

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Appeal No. 35 of 2021

Safeek Qureshi Appellant

Vs.

State of Uttarakhand Respondent

Present:

Mr. Vikas Kumar Guglani, Advocate for the appellant.

Mr. B.N. Molakhi, D.A.G. for the State of Uttarakhand.

Criminal Appeal No. 91 of 2021

Rohit Appellant

Vs.

State of Uttarakhand Respondent

Present:

Mr. Vikas Anand, Advocate for the appellant.

Mr. B.N. Molakhi, D.A.G. for the State of Uttarakhand.

Criminal Appeal No. 100 of 2021

Amir Mohammad @ Chotu Appellant

Vs.

State of Uttarakhand Respondent

Present:

Mr. Vikas Anand, Advocate for the appellant.

Mr. B.N. Molakhi, D.A.G. for the State of Uttarakhand.

Criminal Appeal No. 101 of 2021

Nizamuddin Appellant

Vs.

State of Uttarakhand Respondent

Present:

Ms. Khushi Chaudhary, Advocate holding brief of Mr. B.D. Pande, Advocate for the appellant.

Mr. B.N. Molakhi, D.A.G. for the State of Uttarakhand.

Criminal Appeal No. 137 of 2021

Shaukin Mewati Appellant

Vs.

State of Uttarakhand Respondent

Present:

Mr. Vikas Kumar Guglani, Advocate for the appellant.

Mr. B.N. Molakhi, D.A.G. for the State of Uttarakhand.

JUDGMENT

Coram: Hon'ble Ravindra Maithani, J.
Hon'ble Siddhartha Sah, J.

Hon'ble Ravindra Maithani, J. (Oral)

Since all the appeals arise from common judgment, they are heard together and are being decided by this common judgment.

2. The instant appeals are preferred against the judgment and order dated 21.01.2021, passed in Special Sessions Trial No.53 of 2016, State Vs. Rohit and others, by the court of Special Judge, POCSO/Additional Sessions Judge/FTC, Haldwani District Nainital. By it, the appellants have been convicted under Sections 395, 376-D, and Section 5(g)/6 of the Protection of Children from Sexual Offences Act, 2012 (the POCSO Act). They have been sentenced as hereunder:-

- A. Under Section 395 IPC, to undergo rigorous imprisonment for a period of 10 years, with a fine of Rs.10,000/- each. In default of payment of fine, to undergo simple imprisonment for a further period of two months.
- B. Under Section 376-D IPC, to undergo rigorous imprisonment for life with a fine of Rs.20,000/- each. In default of payment of fine, to undergo simple imprisonment for a further period of two months.
- C. Under Section 5(g)/6 of the POCSO Act, to undergo rigorous imprisonment for life with a fine of Rs.20,000/-each. In default of payment of fine, to undergo simple imprisonment for a further period of two months.

The appellants Nizamuddin and Safeek Qureshi have also been convicted under Section 412 IPC and sentenced to undergo rigorous imprisonment for a period of 10 years with a fine of Rs.10,000/-each. In default of payment of fine, to undergo simple imprisonment for a further period of two months.

The appellant Nizamuddin has also challenged the judgment and order dated 21.01.2021, passed in Special Sessions Trial No.45 of 2016, State Vs. Nizamuddin, by the court of Special Judge, POCSO/Additional Sessions Judge/FTC, Haldwani District Nainital. By it, the appellant Nizamuddin has been convicted under Section 4/25 of the Arms Act, 1959 ("the Arms Act"), and sentenced to undergo rigorous imprisonment for a period of 6 months with a fine of Rs.1,000/-each. In default of payment of fine, to undergo simple imprisonment for a further period of one month.

3. Heard learned counsel for the parties and perused the record.

4. The prosecution case, briefly stated, is as follows: In the intervening night of 23/24.07.2016, at 2:00 in the morning, 10-12 miscreants, armed with lathi, danda and country made pistols entered into the house of PW1, the mother of the victims, and assaulted the family members and looted various articles, including the jewellery, etc.. They also committed rape on the daughters of PW1, namely PW3, victim S, and PW5, victim U. The report of the incident was lodged by PW1, the mother of the victims, on 24.07.2016, at Police Station Ramnagar, District Nainital, on the same date. PW3, victim S and PW5, victim U, were

medically examined on 24.07.2016. PW3, victim S, was examined at 01:18 p.m. She refused for internal examination. In the history of her medical examination, she has stated that one of the assailants did insert his finger in her vagina, but there was no bleeding and no injury on any part of the body. PW5, victim U, was examined on 24.07.2016, at 1:28 p.m. She also did not have any injury on her person. She has also narrated the same story, as was told by another victim, PW3, victim S.

5. It is the prosecution case that both the victims were again medically examined. PW3, victim S, was examined on 26.07.2016, at 12:30 p.m. and certain injuries were found on her person, though she narrated the same story about the incident which she had narrated on 24.07.2016, and PW5, victim U, was again medically examined on 24.07.2016, at 12:30 p.m. At that time also, certain injuries were noted on her person. He has also narrated the same story, which she had narrated at the time of her medical examination on 24.07.2016. The statements of both these victims were recorded under Section 164 of the Code of Criminal Procedure, 1973 ("the Code"). The clothes, which they wore at the time of the incident, were taken into custody.

6. According to the prosecution case, the appellant Rohit, on his own, approached the Police at Chowki Peerumdera on 26.08.2016. He revealed that he was involved in the offence. He named other appellants also. Thereafter, at the instance of the appellant Rohit, a vehicle driven by Guddu was intercepted, where the appellant Nizamuddin was one of the occupants. From the possession of the appellant Nizamuddin, a knife was recovered.

The appellant Nizamuddin and Guddu had then revealed that they had kept the looted articles in the shop of Guddu. Thereafter, at the instance of appellant Nizamuddin and Guddu, from the possession of the appellant Nizamuddin, jewellery was recovered. According to the prosecution, jewellery was also recovered at the instance of Guddu. The recovery memo of it was also prepared. Based on recovery of knife from the possession of the appellant Nizamuddin, a separate Case Crime No. 251 of 2016, under Section 4/25 of the Arms Act, was also lodged against the appellant Nizamuddin. The Investigation Officer ("IO") prepared site plan of the place of incident, place of recovery, etc. The clothes of the victims and that of the accused persons were sent for forensic examination, but it did not support the prosecution case. Nothing was detected on those clothes.

7. After completion of the investigation, the IO submitted chargesheet against the appellants and one Guddu for offence under Sections 395, 376-D, 412 read with Section 34 and 3/4/16 of the POCSO Act. Separate charge sheet was submitted under Section 4/25 of the Arms Act against the appellant Nizamuddin and one Guddu. Initially on 02.06.2017, charges under Sections 395, 376D and 5(g)/6 of the POCSO Act was framed against the appellants Rohit, Shaukin Mewati, Safeek Qureshi and Amir Mohammad alias Chotu, and charges under Sections 395, 376D, 412 IPC and 5(g)/6 of the POCSO Act was framed against the appellant Nizamuddin and one Guddu charge under Section 4 read with 25 of the Arms Act was also framed against the appellant Nizamuddin. But, subsequently, by the order dated 22.07.2019, the court framed joint charges against all

the appellants and one Guddu under Sections 395, 376D IPC and Section 5(g)/6 of the POCSO Act and Section 412 IPC was framed against the appellant Nizamuddin and Safeek Qureshi. One Guddu was also charged under Section 412 IPC. The appellant Nizamuddin was also charged for the offences under Section 25 of the Arms Act. The appellants did not admit the charges. They claimed trial.

8. In order to prove its case, the prosecution examined 15 witnesses namely:-PW1, the mother of the victims; PW2, the father of the victims; PW3, victim S; PW4, Jagmohan Singh Rawat; PW5, victim U; PW6, S.I. Shweta Negi; PW7, Dr. Archana Kaushik; PW8, Dr. Chandra Pant; PW9, brother of the victims; PW10, S.I. Ravindra Kumar Kaushal; PW11, Sanjay Kumar Pandey; PW12, Dinkar Singh; PW13, Bharat Singh Sammal; PW14, Paritosh Verma; PW15, the sister of the victims.

9. During trial, by the order dated 07.12.2020, the court recorded that since Guddu was declared a juvenile, therefore, his file was separated.

10. It is admitted at Bar that enquiry of Guddu was referred to the Juvenile Justice Board, Nainital, but he was tried as an adult in Special Sessions Trial No.12 of 2021, State Vs. Guddu, in the court of FTC/Additional Sessions Judge/Special Judge (POCSO), Haldwani, District Nainital ("the connected trial"), and in the connected trial, on 05.05.2022, Guddu had been acquitted of the charges under Sections 395, 376D, 412 IPC and Section 5(g)/6 of the POCSO Act.

11. The appellants were examined under Section 313 of the Code. According to them, they have been falsely implicated in the case.

12. After hearing the parties, by the impugned judgment and order, the appellants have been convicted and sentenced as stated hereinbefore.

13. Learned counsel appearing for the appellants submits that it is a no evidence case; the appellants have been convicted without any evidence. He raised the following points in his submission:-

- a) The FIR is not named.
- b) The witnesses of facts have stated that they did not see the assailants, as they had masked their faces.
- c) No test identification was done. The appellants have not been identified in the court.
- d) With regard to identification whatever has been stated by PW3, victim S, that is not reliable. It is not credible.
- e) During the initial medical examination of the victims held on 24.07.2016, no injuries were found on their person by PW8, Dr. Chandra Pant, which she has confirmed also, but, subsequently, when their medical examination was done on 26.07.2016, injuries were found. Those injuries cannot be connected with the alleged offence.
- f) The sequel of events is also much doubtful as PW3, victim S, has stated that one of the

miscreants had inserted his finger in her vagina, which she told in her statement recorded under Section 164 of the Code and in court also, whereas, PW1, the mother of the victims, tells in court that the PW3, victim S, was raped before her.

g) PW5, victim U, in her statements recorded during investigation tells that she was raped, but in court she tells that one of the miscreants had inserted his finger in her vagina, and explains that it is rape.

h) The alleged recovery from appellant Nizamuddin with regard to a knife and jewellery is totally non-reliable.

i) Insofar as recovery of jewellery from appellant Nizamuddin on 26.08.2016 is concerned, it cannot be connected with the offence. Whatever has been stated by PW11, Sanjay Kumar Pandey, PW13, Bharat Singh Sammal and PW14, Paritosh Verma, about the identification of articles allegedly recovered from the appellant Nizamuddin cannot be read into evidence because according to the PW14, Paritosh Verma, the IO, PW11, Sanjay Kumar Pandey, had brought all the articles for recovery, and it was done in his presence. But it is stated that any statement given by the witness, even at the time of identification of articles in the presence of the IO,

is hit by the provisions of Section 162 of the Code, and it is inadmissible.

14. In support of his contentions, learned counsel for the appellants has placed reliance upon the principles of law, as laid down by the Hon'ble Supreme Court in the case of *Chunthuram Vs. State of Chattisgarh*, (2020) 10 SCC 733.

15. In the case of *Chunthuram (supra)*, the Hon'ble Supreme Court has discussed the situation when the police is present at the time of identification, and held that any statement given by witnesses under such circumstances could be hit by Section 162 of the Code. In Para 11, the Hon'ble Supreme Court observed as follows:-

“11. The infirmities in the conduct of the test identification parade would next bear scrutiny. The major flaw in the exercise here was the presence of the police during the exercise. When the identifications are held in police presence, the resultant communications tantamount to statements made by the identifiers to a police officer in course of investigation and they fall within the ban of Section 162 of the Code. (See *Ramkrishan Mithanlal Sharma v. State of Bombay*, AIR 1955 SC 104.)”

16. It is further argued that the evidence of PW3, victim S, with regard to identification, bare no weightage under such circumstances, particularly when it is admitted case that the assailants had masked their faces and their faces were not visible when allegedly the dacoity was done. In this regard, learned counsel for the appellants has placed reliance on the principles of law as laid down by the Hon'ble Supreme Court in the case of *Dana Yadav alias Dahu and Others v. State of Bihar*, (2002) 7 SCC 295. In the case of *Dana Yadav (supra)*, the Hon'ble Supreme

Court curled up the principles with regard to test identification. In Para 38(e), the Hon'ble Supreme Court observed as follows:-

“38(e) Failure to hold test identification parade does not make the evidence of identification in court inadmissible, rather the same is very much admissible in law, but ordinarily identification of an accused by a witness for the first time in court should not form the basis of conviction, the same being from its very nature inherently of a weak character unless it is corroborated by his previous identification in the test identification parade or any other evidence. The previous identification in the test identification parade is a check valve to the evidence of identification in court of an accused by a witness and the same is a rule of prudence and not law.”

17. On the other hand, learned State Counsel submits that one of the appellants, Rohit, approached the IO on his own admitting that the offence was committed by him and other appellants; based upon it, on 26.08.2016, appellant Nizamuddin and one Guddu were apprehended, and from the possession of the appellant Nizamuddin, jewellery and a knife was recovered. It is argued that the identification of the appellants is based on the statement of appellant Rohit for himself and for other appellants.

18. With regard to injuries, and discrepancies on the medical examination of PW3, victim S, and PW5, victim U, held on 24.07.2016 and 26.07.2016, learned State Counsel submits that on 24.07.2016, both the victims did not agree for internal examination and in a cursive manner that examination was done. Subsequently, when the medical examination was done on 26.07.2016, the injuries were noted. It supports the prosecution case.

19. Before the arguments are appreciated, it would be apt to examine as to what the witnesses have stated in their deposition.

20. PW1 is the mother of the victims. She has stated that on the date of incident, 10-12 miscreants entered in their house. They started beating the family members. They were armed with country-made pistols, knife and sabbal. One of them, took the PW3, victim S in the room and raped her. Thereafter, they caught hold of PW5, victim U and raped her also. They looted various articles. Thereafter, they took the PW5, victim U alongwith them towards temple and she was dropped in the state of unconsciousness. They also threatened her to life. The PW5, victim U, when she regained consciousness, revealed that the miscreants took her towards temple and disrobed her. This witness has lodged the FIR, Ex. A1. This is what she has proved.

21. PW2 is the father of the victims. He has corroborated the statement of PW1 mother of the victims. He is not eyewitness. But according to him, he was called in the Ramnagar court for identification of the articles. He had identified the jewelery, but one Hansuli, he did not identify.

22. PW3 is victim S and PW5 is victim U. Both have supported the statement of PW1 their mother as to what had happened on the date of incident. According to PW3 the victim S, one of the miscreants took her inside. He inserted his finger in her vagina. Thereafter, he also took PW5 victim U inside the room, where she was crying. She has stated that she was mercilessly

beaten up and their belongings were taken up by those miscreants. Thereafter, they went to police. She has also proved her statement recorded under Section 164 of the Code, which is Ex. A2. Just above her cross examination, this witness PW3, the victim S has identified three persons, namely, appellants Rohit, Nizamuddin and one Guddu. She has also identified the appellant Safeek Qureshi as the person, who inserted his finger in her vagina.

23. PW5 is another victim U. She has also corroborated the statement of PW1 her mother. According to her, one of the miscreants entered his finger in her vagina. It may be noted that PW5 victim U in statement recorded under Section 164 of the Code has stated that she was raped. According to PW5 victim U, after looting and beating the family members, she was taken by the miscreants at a distance. She was harassed, tortured and subsequently dropped by them in her house.

24. PW6 Shweta Negi is the Inspector, Police. She had taken into custody the clothes worn by the victims at the time of incident and prepared recovery memo Ex. A6. She prepared the site plan Ex. A7. According to her, on 26.08.2016, PW11 Sanjay Kumar Pandey, Inspector, was informed that the appellant Rohit wants to give certain information to Police with regard to the offence. Thereafter, the appellant Rohit told the police that he had committed the offence alongwith other appellants. PW6 Shweta Negi has stated that on that date, at the instance of the appellant Rohit, a car driven by Guddu was intercepted. Appellant Nizamuddin was one of its occupants. From the possession of the

appellant Nizamuddin, a knife was recovered and a separate offence under Section 4/25 of the Arms Act, was lodged against him. She also tells that at the instance of the appellant Nizamuddin and Guddu, jewellery was also recovered.

25. PW4 Head Constable, Jagmohan Singh Rawat recorded chik FIR and made its entry in the General Diary of the Police Station. He has stated about it.

26. This Court is not discussing the evidence qua Guddu because he has already been acquitted in the connected trial.

27. PW8 Dr. Chandra Pant did examine PW3 victim S on 24.07.2018 at 1:18 p.m., She has stated that on that date, the victim had told it to her that the miscreants had entered into their house in the midnight. They were assaulted and one of the miscreants had inserted his finger in his vagina and thereafter, left her. She has proved her examination report qua PW3 victim S Ex. A12 and tells that there were no marks of injury on her person. She has also proved the injury report of PW5 victim U, which is Ex. A13. Similarly, according to her, the victim had told her that one of the miscreants has entered his finger in her vagina.

28. PW7 Dr. Archana Kaushik did examine the victims on 26.07.2016. According to her, the same story was told to her by both the victims. She had noted many contusions, abraded contusions in the person of the PW3 victim S. She has proved the

medical examination report Ex. A8. She has also proved the pathology report Ex. A9. PW7 Dr. Archana Kaushik has also examined PW5 victim U on 26.07.2016. She has noted injuries on her cheeks which were contusions, but there was no internal injury. She has proved the medical examination report Ex. A10 and pathological report Ex. A11.

29. PW9 is the witness of recovery memo, by which the IO had taken the clothes of the victims and masks of the miscreants, which this witness later on found in the forest. He has stated about those articles.

30. PW10 SI, Ravindra Kumar Kaushal is the IO of the case under Arms Act against the appellant Nizamuddin. He has proved his site plan Ex. A14 and charge sheet Ex. A15. He has stated about Guddu, but as stated, the trial of Guddu has already been concluded.

31. PW11 Sanjay Kumar Pandey was Inspector, Police. He has stated that the appellant Rohit had approached him and revealed that he had committed the offence alongwith other appellants. At his instance, thereafter, a car driven by Guddu was intercepted. The appellant Nizamuddin was one of its occupants. Then a search was made and from the possession of the appellant Nizamuddin, a knife was recovered. They were arrested. He has proved those articles. According to PW11 Sanjay Kumar Pandey, the appellant Nizamuddin and Guddu had then told that they had kept the looted jewellery in the shop of Guddu. They visited the place and at the instance of the appellant Nizamuddin, jewellery

was recovered, of which recovery memo Ex. A21 was prepared. This witness has also stated about the recovery of jewellery made at the instance of the appellant Safeek Qureshi on 20.09.2016. It may be noted that, in fact, this jewellery was not identified by any of the witnesses, even as per the prosecution.

32. PW12 Dinkar Singh has proved the date of birth of the PW5 victim U. He has also proved the extract of the school register, which is Ex. A25.

33. PW13 Bharat Singh Sammal is the witness of test identification of the articles. He was a prosecution officer.

34. PW14 Paritosh Verma was SDM, in whose presence, the identification was done when articles were brought by the IO alongwith the witness wherein he works. He has proved the memo of it Ex. A26.

35. PW15 is the sister of the victims. She has stated about the incident and had told that she had identified the appellant Rohit, who happens to be her maternal uncle.

36. FIR does not reveal as to who were the miscreants. First and foremost, it has to be seen as to whether the appellants or any of them have been identified by witnesses or any of them.

37. There are four witnesses of fact, which are PW1 mother of the victims, PW3 victim S, PW5 victim U and PW15 sister of the victims. PW1 is mother of the victims, she has stated

about the incident, but in the very beginning lines of her examination-in-chief, she tells that the miscreants had masked their faces and in Page 3 middle lines of her statement, she tells that all the miscreants have masked their faces with cloth. She could not identify any of them. PW3 victim S at one stage in page 5 bottom line to page 6 top of her examination has identified some of the appellants. But the question is as to how they were identified? In her cross examination recorded on 20.02.2018, in the beginning paragraph, PW3 victim S says that on the date of incident, she could not identify any of the miscreants. They had masked their faces. Only their eyes were visible. This is what PW5 another victim U has stated. In page 5 of her statement, she tells in para 10 that the miscreants had masked their faces, only their eyes were visible. But in para 27, she explains that she had seen the miscreants coming from the gate, therefore, she can now identify them. The question is if at the time of incident these victims have not identified the miscreants, how could on subsequent day, they could identify the miscreants.

38. Interestingly, there is another witness PW15, who is sister of the victims, as stated, she has also stated about the incident and had told that she had identified the appellant Rohit, who happens to be her maternal uncle (statement of PW15 sister of the victims 2nd page midlines). The question is if PW15, the sister of the victims has identified his maternal uncle Rohit as one the miscreants, what prevented her to reveal it to PW1, her mother, that Rohit was one of the miscreants The statement of PW15 the sister of the victims with regard to the identification of

the appellant Rohit at the time of incident is not inspiring any confidence.

39. There is another aspect of the matter also. According to PW15, the appellant Rohit was her maternal uncle, whose mask was slipped during the incident and she could identify him. He was not a stranger to the family as per PW15 sister of the victims. He was her maternal uncle, which means, there was an opportunity for the PW1 mother of the victim, PW3 victim S and PW5 victim U, to identify the appellant Rohit, but none of them have stated that they identified any of the miscreants. In fact, as stated, according to the PW1, mother of the victims, PW3 victim S and PW5 victim U, all the miscreants have masked their faces with cloths and they could not identify any of them except to see their eyes. Therefore, there is no material which could suggest even that the appellants or any of them was ever identified. There have been no test identification parade conducted, as stated by the IO. According to the IO, there was no purpose to conduct test identification parade of the appellants as the miscreants had masked their faces at the time of incident. It also does not support the statements of PW15, the sister of the victims, who tells that the mask of the Rohit had slipped at the time of incident and therefore, she could identify him.

40. There has been no identification of the appellants and in view of it, in fact, on this count alone, the entire prosecution case fails and make the appellants liable for acquittal.

41. There is another aspect of the matter. According to PW1 mother of the victim, PW3 victim S and PW5 U, they were badly beaten up by the miscreants. But when PW3 victim S and PW5 U were examined on 24.07.2016, there was no injury on their persons. In fact, specifically when PW8 Dr. Chandra Pant was asked, in para 3 of her cross examination PW8 Dr. Chandra Pant has stated when she examined the victims there were no injury on their persons. If it is so, how could injuries were detected on their persons by PW7 Dr. Archana Kaushik on 26.07.2016? Where those injuries post alleged incident? It further doubts the prosecution case.

42. Insofar as, recovery from the appellant Nizamuddin is concerned, according to the witnesses, the test identification of the recovered jewellery was done by the PW14 Paritosh Verma in the presence of PW13 Bharat Singh Sammal and PW Ravindra Kumar Kaushal, the IO.

43. In view of the principles of law, as laid down by the Hon'ble Supreme Court in the case of Chunthuram (supra), the presence of IO vitiates the identification proceedings because any communication made by the witness is hit by 162 of the Code, which is same position in the instant case.

44. The appellant Nizamuddin has also been charged for keeping a knife without any valid authority. PW6 Shweta Negi and PW11 Sanjay Kumar Pandey are witnesses to it. According to them, on 26.08.2016, they were told by the appellant Rohit about the commission of offence by him other appellants and thereafter,

the appellant Nizamuddin and one Guddu were intercepted. It is admitted to both these witnesses that there were other people around from public, but none of them is a witness. PW11 Sanjay Kumar Pandey has categorically stated that before search of the appellant Nizamuddin, the police party had searched each other to ensure that none carries any prohibited article. But, he admits in page 2 of his cross examination done on 04.09.2018 that PW6 Shweta Negi was not searched by anyone because there was no other lady police officer. In fact, the recovery memo of the knife Ex. A17 does not record that the police party did search each other to avoid possibility of any planting of prohibited articles.

45. Having considered the statements of PW6 Shweta Negi and PW11 Sanjay Kumar Pandey and other attending factors, we are of the view that their evidence is not such credible which may bring home the guilt of the appellant Nizamuddin for offence under Section 25 of the Arms Act.

46. In view of the foregoing discussion, we are of the view that the prosecution has not been able to prove the charge levelled against the appellants and all the appellants ought to have been acquitted of the charges. Learned court below committed an error in convicting and sentencing them. Therefore, the appeals deserve to be allowed.

47. All the appeals are allowed.

48. The judgment and order dated 21.01.2021, passed in Special Sessions Trial No.53 of 2016, State Vs. Rohit and

others, and Special Sessions Trial No. 45 of 2016, State Vs. Nizamuddin by the court of Special Judge, POCSO/Additional Sessions Judge/FTC, Haldwani District Nainital are set aside.

49. The appellants are acquitted of the charge under Sections 395, 376D and 5(g)/6 of the POCSO Act. The appellants Nizamuddin and Safeek Qureshi are acquitted of the charge under Section 412 IPC. The appellant Nizamuddin is also acquitted of the charge under Section 4/25 of the Arms Act.

50. Appellants are in jail. Let they be released forthwith, if not wanted in any other case, subject to their furnishing personal bonds and two sureties by each one of them, each of the like amount to the satisfaction of the court concerned under Section 437 A of the Code.

51. Let a copy of this judgment be sent to the court below along with the original records.

(Siddhartha Sah, J.)

16.03.2026

(Ravindra Maithani, J.)