, rendering the grant of permanent parole legally untenable. Consequently, it was urged that the judgment and

order dated 29th September, 2020 granting permanent parole to Accused No. 12-Pappu @ Salim is liable to be set aside and the parole granted thereunder deserves to be rescinded.

VII. DISCUSSION AND ANALYSIS OF THE ISSUES ARISING FOR DETERMINATION

13. We have given our anxious and thoughtful consideration to the submissions advanced at the Bar and have undertaken a meticulous examination of the impugned judgments together with the entirety of the material placed on record. Upon a comprehensive appraisal of the rival contentions and the evidence available on record, we proceed to analyse the issues arising for determination in the present matter.

14. At the outset, it may be noted that the present batch of appeals gives rise to distinct issues concerning different sets of accused persons, each resting on separate evidentiary tranches requiring independent consideration. In order to ensure a structured and coherent analysis of the voluminous record and the rival submissions advanced before us, we deem it appropriate to divide our discussion into

three broad parts. The first part concerns the challenge to the conviction and sentence awarded to Accused No. 9-Dr. Abdul Hameed. The second part relates to the conviction and sentence awarded to Accused No. 12-Pappu @ Salim, as well as the ancillary issues arising therefrom. The third part pertains to the challenge mounted by the State of Rajasthan against the acquittal of Accused No. 1-Javed Khan, Accused No. 2-Abdul Goni, Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt, Accused No. 6-Mirza Nisar Hussain and Accused No. 10-Raees Baeg. We shall accordingly examine the evidence, the findings recorded by the Courts below and the submissions advanced on behalf of the respective parties under each of the aforesaid heads in *seriatim*.

A. Conviction and Sentence Awarded to Accused No. 9-Dr. Abdul Hameed

15. Before examining the appeal of Accused No. 9-Dr. Abdul Hameed on merits, it is necessary to first address a foundational issue that strikes at the very root of the criminal proceedings, namely, whether the said accused was afforded a fair, just and

constitutionally compliant trial. The challenge raised on his behalf is not confined merely to the appreciation of evidence or the correctness of the findings recorded by the Courts below, but extends to the legality of the very process through which his conviction came to be recorded. It is the specific case of Accused No. 9-Dr. Abdul Hameed that he remained effectively unrepresented throughout the trial and that no meaningful legal assistance was provided to him despite the grave nature of the charges and the possibility of capital punishment. Since this issue concerns the validity of the trial procedure itself, it necessarily warrants consideration at the threshold.

16. The determination of the aforesaid issue is of pivotal significance. If the trial is found to have been conducted in breach of the constitutional guarantee of a fair trial, the very foundation of the conviction would stand vitiated. In that event, it would neither be necessary nor appropriate for this Court to undertake an examination of the evidentiary issues arising in the appeals preferred by Accused No. 9-Dr. Abdul Hameed. Conversely, it is only upon being satisfied that the trial was conducted in conformity with the constitutional and statutory safeguards

governing criminal prosecutions, or after determining the legal consequences flowing from any infraction thereof, that it would become necessary to examine the evidentiary issues relating to identification, confessional statements, forensic evidence and the other incriminating circumstances relied upon by the prosecution. We, therefore, consider it appropriate to first consider and determine whether the trial of Accused No. 9-Dr. Abdul Hameed satisfied the constitutional requirement of a fair trial before embarking upon an examination of the merits of the conviction recorded against him.

Whether the trial culminating in the conviction of Accused No. 9-Dr. Abdul Hameed was conducted in a manner consistent with the constitutional guarantee of a fair trial and the requirements of due process of law?

17. The issue of paramount importance which falls for our consideration is whether Accused No. 9-Dr. Abdul Hameed was afforded a fair and constitutionally compliant trial. The significance of this issue cannot be overstated, for the right to a fair trial lies at the heart of criminal jurisprudence and forms an inseparable component of the guarantee of

life and personal liberty enshrined under Article 21 of the Constitution of India. The legitimacy of a conviction depends not merely upon the establishment of guilt but equally upon the fairness of the process through which such guilt is determined. The concern raised before us is not a minor procedural objection; rather, it strikes at the very foundation of the criminal justice process and the validity of the conviction and sentence imposed upon the accused. Where the allegation is that an accused facing charges of the gravest nature remained undefended throughout the trial, the Court is under a duty to closely scrutinize the record and satisfy itself that the constitutional guarantees available to the accused were not bypassed or reduced to a mere ritualistic or illusory compliance.

18. It is a settled principle that the constitutional guarantee of a fair trial encompasses the right of an accused to be effectively represented by a counsel of his/her choice and, where necessary, to receive competent legal aid at the expense of the State. These safeguards are not mere formalities but essential protections intended to ensure that an accused is afforded a meaningful opportunity to defend himself

against the charges levelled against him. If an accused is left undefended in proceedings carrying grave penal consequences, the fairness of the trial itself may stand seriously compromised. In such circumstances, the Court must satisfy itself that the safeguards guaranteed under Articles 21 and 22 of the Constitution of India and criminal law were observed not only in form but also in substance. The question before us, therefore, goes to the very legitimacy of the procedure adopted by the trial Court and must be examined threadbare before proceeding to consider the appeal of Accused No. 9-Dr. Abdul Hameed on merits.

19. The denial of a fair and constitutionally compliant procedure to Accused No. 9-Dr. Abdul Hameed, is clearly manifest from the proceedings before the High Court. It needs to be noted that the High Court, *vide* order dated 30th April, 2015, declined the initial D.B. Criminal Death Reference No. 1 of 2014 on the ground that the sentence of death had been imposed on the very same day on which the conviction was recorded and that, at the stage of hearing on sentence, no counsel representing Accused No. 9-Dr. Abdul Hameed was present before

the trial Court. The High Court further found that no meaningful opportunity had been afforded to Accused No. 9-Dr. Abdul Hameed to place on record mitigating circumstances relevant to the question of sentence. Recognising that such omissions struck at the heart of the sentencing process in a capital sentence case, the High Court remanded the matter to the trial Court for passing a fresh order on sentence after ensuring compliance with the requirements of a fair hearing.

20. Significantly, while remanding the matter, the High Court specifically directed that Accused No. 9-Dr. Abdul Hameed be provided legal representation either through legal aid or by the appointment of an *amicus curiae*. It was only pursuant to these directions that the trial Court appointed an *amicus curiae* to represent the said accused for the first time pursuant to his arraignment in the present case. Thereafter, upon conducting fresh proceedings on the question of sentence, the trial Court passed a fresh order dated 17th December, 2015, once again awarding the sentence of death to Accused No. 9-Dr. Abdul Hameed, for the offence punishable under Section 302 of IPC. The aforesaid circumstances

assume considerable significance, for they demonstrate that even the High Court had found the original sentencing proceedings to be vitiated by the absence of legal representation and the denial of an effective opportunity to present mitigating circumstances, thereby lending substantial weight to the grievance raised by Accused No. 9-Dr. Abdul Hameed that the constitutional guarantee of a fair hearing and a fair trial was not adequately observed by the trial Court during the entirety of trial.

21. Although the issue concerning the absence of legal representation was noticed by the High Court limited to the sentencing aspect, the broader contention now urged is that Accused No. 9-Dr. Abdul Hameed remained effectively unrepresented throughout the trial and that no assistance by way of legal aid was extended to him during the conduct of the trial proceedings. This contention came to be specifically raised before us during the course of hearing of the instant appeals. Learned counsel, Ms. Jaiswal fervently submitted that Accused No. 9-Dr. Abdul Hameed had faced the trial without the assistance of counsel and that the constitutional mandate of providing legal aid had not been complied

with. Having regard to the gravamen of the plea and its direct implication on the fairness and validity of the trial, this Court deemed it appropriate to verify the factual position from Accused No. 9-Dr. Abdul Hameed himself and so also from the record.

22. Consequently, by order dated 20th February, 2025, this Court directed that Accused No. 9-Dr. Abdul Hameed, who was lodged in Central Jail, Jaipur, be connected through video conferencing. Pursuant thereto, Accused No. 9-Dr. Abdul Hameed appeared before us through video conferencing on 6th March, 2025. This Court considered it appropriate to interact with him in order to ascertain whether the grievance now sought to be raised had any factual basis and whether he had, at any stage, been represented by a counsel of his choice or through legal aid.

23. During the course of the interaction, Accused No. 9-Dr. Abdul Hameed unequivocally stated that no advocate had represented him during the trial proceedings. He further informed the Court that he had not engaged any private counsel and that no legal aid counsel was ever provided to him by the trial Court. His response was categorical and left little

scope for ambiguity. The statement made by the accused assumes considerable significance, particularly in the context of the constitutional guarantee of a fair trial and the obligation of the Court to ensure effective legal representation to an accused facing criminal prosecution. The State counsel did not dispute that any counsel was ever appointed to represent Accused No. 9-Dr. Abdul Hameed through the legal services authority, nor has any material been brought to our notice indicating that the trial Court undertook any exercise to ensure that the said accused was represented by an *amicus curiae* before proceeding with the trial.

24. Likewise, there is nothing on record to suggest that the consequences of facing a criminal trial without legal assistance were explained to Accused No. 9-Dr. Abdul Hameed or that he had consciously and voluntarily waived his right to be represented by counsel. In the absence of any such material, the assertion made by Accused No. 9-Dr. Abdul Hameed assumes greater importance and raises a serious concern as to whether the minimum safeguards of a fair criminal process were duly observed.

25. A careful examination of the record reveals that the proceedings against Accused No. 9-Dr. Abdul Hameed continued over an extended period and involved the examination of a large number of witnesses as well as the consideration of voluminous documentary and forensic evidence. The prosecution case was founded upon multiple complex circumstances, including identification evidence, alleged confessional statements, recoveries, and scientific material. These were not matters of a simple or straightforward nature. The complexity of the issues involved, coupled with the grave consequences flowing from the prosecution case, demanded competent and effective legal assistance to ensure that the accused was in a position to adequately understand, challenge, and respond to the evidence led against him. Yet, the record does not disclose that any meaningful legal assistance was ever made available to Accused No. 9-Dr. Abdul Hameed to enable him to effectively defend himself throughout the course of the trial.

26. A closer scrutiny of the trial record unequivocally fortifies this conclusion. The proceeding sheets of the trial Court do not reflect that

Accused No. 9-Dr. Abdul Hameed was represented by a legal counsel at any stage of the proceedings. Equally, the depositions of the prosecution witnesses demonstrate that the cross-examination of witnesses was undertaken by the accused himself. The record is bereft of any indication that Accused No. 9-Dr. Abdul Hameed was either represented by a counsel of his choice or was ever provided the benefit of free legal aid, legal assistance, or the services of an *amicus curiae*. In a prosecution for offences carrying capital punishment and resting upon complex questions of fact and law, involving extensive oral, documentary, and scientific evidence, the absence of representation by an efficient and experienced legal practitioner assumes critical significance. The material on record thus affirms and fortify the defense argument that Accused No. 9-Dr. Abdul Hameed was left to fend for himself and conduct the trial on his own in a case of exceptional seriousness and complexity, a circumstance that raises substantial concerns regarding the fairness of the trial and the effective protection of his fundamental right to a fair and meaningful defence.

27. The right of an accused to be defended by a legal practitioner is not an empty ritual or a mere procedural embellishment, rather, it is a substantive safeguard that lies at the heart of a fair criminal justice system and serves as an essential guarantee against the risk of prejudice, arbitrariness, and miscarriage of justice. Equally, the constitutional obligation of the Court does not stand discharged merely because an accused is physically present before it. The requirement is one of real and meaningful representation, ensuring that the accused is able to understand the proceedings, exercise available legal rights, and adequately present a defence. This obligation becomes particularly onerous where the accused is facing charges carrying severe punishments, including capital punishment. In such cases, the Court is expected to remain vigilant and proactive in safeguarding the rights of the accused, ensuring that the accused is not left to navigate the complexities of a criminal trial completely unaided.

28. This Court has, time and again, underscored the fundamental importance of providing effective legal assistance to an accused person and has

consistently held that the denial thereof strikes at the very heart of a fair trial. In several cases, such denial has resulted in the proceedings being declared vitiated, leading either to the acquittal of the accused⁵⁵ or, where the interest of justice so required, to a remand for a *de-novo* trial.⁵⁶ In the present case, the statement made by Accused No. 9-Dr. Abdul Hameed, before this Court, read in conjunction with the total absence of any material demonstrating either the appointment of legal aid counsel or the provision of meaningful legal assistance during the trial, raises a grave and unsettling concern regarding the fairness of the proceedings conducted against him. The issue is not one of mere procedural irregularity; it goes to the very legitimacy of the trial and the resultant conviction and sentence recorded by the Courts below, thereby casting a serious doubt on their constitutional validity and necessitating a close scrutiny by this Court of whether the trial satisfied the minimum requirements of fairness guaranteed under Articles 21 and 22 of the Constitution of India.

⁵⁵ ***Suk Das v. UT of Arunachal Pradesh***, (1986) 2 SCC 401.

⁵⁶ ***Tyron Nazareth v. State of Goa***, 1994 Supp (3) SCC 321.

29. The question as to the course to be adopted where a conviction is found to be constitutionally infirm on account of the denial of effective legal representation is no longer *res integra*. This Court has, on more than one occasion, considered the consequences of such a fundamental infraction of the guarantee of a fair trial and the nature of the relief that ought to follow. In particular, in ***Mohd. Hussain v. State (Govt. of NCT of Delhi)***⁵⁷, this Court exhaustively examined the interplay between the constitutional right to a fair trial, the power of the appellate Court to order a *de-novo* trial under Section 386(b) of CrPC, and the competing considerations that must govern the exercise of such power. While recognizing that the denial of legal representation strikes at the very root of a fair criminal process, this Court also emphasised that the relief to be granted must ultimately be fashioned in a manner that subserves the ends of justice. The relevant observations from the said judgment are reproduced hereinbelow: -

“40. “Speedy trial” and “fair trial” to a person accused of a crime are integral part of Article 21.

⁵⁷ (2012) 9 SCC 408.

There is, however, qualitative difference between the right to speedy trial and the accused's right of fair trial. Unlike the accused's right of fair trial, deprivation of the right to speedy trial does not per se prejudice the accused in defending himself. **The right to speedy trial is in its very nature relative. It depends upon diverse circumstances. Each case of delay in conclusion of a criminal trial has to be seen in the facts and circumstances of such case. Mere lapse of several years since the commencement of prosecution by itself may not justify the discontinuance of prosecution or dismissal of indictment. The factors concerning the accused's right to speedy trial have to be weighed vis-à-vis the impact of the crime on society and the confidence of the people in judicial system. Speedy trial secures rights to an accused but it does not preclude the rights of public justice. The nature and gravity of crime, persons involved, social impact and societal needs must be weighed along with the right of the accused to speedy trial and if the balance tilts in favour of the former the long delay in conclusion of criminal trial should not operate against the continuation of prosecution and if the right of the accused in the facts and circumstances of the case and exigencies of situation tilts the balance in his favour, the prosecution may be brought to an end. These principles must apply as well when the appeal court is confronted with the question whether or not retrial of an accused should be ordered.**

41. The appellate court hearing a criminal appeal from a judgment of conviction has power to order the retrial of the accused under Section 386 of the Code. That is clear from the bare language of Section 386(b). Though such power exists, it should not be exercised in a routine manner. A de novo trial or retrial of the accused should be ordered by the appellate court in exceptional and rare cases and only when in the opinion of the

appellate court such course becomes indispensable to avert failure of justice. Surely this power cannot be used to allow the prosecution to improve upon its case or fill up the lacuna. A retrial is not the second trial; it is continuation of the same trial and same prosecution. The guiding factor for retrial must always be demand of justice. Obviously, the exercise of power of retrial under Section 386(b) of the Code, will depend on the facts and circumstances of each case for which no straitjacket formula can be formulated but the appeal court must closely keep in view that while protecting the right of an accused to fair trial and due process, the people who seek protection of law do not lose hope in legal system and the interests of the society are not altogether overlooked.

42. Insofar as the present case is concerned, it has been concurrently held by the two Judges [Mohd. Hussain v. State (Govt. of NCT of Delhi), (2012) 2 SCC 584 : (2012) 1 SCC (Cri) 919] who heard the criminal appeal that the appellant was denied due process of law and the trial held against him was contrary to the procedure prescribed under the provisions of the Code since he was denied right of representation by counsel in the trial. The Judges differed on the course to be followed after holding that the trial against the appellant was flawed.

43. We have to consider now, whether the matter requires to be remanded for a de novo trial in the facts and the circumstances of the present case. **The incident is of 1997. It occurred in a public transport bus when that bus was carrying passengers and stopped at a bus-stand. The moment the bus stopped an explosion took place inside the bus that ultimately resulted in death of four persons and injury to twenty-four persons. The nature of the incident and the circumstances in which it occurred speak volume about the very grave nature of offence.**

As a matter of fact, the appellant has been charged for the offences under Sections 302/307 IPC and Section 3 and, in the alternative, Section 4(b) of the ES Act. It is true that the appellant has been in jail since 9-3-1998 and it is more than 14 years since he was arrested and he has passed through mental agony of death sentence and the retrial at this distance of time shall prolong the culmination of the criminal case but the question is whether these factors are sufficient for the appellant's acquittal and dismissal of indictment. We think not.

44. It cannot be ignored that the offences with which the appellant has been charged are of very serious nature and if the prosecution succeeds and the appellant is convicted under Section 302 IPC on retrial, the sentence could be death or life imprisonment. Section 302 IPC authorises the court to punish the offender of murder with death or life imprisonment. Gravity of the offences and the criminality with which the appellant is charged are important factors that need to be kept in mind, though it is a fact that in the first instance the accused has been denied due process. While having due consideration to the appellant's right, the nature of the offence and its gravity, the impact of crime on the society, more particularly the crime that has shaken the public and resulted in death of four persons in a public transport bus cannot be ignored and overlooked. It is desirable that punishment should follow offence as closely as possible. In an extremely serious criminal case of the exceptional nature like the present one, it would occasion in failure of justice if the prosecution is not taken to the logical conclusion. Justice is supreme. The retrial of the appellant, in our opinion, in the facts and circumstances, is indispensable. It is imperative that justice is secured after providing the

appellant with the legal practitioner if he does not engage a lawyer of his choice.”

[Emphasis supplied]

30. The aforesaid decision unequivocally lays down that the denial of legal representation does not invariably result in the acquittal of the accused. The appellate Court is required to balance the accused’s constitutional entitlement to a fair trial with the nature and gravity of the offence, its impact on society and the larger interests of justice. It was accordingly held that, although a *de-novo* trial is an exceptional course to be adopted only where the interests of justice so demand, it becomes indispensable where the constitutional infirmity is so fundamental that the conviction cannot be sustained, while, at the same time, the interests of justice require that the prosecution be carried to its logical conclusion through a trial conducted strictly in accordance with law.

31. More recently, in ***Naveen v. State of M.P.***⁵⁸, this Court reiterated the content and scope of the constitutional guarantee of a fair trial. It was emphasised that the concept of a fair trial cannot be

⁵⁸ (2023) 17 SCC 381.

confined to a rigid or technical formulation but must be understood as requiring a real, meaningful and impartial opportunity to defend. This Court further observed that fairness in a criminal trial protects not only the rights of the accused but also the interests of the victim and society, and that a trial which is reduced to a mere formality or a stage-managed exercise cannot command the confidence of the justice delivery system. The relevant observations from the said judgment are reproduced hereinbelow:-

“20. It was further observed that there can be no analytical, all-comprehensive or exhaustive definition of the concept of a fair trial, and it may have to be determined in seemingly infinite variety of actual situations with the ultimate object in mind viz. whether something that was done or said either before or at the trial deprived the quality of fairness to a degree where a miscarriage of justice has resulted. Each one has an inbuilt right to be dealt with fairly in a criminal trial. Denial of a fair trial is as much injustice to the accused as is to the victim and the society. Fair trial obviously would mean a trial before an impartial Judge, a fair prosecutor, and the atmosphere of judicial calm. **Fair trial means a trial in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated. It is inherent in the concept of due process of law, that condemnation should be rendered only after the trial in which the hearing is a real one, not sham or a mere farce and pretence. Since fair hearing requires an opportunity to preserve the process, it may be vitiated and violated by an overhasty,**

stage-managed, tailored and partisan trial. It is thus settled that a hasty trial in which proper and sufficient opportunity has not been provided to the accused to defend himself/herself would vitiate the trial as being meaningless and stage-managed. It is in violation of the principle of judicial calm.

21. The principle of “judicial calm” in the context of a fair trial needs to be elaborated for its observance in letter and spirit. **In our view, in the hallowed halls of justice, the essence of a fair and impartial trial lies in the steadfast embrace of judicial calm. It is incumbent upon a Judge to exude an aura of tranquillity, offering a sanctuary of reason and measured deliberation. In the halls of justice, the gavel strikes not in haste, but in a deliberate cadence ensuring every voice, every piece of evidence, is accorded its due weight. The expanse of judicial calm serves not only as a pillar of constitutional integrity, but as the very bedrock upon which trust in a legal system is forged. It is a beacon that illuminates the path towards a verdict untainted by haste or prejudice, thus upholding the sanctity of justice for all.”**

[Emphasis supplied]

32. The principles enunciated in the aforesaid decisions furnish the governing framework for determining the appropriate relief in the present case. It is in the backdrop of these settled principles that we must examine which of the available courses would best uphold the constitutional guarantee of a fair trial while ensuring that the administration of criminal justice is neither rendered ineffective nor

divorced from the demands of justice. In undertaking this exercise, the Court is required to strike a careful balance between the constitutional imperative of protecting the rights of the accused and the equally compelling societal interest in ensuring that allegations of a crime of such exceptional gravity are adjudicated in accordance with law. The remedy to be fashioned must, therefore, not only redress the constitutional infirmity that has vitiated the proceedings but also ensure that the administration of criminal justice is not brought into disrepute by either permitting a constitutionally flawed conviction to stand or terminating the prosecution where the interests of justice warrant a fresh adjudication. It is this delicate balance that must inform the choice of the appropriate course in the peculiar facts and circumstances of the present case.

33. Applying the aforesaid principles to the facts of the present case, we find that broadly, three alternatives present themselves. The first would be to set aside the conviction and sentence and acquit the accused outright, having regard to the serious prejudice occasioned by the denial of legal representation and the fact that Accused No. 9-Dr.

Abdul Hameed has remained incarcerated for nearly twenty-nine years with the sword of death penalty hanging over his head for nearly twelve years. The second would be to set aside the impugned judgment and remit the matter to the trial Court for a de-novo trial after ensuring effective legal representation, thereby affording the accused a real and meaningful opportunity to defend himself by testing the prosecution evidence on the anvil of effective cross-examination and presenting his defence in accordance with law. The third would be to undertake an independent reappreciation of the evidence already on record to determine whether, notwithstanding the absence of legal representation and the lack of effective cross-examination of the witnesses, the conviction can still be sustained on the basis of the evidence on record, including the limited cross-examination conducted by the accused himself.

34. In our considered opinion, the third course has to be excluded at the outset. If, upon such reappreciation, this Court were to affirm the conviction, the probable consequence would be the confirmation of the sentence of death

notwithstanding the fact that the trial itself stood vitiated by the denial of effective legal representation. The constitutional infirmity which has been found to exist does not relate merely to the appreciation of evidence but goes to the very fairness of the process by which the evidence came to be recorded. To sustain the conviction on the basis of a record created in the absence of effective legal assistance would render illusory the constitutional guarantee of a fair trial and amount to perpetuating, rather than remedying, the fundamental defect which has crept into the proceedings. Such a course would be inconsistent with the constitutional obligation cast upon the Courts to ensure that a conviction, particularly one carrying the sentence of death, rests upon a trial conducted in strict conformity with the guarantees of due process and fairness.

35. Equally, we are not persuaded that the first course of acquitting the accused solely on the ground of denial of legal representation would be appropriate in the stark facts of the present case, particularly having regard to the gravity and heinousness of the crime. The denial of a fair trial undoubtedly constitutes a grave constitutional violation; however,

the consequence thereof cannot invariably be an order of acquittal irrespective of the nature and gravity of the offence alleged. The allegations in the present case concern a meticulously planned bomb explosion in a public transport bus resulting in the death of fourteen innocent persons, injuries to thirty-seven others, and the complete destruction of public property. The offence alleged is not merely one against individual victims but one which strikes at public order and the sense of security of society at large. In these circumstances, to terminate the prosecution without permitting the charges to be tested in a constitutionally compliant trial would neither advance the cause of justice nor appropriately balance the competing interests involved.

36. The only course, therefore, which adequately balances the fundamental rights of Accused No. 9-Dr. Abdul Hameed with the legitimate societal interest in ensuring that serious criminal allegations are adjudicated in accordance with law, would be to set aside the impugned judgment and remit the matter to the trial Court for a *de-novo* trial. Such a course alone remedies the constitutional defect,

restores procedural fairness, and at the same time preserves the opportunity to the prosecution to establish its case through a trial conducted in conformity with the constitutional and statutory safeguards governing criminal proceedings.

37. We are not oblivious to the practical difficulties that such a course may entail. Nearly three decades have elapsed since the occurrence in question, and the possibility that some witnesses may have passed away; suffered fading memories; or may no longer be available to depose cannot be ruled out. These are, however, consequences that inevitably accompany the delay in the criminal process and cannot, by themselves, justify the affirmation of a conviction recorded in proceedings found to be constitutionally non-compliant, more so when the fundamental procedural defect was writ large on the face of the record and was raised by Accused No. 9-Dr. Abdul Hameed before the High Court. Otherwise also, the obligation to ensure that the accused is provided appropriate legal aid is upon the Court and the accused cannot be faulted for the Court's failure to discharge its constitutional obligation of ensuring a fair trial. The constitutional guarantee of a fair trial

is absolutely non-negotiable and cannot be sacrificed at the altar of practical convenience. The administration of criminal justice is founded not merely upon the objective of securing convictions but equally upon the assurance that every conviction is preceded by a procedure which is fair, just and reasonable. Consequently, notwithstanding the practical impediments that may confront the prosecution or the defence, the constitutional imperative of ensuring a fair trial must prevail.

38. We may also clarify and emphasize that the present conclusion is confined exclusively to the case of Accused No. 9-Dr. Abdul Hameed. The direction for a *de-novo* trial is founded entirely upon the peculiar facts obtaining in his case, particularly the denial of effective legal representation throughout the trial proceedings, and should not be construed as reflecting upon the validity of the proceedings against the remaining accused.

39. Having carefully examined the record in minute detail, we are duly satisfied that the *de-novo* trial to be conducted *qua* Accused No. 9-Dr. Abdul Hameed would have no bearing on the fate of the remaining appeals, which, though arising from the same case

but are founded on distinct factual and evidentiary foundations and can be adjudged separately. The remaining accused, including those acquitted by the High Court and Accused No. 12-Pappu @ Salim, were represented by counsel throughout the trial and no comparable challenge affecting the fairness or constitutional validity of their trial has been raised before us. Their appeals, therefore, fall to be considered independently on the basis of the evidence and legal issues peculiar to each of them. We, accordingly, proceed to examine the merits of those appeals in the succeeding part of this judgment.

B. Conviction and Sentence Awarded to Accused No. 12-Pappu @ Salim and the Ancillary Issues Arising Therefrom

40. We shall now consider the challenge laid by Accused No. 12-Pappu @ Salim to the judgment of conviction and order of sentence dated 7th March, 2017 passed by the trial Court which came to be affirmed by the High Court *vide* judgment and order dated 22nd July, 2019. The record reveals that the prosecution case against the said accused stands on

an entirely different footing from that of the other accused persons including Accused No. 9-Dr. Abdul Hameed. A careful scrutiny of the material placed on record indicates that the nature, quality and extent of evidence relied upon by the prosecution against this accused are markedly distinct from those relied upon against the other accused persons. Unlike the case of Accused No. 9-Dr. Abdul Hameed, where the prosecution sought to rely upon certain eyewitness accounts, identification evidence and surrounding circumstances, the case against Accused No. 12-Pappu @ Salim rests substantially, if not exclusively, upon the confessional statements attributed to him during the course of investigation. The evidentiary foundation of the prosecution case against him is, therefore, required to be examined independently and with particular care, especially having regard to the settled legal principles governing the admissibility, voluntariness and probative value of confessional statements. It is in this backdrop that the correctness of the findings recorded by the Courts below insofar as they pertain to Accused No. 12-Pappu @ Salim falls for consideration.

41. The first confessional statement attributed to Accused No. 12-Pappu @ Salim was recorded under Section 164 of CrPC on 9th September, 1997 in connection with the Jaipur Stadium bomb blast case. Subsequently, more than five years later, another confessional statement came to be recorded on 21st October, 2002 in the present case arising out of the Samleti Bus bomb blast. The prosecution sought to place considerable reliance upon these statements as a crucial part of its evidentiary framework, to establish not only the involvement of Accused No. 12-Pappu @ Salim, in the commission of the alleged offences, but also the participation of several co-accused persons in the alleged conspiracy. According to the prosecution, these confessional statements furnished important details regarding the planning, execution, and *inter se* roles of the accused persons, and were therefore relied upon to connect the various accused persons with the larger conspiracy alleged in the case.

42. However, the record discloses that the legality and evidentiary value of these statements became the subject matter of serious dispute. Upon an objection raised by Accused No. 9-Dr. Abdul Hameed regarding

the manner in which the statement had been recorded, the trial Court, by order dated 30th November, 2010, directed that the statement be recorded afresh. The said direction itself reflected the Court's concern that the earlier recording may not have satisfactorily met the procedural requirements necessary to ensure the reliability and admissibility of the statement. Pursuant thereto, a fresh statement was recorded on 4th January, 2011. Even thereafter, doubts persisted regarding compliance with the directions issued by the trial Court. Consequently, the statement of Accused No. 12-Pappu @ Salim was again recorded before the learned Additional Chief Judicial Magistrate, Dausa on 19th February, 2011. Significantly, on that occasion, Accused No. 12-Pappu @ Salim categorically disowned the earlier confessional statements attributed to him. He expressly repudiated the prosecution's version regarding the circumstances in which those statements were allegedly made and questioned their authenticity. He denied having acted as an approver in any case and asserted that no statement had ever been voluntarily made by him before a Magistrate in the manner alleged by the prosecution.

43. The trial Court, while deciding the main case on 29th September, 2014, recorded a finding that Accused No. 12-Pappu @ Salim had failed to satisfy the conditions governing tender of pardon under Section 306 of CrPC. Consequently, a separate trial was directed and a supplementary chargesheet came to be filed against him. The trial Court thereafter framed charges against him for the offences punishable under Section 302 read with Section 120-B, Section 307 read with Section 120-B and Section 193 of IPC, Sections 4 and 5 of the Explosive Substances Act, and Sections 3 and 4 of the Prevention of Damage to Public Property Act. Ultimately, *vide* judgment dated 7th March, 2017, he was convicted for various offences under the IPC, the Explosive Substances Act and the Prevention of Damage to Public Property Act and was sentenced, *inter alia*, to imprisonment for life for the offences punishable under Sections 302, 307 and 120-B of IPC, along with the other substantive sentences awarded thereunder. The High Court *vide* judgment dated 22nd July, 2019 affirmed the said judgment of conviction and order of sentence and dismissed the appeal preferred by him.

44. Having carefully examined the entire material on record, we are unable to persuade ourselves to concur with the approach adopted by the Courts below. In our considered opinion, the confessional statements attributed to Accused No. 12-Pappu @ Salim are attended by serious legal as well as factual infirmities/*lacuna* which substantially erode their evidentiary value and render it unsafe to place reliance upon them. The record discloses that the said accused was subjected to repeated exercises for recording his confessional statements over a protracted period, commencing with the first statement recorded under Section 164 of CrPC in connection with the Jaipur Stadium Bomb Blast case, followed by the confessional statement recorded in the present case on 21st October, 2002, and thereafter by successive attempts to re-record the confession pursuant to judicial directions. Such an unusual and protracted course of recording confessional statements is wholly inconsistent with the safeguards ordinarily governing the recording of voluntary confessions and, by itself, raises serious doubts regarding their voluntariness, authenticity and evidentiary reliability.

45. More importantly, the voluntariness of the said statements stands seriously disputed. The maker of the confession, namely, Accused No. 12-Pappu @ Salim, when produced before the trial Court for recording of evidence as PW-95, i.e., as an approver in the main case, categorically disowned the statements attributed to him. He expressly denied having acted as an approver and asserted that no statement had been voluntarily made by him in the manner projected by the prosecution. The significance of this circumstance cannot be understated. A confession derives its evidentiary value primarily from its voluntary character. Once the maker himself challenges the circumstances under which the statement came to be recorded and repudiates its contents, the Court is duty-bound to approach such material with the utmost caution and circumspection.

46. Despite these glaring infirmities, both the trial Court and the High Court proceeded to place substantial reliance and implicit faith upon the alleged confessional statements for recording a finding of guilt. In our view, considered in light of the attending circumstances, such an approach was

legally and factually impermissible. A retracted confession, particularly one whose voluntariness is seriously questioned and whose authenticity is rendered doubtful by repeated recording and subsequent repudiation, cannot constitute the foundation of a conviction unless it receives strong and independent corroboration from reliable evidence. The law is equally well-settled that such corroboration must be of a substantive character and must connect the accused with the commission of the offence in material particulars.

47. The doubts surrounding the voluntariness and reliability of the alleged confessional statements become even more pronounced upon an examination of the original confessional statement dated 9th September, 1997, recorded in connection with the Jaipur Stadium bomb blast case. A careful perusal of the original confessional statement dated 9th September, 1997, recorded in connection with the Jaipur Stadium bomb blast case, reveals certain features which cast serious doubt on the manner in which the mandatory safeguards prescribed under Section 164 of CrPC were observed. In particular, we find that the manner in which the statutory warning

contemplated under Section 164(2) of CrPC has been recorded is not entirely free from doubt. A close scrutiny of the original document reveals that the endorsement containing the statutory warning clearly appears to have been inserted subsequently in the limited space available at the commencement of the document and, *prima facie*, appears to be in handwriting different from that employed in the main body of the confession. The placement and appearance of the endorsement are such that they give rise to a legitimate doubt whether the statutory warning was, in fact, administered in the manner and at the stage contemplated by Section 164(2) of CrPC, namely, before the recording of the confession commenced. This circumstance assumes considerable significance, for the statutory warning constitutes an essential safeguard intended to ensure that the confession is made voluntarily and with full awareness of its legal consequences.

48. We hasten to add that we do not propose to record any finding on this aspect, effecting the legality and validity of the said confession recorded in the Jaipur Stadium bomb blast case, since the said issue does not directly fall for determination before

us. Nonetheless, the aforesaid circumstances cannot be regarded as wholly insignificant. They do give rise to a legitimate doubt as to whether the procedural safeguards intended to secure the voluntariness and authenticity of the confession were observed in their true letter and spirit. It is trite that where a confession is relied upon as a substantive incriminating circumstance, the Court must be satisfied that every statutory safeguard has been scrupulously observed. Any circumstance casting doubt upon such compliance necessarily diminishes the degree of assurance that may otherwise be derived from the statement and warrants a correspondingly cautious approach while assessing its evidentiary worth.

49. Tested on the aforesaid principles, the prosecution case against Accused No. 12-Pappu @ Salim is found to be woefully wanting and lacking in merit. Apart from the confessional statements, which themselves suffer from serious infirmities highlighted *supra*, the prosecution has failed to place any independent and reliable material on record capable of lending substantive corroboration thereto. As a matter of fact, once the confessional statements are

eschewed from consideration, there is no independent evidence establishing the participation of Accused No. 12-Pappu @ Salim in the alleged conspiracy, his involvement in the preparation or execution of the offence, or his connection with the explosive device allegedly used in the occurrence. No witness has deposed to having seen him participate in any conspiratorial meeting, procure or transport any explosive substance, provide logistical support for the commission of the offence, or otherwise perform any overt act indicative of his involvement in the alleged criminal design. Equally, there is no documentary, scientific or forensic material on record which could lend assurance to the prosecution's theory regarding his role in the occurrence. The investigating officials have not stated about the collection of any incriminating evidence against Accused No. 12-Pappu @ Salim during investigation except of course for the confessional statements.

50. In these circumstances, once the confessional statements are excluded from consideration, or even treated with the degree of caution required in law, the entire edifice of the prosecution case erected upon such foundation consequentially collapses. Needless

to state that conviction of Accused No. 12-Pappu @ Salim cannot be sustained solely on the basis of his own confessional statements whose voluntariness and authenticity remain shrouded in serious doubt. More importantly, the prosecution has failed to adduce any independent evidence capable of lending assurance to the truthfulness of the alleged confessions or connecting Accused No. 12-Pappu @ Salim with the alleged conspiracy in a manner known to law. We are therefore of the considered view that the alleged confessional statements attributed to Accused No. 12-Pappu @ Salim do not possess the degree of reliability necessary for sustaining a conviction in a criminal trial.

51. The weakness of the prosecution case is further compounded by the complete absence of any incriminating recovery or discovery attributable to Accused No. 12-Pappu @ Salim. We may note that the entire record and evidence led by the prosecution do not refer to any recovery or discovery of an incriminating fact having been effected at his instance during the course of the investigation. Neither any explosive substance, weapon, incriminating document nor any other material

object was recovered from his possession or pursuant to any disclosure statement attributed to him. The prosecution has also been unable to point out any physical, forensic or documentary evidence connecting him with the procurement, storage, transportation or deployment of the explosive substance allegedly used in the commission of the offence. Indeed, the evidence of the investigating officers themselves indicates that no material recovery linking the Accused No. 12-Pappu @ Salim to the alleged conspiracy was ever effected.

52. It is also pertinent to note that one of the persons whom the prosecution had sought to implicate on the basis of the very same confessional statements of Accused No. 12-Pappu @ Salim, namely, Accused No. 11-Chandra Prakash Agarwal, from whom the explosive material was allegedly procured and from whose premises explosive substances were purportedly recovered, stood discharged from the present proceedings much earlier. The High Court of Judicature for Rajasthan, Bench at Jaipur, by order dated 9th November, 2013, allowed the petition preferred by the said accused and quashed the proceedings insofar as they related

to him. In compliance with the said order, the trial Court, by order dated 9th January, 2014, dropped the proceedings against Accused No. 11-Chandra Prakash Agarwal. Consequently, the prosecution case, insofar as it concerned Accused No. 12-Pappu @ Salim, thereafter proceeded in the absence of one of the principal persons whose alleged involvement had also formed part of the narrative emerging from the confessional statements relied upon by the prosecution.

53. The aforesaid circumstances assume considerable significance in the facts of the present case. The allegation against Accused No. 12-Pappu @ Salim is that he was an active participant in a large-scale terrorist conspiracy involving the movement and use of explosive substances. In such a case, the recovery of incriminating articles or the discovery of material objects pursuant to information supplied by the said accused would ordinarily furnish important corroborative support to the prosecution version. The evidence of the prosecution witnesses, including the investigating officers themselves, does not establish any recovery or discovery linking Accused No. 12-Pappu @ Salim to the alleged conspiracy. The

complete absence of any such circumstance, when viewed alongside the doubtful and unreliable confessional statements discussed hereinabove, leaves the prosecution case devoid of any dependable evidentiary foundation. This constitutes a serious *lacuna* which substantially undermines the allegation of his involvement in the offence.

54. The evidentiary material brought on record against Accused No. 12-Pappu @ Salim, when viewed in its entirety, remains fragmented, inconclusive and incapable of establishing his guilt to the standard required in a criminal trial. The prosecution case rests substantially upon confessional statements whose voluntariness, authenticity and reliability stand seriously impaired and completely compromised, while the independent evidence necessary to lend assurance thereto is conspicuously absent. No coherent chain of circumstances emerges from the record connecting the said accused with the commission of the offence in a manner known to law. Such material falls far short of the degree of certainty required, particularly in a case resting substantially on circumstantial evidence, and cannot form the basis of conviction. To sustain a conviction on such

tenuous and uncertain circumstances would be contrary to the settled principles of criminal jurisprudence, which require proof beyond reasonable doubt and not mere suspicion, however strong it may appear to be.

55. Thus, when the evidence on record is evaluated in its entirety, what emerges is a case devoid of any reliable recovery or discovery, bereft of direct evidence, unsupported by a complete chain of circumstances, and founded principally upon confessional statements whose voluntariness and reliability stand seriously impeached. The prosecution has therefore failed to establish the guilt of Accused No. 12-Pappu @ Salim beyond reasonable doubt. In our considered view, the findings recorded by the trial Court and affirmed by the High Court are unsustainable in facts as well as in law, being founded substantially upon conjectures and inferences rather than legally admissible and reliable evidence. Consequently, the benefit of doubt must necessarily enure to the accused and hence, the conviction and sentence recorded against Accused No. 12-Pappu @ Salim cannot be sustained and deserve to be set aside.

56. Resultantly, Criminal Appeal No. 1830 of 2019 preferred by Accused No. 12-Pappu @ Salim is allowed. The impugned judgment of conviction and order of sentence dated 7th March, 2017 passed by the trial Court as well as the judgment and order dated 22nd July, 2019 passed by the High Court affirming the conviction and sentence awarded to Accused No. 12-Pappu @ Salim are hereby set aside. The conviction of Accused No. 12-Pappu @ Salim and the sentences awarded to him by the trial Court and affirmed by the High Court are also set aside.

57. Accused No. 12-Pappu @ Salim is acquitted of all the charges levelled against him. The said accused shall be released forthwith, if in custody, unless required to be detained in connection with any other case.

58. In view of our conclusion acquitting Accused No. 12-Pappu @ Salim of all the charges levelled against him in the present case, the challenge laid by the State of Rajasthan to the judgment and order dated 29th September, 2020 passed by the High Court granting permanent parole to the said accused no longer survives for consideration. Consequently, Criminal Appeal arising out of Special Leave Petition

(Criminal) No. 3531 of 2021 has been rendered infructuous and is accordingly dismissed as such.

C. Challenge to the Acquittal of Accused No. 1-Javed Khan, Accused No. 2-Abdul Goni, Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt, Accused No. 6-Mirza Nisar Hussain and Accused No. 10-Raees Baeg

59. Having dealt with the appeals preferred by Accused No. 9-Dr. Abdul Hameed and Accused No. 12-Pappu @ Salim, we shall now examine the challenge laid by the State of Rajasthan to the acquittal of Accused No. 1-Javed Khan @ Javed Junior, Accused No. 2-Abdul Goni @ Asadulla, Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt @ Mehamood Keeley, Accused No. 6-Mirza Nisar Hussain @ Naja and Accused No. 10-Raees Baeg. The question that falls for our consideration is whether the view taken by the High Court in acquitting the aforesaid accused persons can be said to be a reasonably possible view on the basis of evidence brought on record.

60. The entire fulcrum of the prosecution case against the aforesaid accused persons except Accused No. 10-Raees Baeg is the confessional

statement of Accused No. 1-Javed Khan recorded under Section 164 of CrPC in connection with Jaipur Stadium bomb blast case [Exhibit P-153]. A careful reading of the said statement reveals that it primarily narrates the movements of certain individuals including Accused No. 2-Abdul Goni, Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt and Accused No. 6-Mirza Nisar Hussain between Kathmandu, Delhi, Patna, Mumbai and Ahmedabad and refers to the alleged transportation of a bag said to contain explosive material. It further contains references to certain persons allegedly associated with Bilal Ahmed Baeg and other operatives. The broad tenor of the statement indicates, at best, an attempt to describe the movements and interactions of various individuals allegedly connected with numerous extremist activities under scanner of investigating agencies and being investigated at the relevant point of time. However, beyond such generic narrative references, it does not attribute any specific role, overt act or participation to the aforesaid accused persons in relation to the occurrence forming the subject matter

of the present proceedings, i.e., the Samleti Bus bomb blast.

61. The statement is conspicuously silent regarding the Samleti Bus bomb blast. Neither does it contain any admission or disclosure therein concerning the planning, execution or facilitation of the occurrence in question nor does the statement disclose any role attributable to Accused No. 1-Javed Khan in the commission of the present offence. At its highest, the statement refers to events allegedly connected with the transportation of explosive substances and activities which formed the subject matter of other nefarious criminal activities. There is no reference whatsoever to the placement of any explosive device in the Rajasthan Roadways bus, to any meeting or discussion concerning the Samleti incident, or to any act suggestive of participation in the conspiracy alleged in the present case. Even if the entirety of the statement is accepted at face value, it merely discloses certain alleged antecedent events and movements of individuals at different locations, without establishing any discernible link with the bus explosion that occurred near Samleti village on 22nd May, 1996. The statement, therefore, does not

furnish any substantive or tangible material connecting either Accused No. 1-Javed Khan or the co-accused persons referred to therein with the present crime.

62. Insofar as Accused No. 2-Abdul Goni, Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt and Accused No. 6-Mirza Nisar Hussain are concerned, their implication also rests almost entirely upon certain references contained in the confessional statement of Accused No. 1-Javed Khan. As has been discussed above, a plain reading of the said statement reveals that these accused persons are referred to only in the context of their alleged presence at certain places or their movements alongside other individuals at different points of time. Significantly, there is no allegation therein that any of them participated in the conspiracy or planning of the Samleti Bus bomb blast, procured or transported the explosive device or substances used in the occurrence, facilitated its placement in the bus, or otherwise contributed to the execution of the crime. At the highest, the statement indicates acquaintance or association amongst certain individuals during the general corresponding period. Such instances, even

if accepted in their entirety, are wholly insufficient to establish criminal culpability for the present offence. Mere association, companionship or travel with other accused persons cannot, by itself, establish participation in a criminal conspiracy and that too for a specific offence. In the absence of any independent evidence demonstrating a meeting of minds, an overt act, or any circumstance connecting these accused persons with the planning or execution of the Samleti Bus bomb blast, the generic references contained in the confessional statement of the co-accused would be wholly inadequate to sustain a conviction.

63. We also find that nothing material emanates from the alleged disclosure statements attributed to Accused No. 1-Javed Khan and Accused No. 10-Raees Baeg. Though the prosecution has contended that certain places, including a *Masjid* and premises allegedly used by one Salaar, were identified pursuant to disclosures made by the aforesaid accused persons, such circumstances do not materially advance the prosecution case. The identification of a place, by itself, does not constitute incriminating evidence unless it leads to the discovery of a relevant fact previously unknown to the

investigating agency and having a direct nexus with the crime under investigation. In the present case, the prosecution has failed to demonstrate that any recovery of incriminating fact or material, explosive substance, document, weapon, or other article connected with the Samleti Bus bomb blast was effected as a consequence of such disclosures.

64. At this stage, it would be apposite to notice the settled principles governing the evidentiary value of disclosure statements and the memoranda prepared pursuant thereto. The contents of a *panchnama* or memorandum do not constitute substantive evidence. As held by this Court in ***Murli & Anr. v. State of Rajasthan***⁵⁹, it is the testimony of the witness in the witness box, and not the recitals contained in such documents, that constitutes substantive evidence. The memorandum merely records what the investigating officer claims to have observed and cannot, by itself, prove either the disclosure allegedly made by the accused or the discovery said to have followed. The evidentiary value of such memoranda, therefore, is necessarily

⁵⁹ (2009) 9 SCC 417.

circumscribed and depends upon satisfactory oral evidence proving the precise information allegedly furnished by the accused and the discovery said to have ensued therefrom.

65. The principles governing the admissibility of information under Section 27 of IEA are equally well settled. In *Pulukuri Kottaya v. Emperor*⁶⁰, it was authoritatively held that only that portion of the information furnished by an accused which distinctly relates to the fact thereby discovered is admissible in evidence. The discovery contemplated by Section 27 of IEA is not the mere pointing out of a place already within the knowledge of the investigating agency or the production of an object without any incriminating nexus, but the discovery of a relevant fact previously unknown, brought to light as a direct consequence of the information supplied by the accused. Unless the information furnished by the accused results in the discovery of a relevant fact previously not known and connected with the offence under investigation, the statutory exception carved out under Section 27 of IEA would not be attracted. Mere statements

⁶⁰ *Supra* note 45.

expressing willingness to identify places or locations, without resulting in the discovery of a relevant fact, do not satisfy the statutory requirements.

66. Examined in the light of the aforesaid settled principles, the disclosure statements attributed to Accused No. 1-Javed Khan and Accused No. 10-Raees Baeg do not advance the prosecution case. The prosecution has primarily relied upon the memoranda and the consequential site verification proceedings, but has failed to establish, through cogent oral evidence, the precise information allegedly furnished by the accused which led to the discovery of any relevant fact. Nor has it been shown that the alleged disclosures resulted in the recovery of any incriminating article, document, explosive substance or other fact having a direct nexus with the Samleti Bus bomb blast. The alleged pointing out of certain places, by itself, does not constitute a discovery of an incriminating fact within the meaning of Section 27 of IEA. The memoranda and the consequential site verification proceedings do not satisfy the statutory requirements of Section 27 of IEA and are incapable of constituting an

incriminating circumstance against the said accused persons.

67. Consequently, the alleged disclosures, the memoranda prepared pursuant thereto, and the site verification proceedings undertaken on their basis do not constitute incriminating circumstances capable of connecting Accused No. 1-Javed Khan, Accused No. 10-Raees Baeg, or any of the co-accused with the commission of the present offence. The evidentiary value sought to be attached to such material is, therefore, extremely limited and incapable of advancing the prosecution case. Viewed in their entirety, these circumstances neither furnish a legally admissible link in the chain of prosecution evidence nor provide any meaningful corroboration to the allegations levelled against the accused persons. The said material, therefore, is of no assistance in dislodging the view taken by the High Court while acquitting the aforesaid accused persons.

68. Turning now to the case of Accused No. 10-Raees Baeg, we find that the prosecution primarily relies upon the confessional statements of Accused No. 12-Pappu @ Salim as the principal circumstance sought to connect the said accused with the alleged

conspiracy and the commission of the offence. However, we are of the considered opinion that the said confessional statements suffer from serious infirmities and do not inspire confidence. We are also of the opinion that the circumstances surrounding the recording of those statements render them unsafe to be acted upon. We have already concluded so while dealing with the appeal of Accused No. 12-Pappu @ Salim. Once the very foundation of that evidence stands discredited, the superstructure sought to be erected upon it must necessarily collapse. In such circumstances, no reliance can be placed upon the confessional statements for implicating another accused. Unquestionably, evidence in the form of confession of one accused which is itself found to be unreliable and unworthy of acceptance cannot be employed, either directly or indirectly, to establish the complicity of a co-accused. The prosecution has not pointed to any other independent or convincing material capable of lending assurance to the allegations against Accused No. 10-Raes Baeg. Consequently, the confessional statement of Accused No. 12-Pappu @ Salim cannot furnish a legally

sustainable basis for recording any finding adverse to Accused No. 10-Raees Baeg.

69. Even otherwise, a careful examination of the confessional statement attributed to Accused No. 12-Pappu @ Salim does not disclose any specific role played by Accused No. 10-Raees Baeg in the Samleti Bus bomb blast. It is also relevant to note that once the status of Accused No. 12-Pappu @ Salim as an approver stood withdrawn as he resiled from the confession recorded after the grant of pardon, his statement could, at best, assume the character of a confession of a co-accused. Such a confession is not substantive evidence and can only be used to lend assurance to a conclusion otherwise reached on the basis of independent and legally admissible substantive evidence.⁶¹ In the present case, however, the confessional statement is conspicuously silent as regards participation, specific act, or involvement of Accused No. 10-Raees Baeg in the execution of the Samleti Bus bomb blast. In the absence of any other proven circumstance connecting him with the offence, the statement furnishes no material capable

⁶¹ *Kashmira Singh v. State of Madhya Pradesh*, (1952) 1 SCC 275 and *Suresh Budharmal Kalani v. State of Maharashtra*, (1998) 7 SCC 337.

of lending assurance to the prosecution case against the said accused.

70. The prosecution has not produced any independent evidence connecting him with the occurrence. His alleged involvement in other terrorist activity related cases cannot constitute proof of participation in the present offence. Criminal liability must be established on the basis of evidence relating to the offence under consideration and cannot be founded upon suspicions arising from other proceedings that are neither directly connected with nor cognate to the offence in question. In the absence of legally admissible direct evidence implicating him in material particulars, coupled with the lack of independent corroborative evidence, no incriminating circumstance can be said to have been established against Accused No. 10-Raees Baeg.

71. The principles governing interference with a judgment of acquittal are too well settled to require elaborate discussion. In ***Sheo Swarup v. King Emperor***⁶², the Privy Council observed that while an appellate Court possesses full power to review the

⁶² 1934 SCC OnLine PC 42.

evidence, it must always bear in mind the presumption of innocence available to the accused and the reluctance ordinarily exercised in disturbing an acquittal. The same principles have consistently been reiterated by this Court in a long line of decisions.

72. The law accords a position of considerable sanctity to a finding of acquittal, and for good reason. In ***Ramesh Babulal Doshi v. State of Gujarat***⁶³, this Court held that before interfering with an acquittal, the appellate Court must first conclude that the findings recorded by the Courts below are palpably wrong, manifestly erroneous or demonstrably unsustainable. Unless such infirmities are shown to exist, the acquittal ought not to be disturbed. Mere possibility of a different view is insufficient. This principle was subsequently elaborated in ***Chandrappa v. State of Karnataka***⁶⁴, wherein this Court explained that an accused who has secured an acquittal enjoys a double presumption in his favour. Firstly, the ordinary presumption of innocence available under

⁶³ (1996) 9 SCC 225.

⁶⁴ (2007) 4 SCC 415.

criminal jurisprudence; and secondly, the reinforced presumption arising from the acquittal itself. This Court further held that where two reasonable views are possible on the evidence, the view favourable to the accused must prevail. Relevant extract from the said judgment is reproduced hereinbelow: -

“42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved

guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

[Emphasis supplied]

73. Tested on the aforesaid principles, we find no justification to interfere with the acquittal of Accused No. 1-Javed Khan, Accused No. 2-Abdul Goni, Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt, Accused No. 6-Mirza Nisar Hussain and Accused No. 10-Raees Baeg as recorded by the High Court. Far from dislodging the reinforced presumption of innocence operating in favour of the acquitted accused, the prosecution has failed to produce any cogent, reliable and legally admissible evidence connecting them with the charged offence, i.e., the Samleti Bus bomb blast. The deficiencies in the prosecution case are not merely peripheral in nature but strike at the very foundation of the charges sought to be established against the accused persons. The chain of circumstances relied upon by the prosecution remains incomplete and falls

woefully short of the standard required to record a finding of guilt in a criminal trial.

74. The prosecution has failed to point out any material circumstance or credible ground demonstrating that the appreciation of evidence by the High Court is manifestly erroneous, perverse, or otherwise warranting interference with the order of acquittal in exercise of appellate jurisdiction. On the contrary, upon an independent examination of the evidence on record, we find that the view taken by the High Court is reasonable, plausible and rather, the only permissible view based on the material available on record. Accordingly, we find no justification to disturb the acquittal of the aforesaid accused persons.

75. Resultantly, the Criminal Appeals arising out of Special Leave Petition (Criminal) Nos. 621 of 2020, 571 of 2020, 681 of 2020 and 143 of 2020 preferred by the State of Rajasthan challenging the acquittal of Accused No. 1-Javed Khan @ Javed Junior, Accused No. 2-Abdul Goni @ Asadulla, Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt @ Mehamood Keeley, Accused No. 6-Mirza Nisar

Hussain @ Naja and Accused No. 10-Raees Baeg fail and are accordingly dismissed.

D. Conclusion

76. Having given our thoughtful consideration to the issues arising in the present batch of appeals and having recorded our conclusions thereon, we deem it appropriate to dispose of the present batch of appeals by issuing the following directions and consequential orders in the succeeding paragraphs.

77. Criminal Appeal Nos. 1827-1829 of 2019 preferred by Accused No. 9-Dr. Abdul Hameed are partly allowed. The impugned judgment of conviction dated 29th September, 2014 and order of sentence dated 17th December, 2015 passed by the trial Court as well as the common judgment dated 22nd July, 2019 passed by the High Court to the extent that it upheld the conviction and sentences awarded to Accused No. 9-Dr. Abdul Hameed are hereby set aside. The conviction of Accused No. 9-Dr. Abdul Hameed and the sentences awarded to him by the trial Court and affirmed by the High Court are also set aside. While setting aside the conviction and

sentence awarded to Accused No. 9-Dr. Abdul Hameed, we direct as under: -

- A.** The matter is remitted to the Court of Sessions for conducting a *de-novo* trial against Accused No. 9-Dr. Abdul Hameed.
- B.** Having regard to the fact that the occurrence relates to the year 1996 and the matter has remained pending for nearly three decades, we request the Hon'ble the Acting Chief Justice of the High Court of Judicature for Rajasthan to designate a Special Court at Jaipur for conducting the *de-novo* trial. The Special Court shall be presided over by an officer of the Rajasthan Higher Judicial Service having not less than seven years' experience of conducting Sessions trials. The trial shall be conducted at Jaipur, and the Special Court shall make every endeavour to conclude the trial within a period of one year from the date of assignment of the case.
- C.** The Special Court shall proceed with the case from the stage of recording of prosecution evidence and thereafter conduct the trial afresh in accordance with law, uninfluenced by any observations contained in the judgments of the trial Court, the

High Court or in the present judgment on the merits of the prosecution case.

D. Before commencing the trial, the Special Court shall ensure that Accused No. 9-Dr. Abdul Hameed is represented by a counsel of his choice. In the event the said accused is unable to engage a counsel, the Special Court shall secure competent legal representation for him through the Rajasthan State Legal Services Authority by appointing an advocate having not less than ten years' standing at the Bar as the lead defence counsel, assisted by another advocate having not less than seven years' standing at the Bar, so as to ensure effective and meaningful legal assistance throughout the proceedings. The fees and other incidental expenses of the said counsel shall be borne by the Rajasthan State Legal Services Authority as per Rules.

E. The Special Court shall ensure that copies of all documents and other materials relied upon by the prosecution are furnished to Accused No. 9-Dr. Abdul Hameed in accordance with law without any avoidable delay so as to facilitate the expeditious commencement and conduct of the trial.

F. Since, we have set aside the impugned judgment passed by the trial Court *qua* Accused No. 9-Dr. Abdul Hameed on the ground that the said accused was not provided effective legal representation at the time of recording of evidence during the trial, the Special Court shall take immediate steps for summoning all the prosecution witnesses and thereafter, provide Accused No. 9-Dr. Abdul Hameed a full and effective opportunity to cross-examine them. The concerned police authorities shall extend full assistance to the Special Court and make every endeavour to secure the presence of the witnesses on the dates fixed for recording their evidence so as to ensure that the trial proceeds expeditiously and is concluded within the time stipulated by this Court. The defence counsel engaged to represent Accused No. 9-Dr. Abdul Hameed in the *de-novo* trial shall be provided sufficient time to prepare the case.

G. It shall be open to the prosecution to seek the issuance of appropriate coercive process for securing the attendance of witnesses, and the

Special Court shall pass appropriate orders in accordance with law to ensure their presence.

- H.** The Special Court shall, upon commencement of the trial, proceed with the recording of evidence on a day-to-day basis, as far as practicable, and shall not grant unnecessary adjournments except for reasons to be recorded in writing.
- I.** Once the prosecution evidence is concluded, the trial Court may, if it so desires, examine Accused No. 9-Dr. Abdul Hameed under Section 313 of CrPC. Accused No. 9-Dr. Abdul Hameed shall thereafter be given reasonable opportunity to lead defence evidence. Thereafter, the trial Court shall proceed to hear the final arguments and pass a fresh judgment in accordance with law.
- J.** Accused No. 9-Dr. Abdul Hameed shall remain in judicial custody during the pendency of the *de-novo* trial. However, it shall be open to him to apply for bail before the Special Court. If any such application is preferred, the same shall be considered on its own merits, strictly in accordance with law and uninfluenced by the findings recorded in the judgments which have

been set aside by this Court or by any observations contained in the present judgment.

- K.** The Registry of this Court shall forthwith transmit a copy of this judgment to the Registrar General, High Court of Judicature for Rajasthan, who shall place the same before the Hon'ble the Acting Chief Justice forthwith for appropriate administrative orders in terms of **Direction B** above and shall thereafter ensure due compliance with all the directions contained in this judgment.
- L.** The Registry of this Court shall forthwith transmit the original records of the case to the Registrar General, High Court of Judicature for Rajasthan, who shall, immediately upon the designation of the Special Court in terms of **Direction B**, ensure that the entire original record is transmitted to the said Special Court to facilitate the expeditious commencement of the *de-novo* trial.
- M.** The Registry of this Court shall also ensure the translation of the present judgment into Hindi. A copy of the English version of the judgment shall forthwith be transmitted to Accused No. 9-Dr. Abdul Hameed, who is lodged in Central Jail,

Jaipur. Upon completion of the Hindi translation, a copy thereof shall also be forwarded to him.

78. Criminal Appeal No. 1830 of 2019 preferred by Accused No. 12-Pappu @ Salim is allowed. The impugned judgment of conviction and order of sentence dated 7th March, 2017 passed by the trial Court as well as the judgment and order dated 22nd July, 2019 passed by the High Court affirming the conviction and sentence awarded to Accused No. 12-Pappu @ Salim are hereby set aside. The conviction of Accused No. 12-Pappu @ Salim and the sentences awarded to him by the trial Court and affirmed by the High Court are also set aside. Accused No. 12-Pappu @ Salim is acquitted of all the charges levelled against him. The said accused shall be released forthwith, if in custody, unless required to be detained in connection with any other case.

79. In view of our conclusion acquitting Accused No. 12-Pappu @ Salim of all the charges levelled against him in the present case, the challenge laid by the State of Rajasthan to the judgment and order dated 29th September, 2020 passed by the High Court granting permanent parole to the said accused no

longer survives for consideration. Consequently, Criminal Appeal arising out of Special Leave Petition (Criminal) No. 3531 of 2021 has been rendered infructuous and is accordingly dismissed as such.

80. Criminal Appeals arising out of Special Leave Petition (Criminal) Nos. 621 of 2020, 571 of 2020, 681 of 2020 and 143 of 2020 preferred by the State of Rajasthan challenging the acquittal of Accused No. 1-Javed Khan @ Javed Junior, Accused No. 2-Abdul Goni @ Asadulla, Accused No. 4-Lateef Ahmad Baja, Accused No. 5-Mohammad Ali Bhatt @ Mehamood Keeley, Accused No. 6-Mirza Nisar Hussain @ Naja and Accused No. 10-Raees Baeg fail and are accordingly dismissed.

81. It is clarified that all observations made in the present judgment concerning Accused No. 9-Dr. Abdul Hameed are confined to the issue relating to the fairness of the trial and the legality of the proceedings culminating in his conviction. The Special Court shall independently appreciate the evidence that may be adduced before it and decide the matter strictly on its own merits, without being influenced by any observation contained in this judgment.

82. Pending application(s), if any, shall stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANJAY KAROL)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
JULY 21, 2026.