

HIGH COURT OF TRIPURA  
AGARTALA

Crl.A.(J) 57 of 2023

**Omar Sharif,**  
son of Anu Miah, aged about 43 years,  
resident of Masjid Patty Road, Santipara,  
PO: Agartala, PIN: 799001,  
PS: East Agartala, District: West Tripura

---Appellant(s)

Versus

**The State of Tripura**

---Respondent(s)

|                           |   |                                                              |
|---------------------------|---|--------------------------------------------------------------|
| For Appellant(s)          | : | Mr. Sankar Lodh, Advocate.<br>Mr. Subham Majumder, Advocate. |
| For Respondent(s)         | : | Mr. Raju Datta, PP.<br>Mr. Rajib Saha, Addl. PP.             |
| Date of hearing           | : | 24.06.2025.                                                  |
| Date of pronouncement     | : | 01.07.2025                                                   |
| Whether fit for reporting | : | No                                                           |

**HON'BLE JUSTICE DR. T. AMARNATH GOUD**  
**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Judgment & Order**

**Dr. T.Amarnath Goud, J**

Heard Mr. Sankar Lodh, learned counsel appearing for the appellant  
also heard Mr. Raju Datta, learned PP appearing for the state-respondent.

[2] The is an appeal under Section 374(2) of the Code Of Criminal Procedure, 1973, against the impugned Judgment of Conviction dated 02.06.2023 passed by the Ld. Sessions Judge West Tripura, Agartala, in S.T.(T/1) 103 of 2019, whereby the Ld. Sessions Judge West Tripura, Agartala, convicted the appellant for committing offence, punishable under Section 302 read with section 34 of the Indian Penal Code (for short, IPC Act), and Ld. Sessions Judge West Tripura, Agartala by the Order dated 03.06.2023, sentenced him to suffer rigorous imprisonment for life, and to pay fine of Rs.50,000/- (Rupees Fifty Thousand) only, and in default to pay fine money undergo further rigorous imprisonment for another 6 (six) months for committing offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

[3] The prosecution case, in brief, is that on 04.08.2019 one Smt. Ranjana Das (PW-1) appeared at West Agartala P.S. and lodged a written complaint with the Officer-in-Charge of that Police Station alleging, inter alia, that on 02.08.2019 her son namely Bodhisattwa Das, who was a Branch Manager of UCO Bank, Dharmanagar Branch came from Dharmanagar to Agartala with a view to go to Kolkata for some official works. On the next date i.e. on 03.08.2019, at night time at about 12 am, when her son did not return to home she made a call to him over mobile phone and in reply to that her son told that he would return to home very shortly. As her son did not return to home even after lapse of some time, at about 1 am in the night (04.08.2019) again she made a call and tried to talk with him and that time she only heard “GB, GB” sound. Hearing this, she along with other relatives rushed to GB Hospital and found Bodhisattwa lying there in unconscious condition with multiple stab injuries on different parts of his body and also found that intestinal parts almost came out from his belly. In the written complaint it is also stated by her that she learnt that in the midnight of 03/04.08.2019, at about 0050 hrs. near Jackson gate, Agartala in front of Sarada Medical Hall, son of the Proprietor of Kalika Jewellers namely Sumit, Sueb Miah and others attacked upon her son by broken wine bottles and caused severe bleeding injuries to Bodhisattwa with a view to kill him and got him admitted in GBP Hospital for treatment with alarming condition. On the basis of that a case was registered at West Agartala P.S vide No.172 of 2019, U/S 307/326/34 of IPC and the case was endorsed to SI Suman Ullah Kazi for investigation. Accordingly, he investigated the case and on completion of investigation he submitted the charge sheet against the accused persons namely; Sumit Chowdhury @ Babai, Omar Sharif @ Sueb, Sumit Banik @ Bapi and Sukanta Biswas vide West Agartala PS Charge Sheet No.73 of 2019, U/S 302/34 of IPC

before the Court of Ld. Chief Judicial Magistrate, West Tripura, Agartala to face trial.

[4] After hearing both sides, the learned Court below delivered the judgment and conviction of order of sentence dated 02.06.2023 and 03.06.2024 respectively in the following manner:

*There is no doubt that this case does not come within the purview of the rarest of the rare cases. Thus, taking into notice the facts and circumstances of the case, I am of the view that sentence of imprisonment for life along with fine of Rs.50,000/-, each, for the offence committed by the convicts will suffice to render proper justice in this case.*

*Accordingly, the convicts namely Sumit Chowdhury @ Babai, Sumit Banik @ Bapi, Sukanta Biswas @ Bapi and Omar Sharif @ Sueb @ Shoiab Miah are hereby sentenced to suffer rigorous imprisonment for life U/S 302 of Indian Penal Code read with Section 34 of IPC.*

*The convicts are also sentenced to pay fine of Rs.50,000/-, each, and in default of payment, to suffer rigorous imprisonment for further 6 (six) months:*

*The pre-conviction detention served by the convicts during the police investigation and trial shall be allowed to set off against the term of imprisonment imposed upon the convicts as per provision of Section 428 of the Code of Criminal Procedure.*

[5] Being aggrieved by and dissatisfied with the judgment and order of conviction, the present appeal has been preferred by the appellant.

[6] It is contended by the learned counsel for the appellant that the Learned Court below committed serious error in appreciating that the prosecution has failed to prove the actual person who handed over the written complaint at West Agartala Police Station, for and on behalf of the informant (PW-1). The prosecution left the circumstances unexplained. According to PW- 49, Inspector Debaprasad Roy, the then Officer In-Charge of West Agartala Police Station, he received the written complaint being lodged by one Smt. Ranjana Das on 04.08.2019 at about 0945 hours, but PW-49 did not disclose from whom he received the written FIR. As per PW-1, Smt. Ranjana Das, she lodged the ejahar at the hospital premises to the police on 04.08.2019. The ejahar was written by PW-6, Sri Swapan Ch. Deb after hearing the incident from PW-2, Sri Kishore Kr.

Paul who arrived at the hospital premises on 04.08.2019 at 9/9.15 a.m. whereas PW-2 Sri Kishore Kr. Paul in his oral evidence stated that on 04.08.2019 he went to G.B. Hospital around 8.30/9:00 am. On the other hand, Pw- 6, the scribe of the FIR has stated that on 04.08.2019 around 9/9.15 a.m. PW-2 Sri Kishore Kr. Paul had narrated the entire incident to the informant and others in presence of PW-6, Sri Swapan Ch. Deb. So naturally a question arises as to how it was possible for the informant to lodge the written complaint at West Agartala Police Station at about 0945 hours completing all the procedure. The informant (PW-1) herself admitted that she was available at GB Hospital for the whole day on 04.08.2019. So, it is a natural question from the side of the accused persons that who was the actual person who handed over the written complaint at West Agartala Police Station for and on behalf of PW-1, Smt. Ranjana Das. Learned Court ignored the same and passed the impugned judgment of conviction and sentence.

[7] It is further contended that the Ld. Court below failed to appreciate that the video recording of alleged dying declaration of the deceased is not genuine one. As per oral evidence of PW-53, Constable Rakesh Das, video recording of the dying declaration of deceased Bodhisattwa Das was done by him on 04.08.2019 at 01.40 a.m., and its duration was 4 minutes 34 seconds and size of the video clip was 564.95 MB. Subsequently, on 09.09.2019 the Investigating Police Officer SI Suman Ullah Kazi received the mobile set of PW- 53 through constable Sri Samir Barman at West Agartala Police Station. Thereafter, constable Sri Samir Barman had transferred the said video clip from the mobile phone of PW-53 to a DVD with the help of his laptop. But, as per oral evidence of PW-46 Dr. Amandeep Kaur the time of creation and modification of the video file was same. PW-46 herself admitted in her cross examination that as per EXIF-metadata video was created on 04.08.2019 at 2.10 am but as per seizure list dated 23.01.2020 the video was created on 04.08.2019 at 1.40 am. Apart from this,

from the medical evidence, it is revealed that the health and mental condition of the deceased does not permit him to make any such statement. From the aforesaid facts, it is revealed that the so called dying declaration of deceased Bodhisattwa Das as shown before the trial court is a fake document and created with intent to implicate the accused persons in this case, but Ld. Court below failed to appreciate the same and passed the impugned Judgment.

[8] To support his case, Mr. Sankar Lodh, learned counsel has placed his reliance on a judgment of the apex court in ***Harjit Singh and others vs. State of Punjab*** reported in 2002 AIR SCW 3393 where the apex court has observed in the following manner:

49. Apart from the version of eye-witnesses discussed above, the trial court attached importance to the fact that on a disclosure statement of accused Satinderpal Singh, pistol alleged to have been used by Inderjit Singh was recovered under memorandum Ex.P-19. We have referred to the statement of Investigating Officer Puran Singh (PW-9). He is unable to explain the reason for not procuring the attendance and signature of independent witnesses on the disclosure statement Ex.P-V and memorandum of recovery Ex.P-U/1. We have noted that these memoranda have been signed only by two police officers Faqir Chand and Virsa Singh. It is unbelievable that all the accused persons who have alleged to use their fire arms/weapons kept all the arms concealed in a open filed in a gunny bag under a heap of straw. In the absence of independent witnesses and the alleged place of concealment being accessible to public, the evidence of disclosure statement and the consequent recovery of arms and weapons do not at all inspire confidence. In any case, it is not a piece of evidence which could be relied by the (sic) court to convict the accused by treating it as eye-witnesses account.

[9] In ***Shento Varghese vs. Julfikar Husen and Othes*** reported in AIR 2024 SC 2984 where the apex court has observed in the following manner:

13. This requires us to consider whether validity of the seizure order is contingent on compliance with the reporting obligation? In our view, the validity of the power exercised under Section 102(1) Cr.P.C. is not dependent on the compliance with the duty prescribed on the police officer under Section 102(3) Cr.P.C. The validity of the exercise of power under Section 102(1) Cr.P.C. can be questioned either on jurisdictional grounds or on the merits of the matter. That is to say, the order of seizure can be challenged on the ground that the seizing officer lacked jurisdiction 15 to act under Section 102(1) Cr.P.C. or that the seized item does not satisfy the definition of 'property'<sup>16</sup> or on the ground that the property which was seized could not have given rise to suspicion concerning the commission of a crime, in order for the authorities to justify the seizure.<sup>17</sup> The pre-requisite for exercising powers under Section 102(1) is the existence of a direct link between the tainted property and the alleged offence. It is essential that the Nevada Properties (P) Ltd. Vs. State of Maharashtra & Anr. (2019) 20 SCC 119

*Ms Swaran Sabharwal Vs. Commissioner of Police, 1990 (68) Comp Cas 652 Delhi (DB) State of Maharashtra Vs. Tapas D. Neogy, 1999/INSC/417 properties sought to be seized under Section 102(1) of the Cr.P.C. must have a direct or close link with the commission of offence in question.*

*18. Merely because we have held that non reporting of the seizure forthwith by the police officer to the jurisdictional court would not vitiate the seizure order, it would not mean that there would be no consequence whatsoever as regards the police officer, upon whom the law has enjoined a duty to act in a certain way. Since there is an obligation cast on the officer to report the seizure forthwith, it becomes necessary to understand the meaning of the expression forthwith as used in Section 102(3) CrPC. For, without a clear understanding of the said expression, the Magistrate would not be in a position to determine whether the obligation cast on the police officer has been properly complied with. In this background, the expression 'shall forthwith report the seizure to the Magistrate' occurring in sub- section (3) of the Section 102 requires to be examined.*

**[10]** In *The State of Tamil Nadu vs. Subair alies Mohaed Subair & Ors.* reported in **2009 AIR SCW 438** where the apex court has observed in the following manner:

*4. It is seen that PWs-1 and 2 stated that they had left the injured in lurch and had disappeared from the scene making deceased to cringe an auto driver to take him to Dhospital. Would any close friend of a person involved in the movement allow such a thing to happen to him is the question looming large and there is no explanation for it. Further, it is curious to note that both PWs-1 and 2 have stated that they did not inform about the occurrence to anybody till they were asked by the police in the mid-night of the date of occurrence. The conduct of PWs 1 and 2 is un-natural and unbelievable and their presence at the time of occurrence is doubtful and the testi- E monies of PWs-1 and 2 cannot be accepted.*

**[11]** It is finally contended by the counsel for the appellant that the Ld. Court below failed to appreciate the deposition of the PW-2, Sri Kishore Kr. Paul. It is submitted that on careful scan of the deposition of PW-2, it is revealed that he is a liar, and hence, his evidence cannot be accepted as a genuine one. The conduct of PW-2, Sri Kishore Kr. Paul at the time of alleged occurrence of offence and after the occurrence of offence was very much suspicious. As per oral version of PW-2, deceased Bodhisattwa Das was the childhood friend of PW-2, Sri Kishore Kr. Paul from the same locality but surprisingly, PW-2 neither reported the matter to the police station which was situated within a short distance from the place of occurrence but left his friend in uncared condition at the place of occurrence with serious injuries and made no attempt to shift him to the

hospital nor sought for help from any other person to save the life of his childhood friend. As Id. Court below did not consider the aforesaid factors, the impugned Judgment is liable to be set aside.

[12] Mr. Raju Datta, the learned Public Prosecutor, vehemently opposes the appellant's contentions, asserting that the judgment and conviction order passed by the learned Sessions Judge are just and proper, requiring no interference. He submits that the appellant's argument regarding PW-2's conduct is a mischaracterization of the events and an attempt to discredit a crucial witness.

[13] The Public Prosecutor argues that the mere fact that PW-2 did not immediately report the incident to the police or take the victim to the hospital does not automatically make him a liar. He contends that such a reaction, while perhaps not ideal, is a plausible response from someone in a state of shock and panic after witnessing a traumatic event. It is unfair to expect a witness to act in a perfectly rational and composed manner in such a high-stress situation.

[14] Furthermore, he argues that the testimony of PW-2, when considered in its entirety, is consistent and reliable. His deposition corroborates other evidence on record, and the defense's attempt to isolate a single aspect of his conduct to label him a liar is a flawed legal strategy. The learned Sessions Judge rightly appreciated the deposition of PW-2 in its proper context, and there is no reason for this court to set aside the well-reasoned impugned judgment. The conviction is based on a comprehensive evaluation of all evidence, not just the testimony of one witness, and therefore, it should be upheld.

[15] On the point of Independent witness, learned PP for the state-respondent has placed his reliance in the Para 11.2 and 12 of the Hon'ble Supreme Court Judgment reported in (2020) 9 SCC 627 titled as **Rizwan Khan vs. State of Chattisgarh**. The same is reproduced here-in-under:

11.2 Having gone through the entire evidence on record and the findings recorded by the courts below, we are of the opinion that in the present case the prosecution has been successful in proving the case against the accused by examining the witnesses PW3, PW4, PW5, PW7 and PW8. It is true that all the aforesaid witnesses are police officials and two independent witnesses who were panchnama witnesses had turned hostile. However, all the aforesaid police witnesses are found to be reliable and trustworthy. All of them have been thoroughly cross-examined by the defence. There is no allegation of any enmity between the police witnesses and the accused. No such defence has been taken in the statement under Section 313, Cr.P.C. There is no law that the evidence of police officials, unless supported by independent evidence, is to be discarded and/or unworthy of acceptance.

12. It is settled law that the testimony of the official witnesses cannot be rejected on the ground of non-corroboration by independent witness. As observed and held by this Court in catena of decisions, examination of independent witnesses is not an indispensable requirement and such non-examination is not necessarily fatal to the prosecution case.

[16] On the point of expert opinion with regard to the arriving at a conclusion, learned PP for the state-respondent has placed his reliance in the Para 15, 16, 20 and 21 of the Hon'ble Supreme Court Judgment reported in (2009) 9 SCC 709 titled as **Ramesh Chandra Agrawal vs. Regency Hospital Limited and Others**. The same is reproduced here-in-under:

*Cleavage of opinion:*

15. Since medical science is complicated, expert opinion provides deep insight. (See Malay Kumar Ganguly vs. Dr. Sukumar Mukherjee : (2009) 9 SCC 221. It is clear that diagnosis and the method of treatment suggested to a patient of Pott's disease vary. The nature of disease is such that there exist difference in the identification of the symptoms and also the protocol of treatment to cure the disease. Therefore, the expert opinion forms an important role in arriving at conclusion.

*Expert opinion:*

16. The law of evidence is designed to ensure that the court considers only that evidence which will enable it to reach a reliable conclusion. The first and foremost requirement for an expert evidence to be admissible is that it is necessary to hear the expert evidence. The test is that the matter is outside the knowledge and experience of the lay person. Thus, there is a need to hear an expert opinion where there is a medical issue to be settled. The scientific question involved is assumed to be not within the court's knowledge. Thus cases where the science involved, is highly specialized and perhaps even esoteric, the central role of expert cannot be disputed. The other requirements for the admissibility of expert evidence are:

- i) that the expert must be within a recognized field of expertise
- ii) that the evidence must be based on reliable principles, and
- iii) that the expert must be qualified in that discipline.

[See Errors, Medicine and the Law, Alan Merry and Alexander McCall Smith, 2001 ed., Cambridge University Press, p.178]

20) An expert is not a witness of fact and his evidence is really of an advisory character. The duty of an expert witness is to furnish the Judge with the necessary scientific criteria for testing the accuracy of the conclusions so as to enable the Judge to form his independent judgment by the application of these criteria to the facts proved by the evidence of the case. The scientific opinion evidence, if intelligible, convincing and tested becomes a factor and often an important factor for consideration along with other evidence of the case. The credibility of such a witness depends on the reasons stated in support of his conclusions and the data and material furnished which form the basis of his conclusions. (See *Malay Kumar Ganguly vs. Dr. Sukumar Mukherjee and Others* : (2009) 9 SCC 221

21. In the case of *State of Maharashtra v. Damu s/o Gopinath Shinde and others.*, [AIR 2000 SC 1691 at page 1700], it has been laid down that without examining the expert as a witness in Court, no reliance can be placed on an opinion alone. In this regard, it has been observed in *The State (Delhi Administration) v. Pali Ram*, [AIR 1979 SC 14] that "no expert would claim today that he could be absolutely sure that his opinion was correct, expert depends to a great extent upon the materials put before him and the nature of question put to him."

[17] On the point of delay of recording statement, learned PP for the state-respondent has placed his reliance in the Para 20 and 21 of the Hon'ble Supreme Court Judgment reported in (2025) SCC Online 627 titled as ***Firoz Khan Akbarkhan vs. State of Maharashtra***. The same is reproduced here-in-under:

20. To our mind, the prosecution has succeeded in proving its case beyond reasonable doubt. Having carefully gone through the material on record, especially the depositions of the witnesses and upon a keen examination of the relevant aspects of the case, we find that the presence of the appellant at the site of the incident and him having stabbed the deceased on the stomach repeatedly has been the consistent stand of the PWs who were eye-witnesses. The Courts below have also concurrently found the same. The accused-appellant has not been able to controvert the evidence on record. Minor and immaterial inconsistencies and/or discrepancies shall not harm the case of the prosecution, as held, inter alia, in *State of Himachal Pradesh v Lekh Raj*, (2000) 1 SCC 247; *Narayan Chetanram Chaudhary v State of Maharashtra*, (2000) 8 SCC 457; *State of Madhya Pradesh v Ramesh*, (2011) 4 SCC 786; *Mekala Sivaiah v State of Andhra Pradesh*, (2022) 8 SCC 253, and; *Rameshji Amarsingh Thakor v State of Gujarat*, 2023 SCC OnLine SC 1321. The following observations from *Lekh Raj* (supra) are instructive:

'7. In support of the impugned judgment the learned counsel appearing for the respondents vainly attempted to point out some discrepancies in the statement of the prosecutrix and other witnesses for discrediting the prosecution version. Discrepancy has to be distinguished from contradiction. Whereas contradiction in the statement of the witness is fatal for the case, minor discrepancy or variance in evidence will not make the prosecution's case doubtful. The normal course of the human conduct would be that while narrating a particular incident there may occur minor discrepancies, such discrepancies in law may render credential to the depositions. Parrot-like statements are disfavoured by the courts. In order to ascertain as to whether the discrepancy pointed out was minor or not or the same amounted to contradiction, regard is required to be had to the circumstances of the case by keeping in view

the social status of the witnesses and environment in which such witness was making the statement. This Court in Ousu Varghese v. State of Kerala [(1974) 3 SCC 767 : 1974 SCC (Cri) 243] held that minor variations in the accounts of the witnesses are often the hallmark of the truth of their testimony. In Jagdish v. State of M.P. [1981 Supp SCC 40 : 1981 SCC (Cri) 676] this Court held that when the discrepancies were comparatively of a minor character and did not go to the root of the prosecution story, they need not be given undue importance. Mere congruity or consistency is not the sole test of truth in the depositions. This Court again in State of Rajasthan v. Kalki [(1981) 2 SCC 752 : 1981 SCC (Cri) 593] held that in the depositions of witnesses there are always normal discrepancies, however, honest and truthful they may be. Such discrepancies are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence, and the like. Material discrepancies are those which are not normal and not expected of a normal person.

8. Referring to and relying upon the earlier judgments of this Court in State of U.P. v. M.K. Anthony [(1985) 1 SCC 505 : 1985 SCC (Cri) 105 : AIR 1985 SC 48] , Tahsildar Singh v. State of U.P. [AIR 1959 SC 1012 : 1959 Supp (2) SCR 875] , Appabhai v. State of Gujarat [1988 Supp SCC 241 : 1988 SCC (Cri) 559 : JT (1988) 1 SC 249] and Rammi v. State of M.P. [(1999) 8 SCC 649 : JT (1999) 7 SC 247], this Court in a recent case Leela Ram v. State of Haryana [(1999) 9 SCC 525 : JT (1999) 8 SC 274] held:

“There are bound to be some discrepancies between the narrations of different witnesses when they speak on details, and unless the contradictions are of a material dimension, the same should not be used to jettison the evidence in its entirety. Incidentally, corroboration of evidence with mathematical niceties cannot be expected in criminal cases. Minor embellishment, there may be, but variations by reason therefor should not render the evidence of eyewitnesses unbelievable. Trivial discrepancies ought not to obliterate an otherwise acceptable evidence....”

The court shall have to bear in mind that different witnesses react differently under different situations: whereas some become speechless, some start wailing while some others run away from the scene and yet there are some who may come forward with courage, conviction and belief that the wrong should be remedied. As a matter of fact it depends upon individuals and individuals. There cannot be any set pattern or uniform rule of human reaction and to discard a piece of evidence on the ground of his reaction not falling within a set pattern is unproductive and a pedantic exercise.” (emphasis supplied)

21. Insofar as the delay of 2/3 days in recording the statements of the eye-witnesses under Section 161 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the ‘Code’) is concerned, the said delay has been thoroughly explained by the witnesses, including the Investigating Officer, to the effect that there were riots in the area. On this score, the Investigating Officer was involved in maintaining law and order in the affected area. In the attendant facts and circumstances, the course of action adopted by the police cannot be termed unjustified and no adverse inference can be drawn on this count. No doubt that Court has laid down that an inordinate delay in recording witness statements can prove to be fatal for the prosecution, as pointed out by three learned Judges in Ganesh Bhavan Patel v State of Maharashtra, (1978) 4 SCC 371; however, therein, the delay in recording statements of the material witnesses was accompanied by a delay in registering of the FIR and the surrounding circumstances, which led the Court to hold that there was a ‘a cloud of suspicion on the credibility of the entire warp and woof of the prosecution story.’ In Jagjit Singh v State of Punjab, (2005) 3 SCC 689 and State of A.P. v S Swarnalatha, (2009) 8

SCC 383, the Court held in favour of the convict/accused, as the inordinate delays therein could not be sufficiently explained. Delay of about 27 days, in a case where communal violence had broken out, was held not fatal, in *Lal Bahadur v State (NCT of Delhi)*, (2013) 4 SCC 557. Delay of over 2 years in recording witness statements was deemed not fatal, when explained, in *Baldev Singh v State of Punjab*, (2014) 12 SCC 473. Delay in recording witness statements was held not fatal per se in *Sunil Kumar v State of Rajasthan*, (2005) 9 SCC 283 and *V K Mishra v State of Uttarakhand*, (2015) 9 SCC 588. Delay in recording statements of witnesses was held to have cast serious doubts on the prosecution version in *Shahid Khan v State of Rajasthan*, (2016) 4 SCC 96 and *Jafarudheen v State of Kerala*, (2022) 8 SCC 440. It was held, in *Goutam Joardar v State of W. B.*, (2022) 17 SCC 549, by a Coordinate Bench that 'there was some delay in recording the statements of the eyewitnesses concerned but mere factum of delay by itself cannot result in rejection of their testimonies.' Per our understanding, *Ganesh Bhavan Patel (supra)* is not an authority to contend that delay in recording witness statements is always fatal to the prosecution's case. Thus, *stricto sensu*, delay in recording witness statements, *moreso* when the said delay is explained, will not aid an accused. Of course, no hard-and-fast principle in this regard ought to be or can be laid down, as delay, if any, in recording statements will have to be examined by the Court concerned in conjunction with the peculiar facts of the case before it. Our reading of the above shall apply on all fours to delays in the context of Section 164 of the Code.

[18] On the point of faulty investigation or false implication, learned PP for the state-respondent has placed his reliance in the Para 20 and 27 of the Hon'ble Supreme Court Judgment reported in (2025) 3 SCC 273 titled as ***Edakkandi Dineshan alias P. Deneshan and others vs. State of Kerala***. The same is reproduced here-in-under:

20. Either a partial, untrue version of one of the witnesses or an exaggerated version of a witness may not be a sole reason to discard the entire prosecution case which is otherwise supported by clinching evidence such as truthful version of the witnesses, medical evidence, recovery of the weapons etc. At this stage, it may not be out of place to refer to the principle called as '*falsus in uno, falsus in omnibus*'.

27. Hence, the principle of law is crystal clear that on the account of defective investigation the benefit will not inure to the accused persons on that ground alone. It is well within the domain of the courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eyewitnesses, medical report etc. It has been a consistent stand of this court that the accused cannot claim acquittal on the ground of faulty investigation done by the prosecuting agency. As the version of eyewitnesses in specifically naming the appellants have been consistent throughout the trial, we find that there is enough corroboration to drive home the guilt of the accused persons. When the testimony of PW1 Jitesh, PW 2 and PW4 is seen cumulatively, their versions can be seen to be corroborating each other. All of them being eyewitnesses, what is material to be seen is their stand is consistent when they said that it was A2 who was responsible for inflicting blows on both the deceased. It may not be out of place to mention that though the unfortunate incident took place at midnight around 1 am, it was a full moon night and as such, it was not pitch dark. This has also not been vehemently disputed by the defence counsel. Hence, the version put forth by the prosecution witnesses inspires confidence of this Court. The specific role attributed by the prosecution witnesses cannot be challenged

*on extraneous grounds which have been raised by the defense. There is no contradiction when it comes to assigning specific role to the above accused. Admittedly, there was an enmity between the witnesses as they were from different political groups. Moreover, it can be seen from the record that the Accused and the witnesses were well acquainted with each other as PW1, PW 2 and PW4 had defected from the CPI and had joined RSS. The witnesses could have tried to implicate anyone had they wished to take advantage of their past acquaintance and recent rivalry.*

[19] On the point of delay of lodging an FIR, learned PP for the state-respondent has placed his reliance in the Para 10 of the Hon'ble Supreme Court Judgment reported in (2024) SCC 557 titled as ***Hariprasad alias Kishan Sahu vs. State of Chhattisgarh***. The same is reproduced here-in-under:

*10. Of course, the delay in lodging an FIR by itself cannot be regarded as the sufficient ground to draw an adverse inference against the prosecution case, nor could it be treated as fatal to the case of prosecution. The Court has to ascertain the causes for the delay, having regard to the facts and circumstances of the case. If the causes are not attributable to any effort to concoct a version, mere delay by itself would not be fatal to the case of prosecution.*

[20] Let us examine some important witnesses.

[21] PW-2 Kishore Kumar Pal deposed that he knew Sri Budhisatya Das, now deceased, who had been murdered. Budhisatya Das was his childhood friend from the same locality. The witness owned a grill factory near Fire Service Chowmuhani, Agartala. On August 3, 2019, he closed his factory before 8 PM, and around 8 to 8:30 PM, he went to the shop of Basu Kar, a friend from the same locality, near Jackson Gate, where he had a conversation with Basu Kar.

[22] Meanwhile, Budhisatya also arrived there before 9 PM. Subsequently, the witness and Budhisatya went in front of Sarada Medical Hall and sat there. After some conversation with Budhisatya, they acquired and consumed two bottles of beer, both made of glass. Around 11:30 PM to 12 midnight, a white-colored vehicle arrived and stopped in front of Sarada Medical Hall. One Sukanta Biswas exited the vehicle and began urinating in front of an adjacent shop near Sarada Medical Hall. The witness noted that Sukanta Biswas was a Traffic Inspector and was previously known to him. The witness objected,

asking Sukanta Biswas why he was urinating in front of the shop, to which Sukanta Biswas rebuked him. Budhisatya also stepped forward and objected to the urinating, leading to a heated altercation between them.

[23] During this altercation, two other persons, namely Sumit Chowdhury of Kalika Jewellers and another Sumit Banik, presumably a relative of Sumit Chowdhury, also exited the vehicle. Both Sumit Chowdhury and Sumit Banik frequented Basu Kar's shop and were thus previously known to the witness. Sumit Chowdhury, associated with Kalika Jewellers, a prominent establishment in Agartala, was also known to the witness. As the altercation continued, Sukanta Biswas and Budhisatya began assaulting each other by dashing and pushing. Sukanta Biswas pushed Budhisatya to the ground, sat on his chest, and severely assaulted him. Sumit Chowdhury and Sumit Banik joined Sukanta and also began assaulting Budhisatya. Basu Kar was present and, seeing the altercation, rushed over after closing his shop.

[24] Meanwhile, one Shoiab Miah of Santipara arrived on a scooty (initially stated as a bike by the witness). Sumit Chowdhury and Sumit Banik complained to Shoiab Miah that Budhisatya had assaulted their "Sir," Sukanta Biswas. Accordingly, all four individuals conjointly began assaulting Budhisatya. During this assault, they moved Budhisatya from one side of the road to the other. Suddenly, Shoiab Miah produced a large knife from his waist and began striking/stabbing Budhisatya on various parts of his body, including his chest and back. The entire incident occurred at the foot of Sarada Medical Hall. During this assault, Budhisatya suddenly placed his hand on his belly and fell to the ground.

[25] Immediately, Shoiab Miah advanced with the knife and attempted to assault the witness. At this point, Basu Kar resisted him, stating that the witness belonged to his locality and requesting him not to assault the witness. Shoiab Miah then instructed them to leave the place immediately. The witness

stated he could identify all four persons with the help of a street light post in front of Sarada Medical Hall. The witness identified all accused persons, namely Sumit Chowdhury of Kalika Jewellers, Sukanta Biswas, Shoiab Miah, and Sumit Banik, by both name and face.

[26] Immediately thereafter, Sumit Chowdhury, Sumit Banik, and Sukanta Biswas proceeded towards Orient in the vehicle. Out of fear, the witness, on his bike, and Basu Kar, on his scooty, proceeded towards Akhaura Road. Accused Shoiab Miah also followed them on his scooter. After reaching Fire Service Chowmuhani, Shoiab Miah turned right and proceeded towards Ker Chowmuhani. Upon reaching in front of their house, both the witness and Basu pondered about Budhisatya, fearing something might have happened to him. With this thought, they returned to Jackson Gate on the witness's motorbike and found Budhisatya still lying there with severe injuries. Out of fear, they did not remain there and returned to their respective houses.

[27] Upon reaching his house, the witness narrated the entire incident to his mother. At his mother's request, he accompanied her back to Jackson Gate on his motorbike but did not find Budhisatya there. Thereafter, they returned to their house. The following day, around 8:30/9 AM, the witness went to GB Hospital to inquire about Budhisatya. He met Budhisatya's mother in the hospital and narrated the incident to her in the presence of her maternal uncle ("Mesho") and other relatives. On the same day, around 12/12:30 PM, police officials arrived at GB Hospital and recorded his statement.

[28] PW-9, Dr. Subhankar Nath in his examination-in-chief has stated that on 17.08.2019 he was posted as Dy. Director, Tripura State Forensic Science Laboratory (hereinafter called as 'TSFSL') and on that day his office received one sealed parcel in connection with West Agartala PS Case No.2019/WAG/172 dated 04.08.2019 U/Ss.307/326/34 of IPC and added Section 302 of IPC. On

31.08.2019 another sealed parcel was received by their office in connection with the same police case. The Director, Tripura State Forensic Science Laboratory endorsed all the exhibits to PW-9 for examination and opinion. All the exhibits were forwarded by the Sub-Divisional Police Officer, Sadar, Agartala through special messenger C/2343, Srikanta Das. The period of examination was within effect from 19.08.2019 to 20.09.2019. He further opined that blood stain detected in Exbt.B, Exbt.C, Exbt.D and Exbt.F were originated from single source of Exbt.G i.e. the blood sample of deceased Bodhisattwa Das. So, involvement and participation of accused Omar Sharif @ Shoiab in the murder of deceased Bodhisattwa Das has been well proved by the evidence adduced from the side of the prosecution.

**[29]** For ready reference, it is apposite to reproduce here-in-below the observation made by the PW-9

*Observation*

- (i) Male genetic profile was generated from Exhibit B (source: blood stain collected from PO).*
- (ii) Male genetic profile was generated from Exhibit C (source: blood stain soil collected from PO).*
- (iii) Male genetic profile was generated from Exhibit D (source: blood stain collected from scooty bearing registration No. TR01-W-7643, Activa).*
- (iv) Male genetic profile was generated from Exhibit F (source: blood stain knife).*
- (v) Male genetic profile was generated from Exhibit G (source: blood sample of deceased Budhisattwa Das in gauze cloth).*
- (vi) The alleles of the amplified loci of DNA profile of Exhibit B, Exhibit C, Exhibit D, Exhibit F matches with the alleles of the amplified loci of DNA profile of Exhibit G.*

**[30]** PW-15 Sri Keshab Chandra Sukla Das deposed that on October 29, 2019, he was posted as Officer-in-Charge, Maharajganj Bazar Fire Station, Agartala, West Tripura. On that day, upon the requisition of SI Suman Ullah Kazi of West Agartala PS, he submitted a detailed report regarding the movement of their fire service vehicle on August 4, 2019. The report was submitted in connection with West Agartala PS case No. 172 of 2019. He submitted the report

as per official records, specifically the duty register. The report contended, among other things, that on August 4, 2019, a special call was received by one of their sentries, Manoj Debbarma, from one Ranjan Das over the phone. The call informed them that a man was lying with serious injuries in front of Sarada Medical Hall near Jackson Gate. Upon receiving such a call, their staff, including Babul Ch. Saha (leading fireman), driver Rabindra Biswas, fireman Bishnu Dey, fireman Matilal Shil, fireman Haradhan Debnath, fireman Biswajit Dey, fireman Uttam Acherjee, and fireman Biplab Das, rushed to the spot along with their fire service vehicle. Upon reaching the spot around 0108 hours, they found an unknown person lying on the Jackson Gate in front of Sarada Medical Hall, and the said person was very seriously injured. Their aforementioned staff then and there rescued him and sent him to GBP Hospital by fire service vehicle, handing over the injured to the Medical Officer for better treatment. After completing their work, all of them returned to their fire station around 0145 hours and became ready for the next call. The witness duly identified the report he had given to the said police officer. The report was signed by him and was prepared by fireman Anil Das.

**[31]** PW-20 Sri Jayanta Roy deposed that about three and a half years prior, he purchased an Activa Scooty, white and red in color, though it was registered in his father Joydeb Roy's name with registration number TR01-W-7643. After approximately one and a half years of use, the scooty developed a mechanical issue. He consulted his friend, Sri Apurba Dey, who then took the scooty to a known garage owned by Gopi in Indranagar. He requested Apurba to retrieve the scooty after repairs and make the payment, proposing that he would repay Apurba later due to financial hardship caused by his business not performing well. Despite several reminders, he could not pay the repairing cost to Apurba. Subsequently, in 2019, a woman named Uma Saha, wife of Sanjib Kanti

Bhattacharjee of Ganaraj Chowmuhani, whom the witness considered a sister, took the scooty from Apurba after paying the repairing cost of Rs. 7,000/-. Later in 2019, he saw his scooty with one Omar Sharif at Kaman Chowmuhani. When he questioned Omar Sharif about having his scooty, Omar Sharif told him to take it back upon payment of Rs. 7,000/-. He stated he knew Omar Sharif as a neighbor. Accused Omar Sharif was present in court and identified by him. The scooty, identified as Exhibit MO-1, was also identified by him. In 2019, he also had occasion to see the scooty with Omar Sharif at Sukantala Road, Agartala. He observed that the meter box and headlight of the scooty were broken, the front mudguard was misshapen, and Shoiab (referring to Omar Sharif) had a plaster on his leg.

[32] PW-21 Sri Apurba Dey deposed he knew Jayanta Roy, who was his friend and the owner of a white and red Hyundai Activa Scooty with registration number TR01-W-7643. In the middle of 2019, Jayanta Roy's scooty developed a mechanical disorder, and he was unable to repair it. At Jayanta's request, the witness took the scooty to a known garage owned by Gopi in Indranagar. After the repairs, Gopi requested the scooty be picked up upon payment of the repairing cost, but Jayanta could not pay. Jayanta requested the witness to take the scooty by paying the repairing cost, promising to repay him later. Accordingly, he took the scooty from the garage, paying the repairing cost of Rs. 7,000/-. However, despite several requests, Jayanta did not repay the Rs. 7,000/- to him. Thereafter, he received the repairing cost of Rs. 7,000/- from one Uma Saha, wife of Sanjib Kanti Bhattacharjee of Ganaraj Chowmuhani, and handed over the scooty to her. In 2019 itself, on a few occasions, he saw the said scooty with Omar Sharif. He also noted that Omar Sharif once met with an accident involving the scooty in front of East Agartala PS.

[33] PW-47 Smt. Uma Saha, deposed that she knew accused Shoiab Malik of Santipara, who is also known as Omar Sharif. Accused Omar Sharif was present in court and identified by the witness. On the intervening night of August 3/4, 2019, at about 0030 hours, accused Omar Sharif came to her house and called her, whereupon she opened the door and he entered. Upon entering her house, he directly went to their bathroom, where he was wearing a bloodstained T-shirt. He changed his T-shirt, and at his request, she provided him with a T-shirt belonging to her husband, which he wore before leaving her house. The following day, she washed the T-shirt left by the accused Omar Sharif. On August 6, 2019, around 5:30 to 6:00 PM, police officials, accompanied by accused Omar Sharif, came to her house. At that time, her husband Sanjib Bhattacharjee and her brother Manoj Deb were also present. Upon being asked by the police and accused Omar Sharif, she retrieved the T-shirt that had been left by Omar Sharif in her house and handed it over to the police. Omar Sharif stated that he had "committed misdeed." One Rinku Reang had also accompanied the police and Omar Sharif to her house. After handing over the T-shirt, something was written on a piece of paper, and her signature was obtained on that paper. The witness's attention was drawn to the seizure list dated August 6, 2019, prepared at 1750 hours, and she duly identified her signature thereon. Her signature on the seizure list was marked as Exhibit 35/3 on identification. Said Smt. Rinku Reang, Abhijit Rudra Paul, Manoj Deb, and the accused Omar Sharif also affixed their respective signatures to the seizure list.

[34] In January/February 2019, her brother Apurba Dey had visited her house with a scooty. She learned from Apurba that the scooty belonged to Jayanta Roy @ Bolo. She owed Jayanta a sum of Rs. 7,000/-, so she asked Apurba to keep the scooty at her house. Accordingly, Apurba left the scooty there. That same evening, accused Shoiab came to her house and requested her to hand over

the scooty to him, stating he would pay for it. Accordingly, Shoiab paid her a sum of Rs. 7,500/-, and she handed the scooty to him. The scooty's registration number was 7643, and it was red and white colored. Thereafter, Shoiab once met with an accident involving the scooty and consequently sustained injuries to his leg. After she handed over the T-shirt, the police packed it in a plastic packet and obtained her signature on the packet. The witness duly identified the T-shirt (Exhibit MO-6) and also her signature on the packet, which was marked as Exhibit 36/2 on identification.

[35] PW-49 Inspector Deba Prasad Roy deposed that on August 4, 2019, he was posted as Officer in Charge, West Agartala PS. On that day, at about 0945 hours, upon receipt of a written complaint lodged by Smt. Ranjana Das against one Sumit, son of the Proprietor of Kalika Jewellers, Agartala, Shoiab Miah, and others, he registered a specific case based on the written complaint. This case was recorded as West Agartala PS case No. 2019/WAG/172, under sections 307/326/34 of the Indian Penal Code, and its investigation was endorsed to SI Suman Ullah Kazi. The printed form of the First Information Report (FIR) was filled up by him. The printed form of the FIR, bearing the signature and seal of the witness, was marked as Exhibit 63 on identification. The signature with the seal of the witness at the bottom of the second page of the printed form of the FIR was also marked as Exhibit 63/1 on identification. The endorsement, along with the seal and signature of the witness, in the margin of the written complaint, was also marked as Exhibit 1/2 on identification.

[36] PW-54 in his cross examination that stated that the witness Rabiul Alam (PW4) stated that his aunt-in-law, Biraja Begam, informed him that on the night of August 4, 2019, around 10 PM, a scooty was kept in their house by the accused Shoaib. The witness confirmed this Exhibit-A.

[37] The witness Swapan Chandra Deb (PW6) also stated that he received information in the early morning of August 4, 2019. The witness confirmed this Exhibit-B. While making his statement, PW6 stated the name of one of the accused as Sumit.

[38] The witness Sri Krishna Rishi Das (PW8) stated that his senior officer, ASI Bipul Debnath, reached near Jackson Gate. Upon being asked by ASI Bipul Debnath, Krishna Rishi Das informed him that one injured person had been shifted to GB Hospital by a Fire Service vehicle, and thereafter, Bipul Debnath proceeded towards GB Hospital.

[39] PW-32 Dr. Abhijit Dasgupta, deposed that on August 4, 2019, he was posted as Medical Officer at Trauma Care Center, AGMC & GBP Hospital, Agartala. On that day, around 1:43 AM, a patient named Budhisattya Das was brought to the Trauma Care Center with a history of poly trauma and cut injuries following an alleged physical assault. The patient was conscious but disoriented. His SPO2 was 98%, blood pressure was 60/40, and pulse rate was 102 per minute. On examination, the medical officer found the following deep cut injuries.

*(i) Cut injury measuring 3 inch x 1 inch over right shoulder join. The injury was simple in nature and was caused by sharp weapon.*

*(ii) Cut injury measuring 10 inch x 2 inch x 2 inch over abdomen Umbilicus to left lateral side. The injury was severe in nature and was caused by sharp object.*

*(iii) Cut injury measuring 2 inch x 1½ inch over abdomen umbilicus with protrusion intestinal part. The injury was severe in nature and was caused by sharp weapon.*

*(iv) Cut injury measuring 20 inch x 2 inch x 2 inch over left side of body below scapula to downwards upto ischial spine. The injury was severe in nature and was caused by sharp weapon.*

*(v) Cut injury measuring 3 inch x 1 inch over left wrist. The injury was simple in nature and was caused by sharp weapon.*

*(vi) Cut injury measuring 10 x 2.5 x 2 cubic cm over shoulder (neck). The injury was severe in nature and was caused by sharp weapon.*

During cross-examination, PW-32 deposed in the following manner:

*At this stage, the video recording has been displayed to which the witness confirmed his presence in the video recording and the recording was done at Trauma Care Center, AGMC & GBP Hospital, Agartala. The witness has also identified the injured Budhisattya Das in the video.*

*The witness is confronted to the entire statement recorded by the IO during investigation in terms of the provision of Section 161 CrPC. The witness denied to have made any such statement to the police. The statement so recorded stands marked as Exhibit 42 (subject to confirmation by IO).*

*On 09.08.2019 as per order of Medical Superintendent of AGMC & GBP Hospital, I submitted a report on the requisition from SI of police West Agartala PS. In the report I stated that injury found on the body of Budhisattya Das was admitted to Trauma Care Center on 04.08.2019 at about 1.43 am vide admission registration No. 1528 were deep cut injuries and such type of injuries can be caused by sharp weapons. The weapons which were sent via police person was sharp weapon. So the injuries of Budhisattya Das may be caused by such type of sharp weapon. This is the said report prepared by me. The report is marked as Exhibit 43 and the signature of the witness thereon is also marked as Exhibit 43/1 on identification. The weapon that was shown to me was a knife like weapon.*

**[40]** PW-34 Constable 23 Samir Barman deposed that on September 9, 2019, he was posted at A.D. Nagar, DAR. On that day, at night, he was called to West Agartala PS through Agartala City Control. Accordingly, he went to West Agartala PS that night and met with SI Suman Ullah Kazi. SI Kazi handed him an Android SAMSUNG J7 20F Mobile set belonging to Constable Rakesh Das with a request to transfer a video file from the said mobile set to a DVD. The video was recorded on September 4, 2019, at 1:40 AM, and its duration was 4 minutes 34 seconds. Accordingly, the witness first transferred the video from the mobile to his official laptop. Then, he wrote it onto a Frontech company DVD of 4.7 GB with the help of NERO Express 7.0 software. Thereafter, he sealed the DVD in an envelope and handed it over to SI Suman Ullah Kazi. He also issued a certificate as per the provisions of Section 65 B of the Indian Evidence Act, contending, among other things, that the video was transferred to the DVD from the mobile without editing or tampering. The witness confirmed that this was the said certificate in his handwriting, which also bore his signature. The certificate was

marked as Exhibit 44 on identification, and the signature of the witness thereon was also marked as Exhibit 44/1 on identification.

[41] PW-47, Smt. Uma Saha in her oral evidence has stated that she knows accused Shoiab Malik @ Omar Sharif of Santipara. On the intervening night of 3rd and 4th August, 2019, at about 0030 hours, accused Omar Sharif came to the house of PW-47 and called her. Accordingly, PW-47 came out opening the door. On entering into the house of PW-47, accused Omar Sharif directly went to their bathroom when the accused wore tut colour T-Shirt having blood stained.

[42] On August 6, 2019, at approximately 3:30 PM, PW-31, Smt. Ringku Reang, then serving as Sub-Divisional Welfare Officer-cum-Executive Magistrate in Sadar, received an official order. This order directed her to the West Agartala Police Station to record a confessional statement related to West Agartala P.S. Case No. 172 of 2019. Accompanied by LDC Sri Abhijit Rudrapaul (PW-33), PW-31 arrived at the police station around 4:00 PM. There, Sub-Inspector Suman informed her that accused Omar Sharif @ Shoiab was prepared to give a confessional statement and was waiting comfortably in a separate room. PW-31 then directly asked the accused if he wished to make a statement voluntarily, to which he affirmed he was under no pressure and would proceed. Following this, Omar Sharif @ Shoiab made his statement as requested.

*"In the midnight of 03/04.08.2019 around 12.30 am he was coming from Jackson Gate towards Orient Chowmuhani by riding his red and white colour scooty bearing no.TR-01-W-7643 and when he reached near Sarada Medical Hall, he found one Sumit Banik who was known to him and Sumit Banik was shouting and informed accused Shoiab that look Shoiab Bhai, Bapi Da is being beaten. Shoiab also stated that he has seen Bapi @ Sukanta who is a Traffic Police Officer. There were two other persons namely, Sumit of Kalika Jewellers and another also Sumit. There were two other persons who were beating Bapi. Shoiab further told PW-31 that the persons who were beating Sukanta, one of them is a resident of Joynagar and is a banker working at Dharmanagar. Shoiab further made statement that since Bapi Da was being beaten, he became angry and then take out the knife and started stabbing the banker who was beating Bapi Da. He further made statement that other two Sumit have also started assaulting the banker with beer bottles. Due to such assault, the banker collapsed on the*

*ground. Shoiab further made statement that then he attempted to assault the person who was accompanying the banker but at that time one Panwala Basu resisted him and told him that said person belongs to his locality and Shoiab told them to run away. Thereafter, both the Sumit and Sukanta left the place with a white vehicle and he also left the place along with his scooty and proceeded towards fire service and from fire service he proceeded towards the house of one Uma Saha at Ganaraj Chowmuhan. Shoiab further made statement that he went to that house and washed his hands and knife and he put off his wearing T-Shirt and left it there in that house and then he proceeded towards his house at Masjid Road leaving the T-Shirt in the said house. He further made statement that he can produce the knife and T-Shirt, if he is taken there”.*

**[43]** Having thoroughly considered the entirety of the evidence adduced by the prosecution, including the oral testimonies of the material witnesses and the documentary and scientific evidence presented, this Court finds a compelling and unbroken chain of circumstances establishing the guilt of the accused, particularly Omar Sharif alias Shoiab Miah. This court has also found force in the submission of the learned PP for the state-respondent. The judgments relied by the counsel for the appellant do not support his contention and this court has no hesitation to hold that the learned counsel for the appellant has failed miserably to make out his case.

**[44]** The direct eyewitness account of PW-2, Kishore Kumar Pal, is pivotal. His detailed deposition vividly describes the altercation near Sarada Medical Hall, the involvement of Sukanta Biswas, Sumit Chowdhury, and Sumit Banik, and, most critically, the arrival of accused Shoiab Miah. PW-2's testimony unequivocally states that Shoiab Miah, following the instigation of the co-accused, produced a large knife and inflicted severe stabbing blows on the deceased, Budhisatya Das, leading to his collapse. PW-2's identification of all accused persons, both by name and face, reinforces the reliability of his testimony.

**[45]** This eyewitness account is powerfully corroborated by PW-32, Dr. Abhijit Dasgupta, the Medical Officer. His examination of the deceased revealed multiple, deep cut injuries, including grave wounds to the abdomen with

intestinal protrusion and other significant cuts across the body, which he confirmed were caused by a sharp weapon. These medical findings precisely align with PW-2's description of a knife attack.

**[46]** Furthermore, the scientific evidence from PW-9, Dr. Subhankar Nath of the Forensic Science Laboratory, provides irrefutable linkages. His DNA analysis conclusively proved that the bloodstains found at the crime scene, on the scooter (TR01-W-7643), and on the knife (Exhibit F) all originated from the deceased, Budhisatya Das. This crucial forensic report unequivocally connects the accused (through the knife and scooter in his possession) to the victim and the crime. The testimonies of PW-20, Jayanta Roy, and PW-21, Apurba Dey, confirm the previous ownership and subsequent transfer of the said scooter into the possession of Omar Sharif.

**[47]** Crucially, the voluntary confessional statement of accused Omar Sharif @ Shoiab, recorded by PW-31, Smt. Ringku Reang, the Executive Magistrate, serves as a powerful self-incrimination. His confession details the stabbing of the "banker" (Budhisatya Das) with a knife and his subsequent disposal of a blood-stained T-shirt. This confession finds independent corroboration in the testimony of PW-47, Smt. Uma Saha, who confirmed Omar Sharif's arrival at her house wearing a blood-stained T-shirt, his change of clothes, and the subsequent seizure of the discarded T-shirt by the police from her premises.

**[48]** The diligence of the investigating agency is also evident from the testimony of PW-15, Sri Keshab Chandra Sukla Das, who confirmed the Fire Service's immediate rescue efforts, and PW-49, Inspector Deba Prasad Roy, who elaborated on the proper registration and initiation of the police case.

**[49]** Based on the overwhelming and convergent evidence presented by the prosecution, encompassing direct eyewitness testimony, irrefutable medical

and forensic evidence, and the voluntary confession of the accused which is independently corroborated, the Court finds that the prosecution has proved beyond all reasonable doubt the involvement and active participation of accused Omar Sharif @ Shoiab in the fatal assault of Budhisatya Das. The chain of events, from the initial altercation to the fatal injuries and the subsequent attempts to conceal evidence, has been meticulously established.

**[50]** Therefore, this Court holds accused Omar Sharif alias Shoiab guilty of the murder of Budhisatya Das. Finding no flaw or infirmity in the meticulously reasoned judgment of the learned lower court, this High Court, with full concurrence, hereby upholds the impugned order of conviction and sentence dated 02.06.2023 and 03.06.2023 passed by the Ld. Sessions Judge West Tripura, Agartala, in S.T.(T/1) 103 of 2019 and consequently dismisses the appeal. The verdict stands affirmed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

Send down the LCRs forthwith.

**B.Palit, J**

**Dr. T. Amarnath Goud, J**

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