



2025:AHC:174523-DB

Judgment reserved on 28.07.2025

Judgment delivered on 26.09.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

Criminal Appeal No. - 1538 of 1985

Bharat Lal and others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Dharmendra Singhal(Senior Adv.), M.C. Upadhyaya
Counsel for Respondent(s)	: A.G.A.

Court No. - 44

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE MADAN PAL SINGH, J.

1. Heard Shri Dharmendra Singhal, learned Senior Advocate assisted by Shri Shivendra Raj Singhal, learned counsel for appellants and Shri Vikas Goswami, learned A.G.A.-I for the State.

2. Present criminal appeal has been filed against the judgement and order dated 04.06.1985 passed by Shri C.B. Jayaswal, learned IV Additional District and Sessions Judge, Allahabad, in S.T. No. 388 of 1982 (State Vs. Bharat Lal, Ravi Shankar and Sidh Narain), whereby Bharat Lal, Ravi Shankar and Sidh Narain have been convicted for offence under Section 302 read with Section 34 IPC and awarded punishment rigorous imprisonment for life. Sidh Narain has been convicted for offence under Section 307 IPC and awarded 3 years rigorous imprisonment. The accused Ravi Shankar and Bharat Lal have been convicted for offence under Section 307 read with Section 34 IPC and awarded two years rigorous imprisonment. All sentences are to run concurrently.

3. Record reveals, upon the present appeal being filed by the three convicted accused, *vide* order dated 07.06.1985 all three appellants were

enlarged on bail. Of them, appellant no. 2, Sidh Narain died on 08.06.2022. His appeal has been declared abated, *vide* order dated 14.07.2025.

4. The prosecution story emerged on a Written Report submitted by Ram Vishal (P.W.-1), the brother of the deceased Banshi Lal. In that, it was revealed, the deceased was resting at his doorstep while his wife was massaging his neck, around 7 p.m. on 24.06.1982. At that time, the first informant-Ram Vishal (P.W.-1) was sitting at his doorstep, along with his nephews i.e. the two sons of the deceased namely, Surya Bhan (not examined) and Bhanu Pratap (P.W.-2). Just then, the three accused namely Sidh Narain, Bharat Lal and Ravi Shankar reached the house of the deceased and started abusing him. Ravi Shankar exhorted others to kill the deceased. Then, Bharat Lal drew his gun and fired at the deceased first, hitting him on his thigh. As Banshi Lal cried for help, his wife ran to save her life. Ram Vishal (P.W.-1), Surya Bhan (not examined) and Bhanu Pratap (P.W.-2) ran to save the injured Banshi Lal. Second, the accused Sidh Narain fired with his country made firearm, injuring both Surya Bhan (not examined) and Bhanu Pratap (P.W.-2). Fearing for his life, the first informant Ram Vishal hid in the dark. The deceased fell. Thereafter, the appellants fled from the spot to the south, declaring they had killed one and they would kill the other too. The occurrence was also seen by Shiv Murat (not examined). After the assailants fled, the first informant Ram Vishal (P.W.-1) saw his brother Banshi Lal had died and his two nephews were injured. Leaving the dead body behind, he rushed to the Police Station, to lodge the FIR. The Written Report is Ex.Ka-1 at the trial.

5. On such Written Report, the FIR was registered at 1:45 a.m. at Police Station Charwa, Allahabad, located about 5 kms. from the place of occurrence. It is Ex.Ka-17 at the trial. The first informant cited pre-existing property dispute involving land and standing trees. The next day, the first Investigation Officer Babu Rai (P.W.-4) recovered two pellets and one pointed bullet from near the dead body of the deceased. That Recovery Memo is Ex.Ka-3 at the trial. He also recovered samples

of bloodstained and plain earth from near the place of occurrence. That Recovery Memo is Ex.Ka-4 at the trial. On 26.06.1982 at 10:15 a.m., the injured Surya Bhan was examined by Dr. P.K. Sen (who died before evidence), at the Civil Hospital, Allahabad. At 10:30 a.m., the same day, the said doctor also examined the injured Bhanu Pratap (P.W.-2) under police protection. Those Injury Reports are Ex.Ka-15 and Ex.Ka-16 at the trial. In those reports, following injuries have been recorded :

Suraj Bhan

“(i) Abrasion with scab 1/8" x 1/8" on the fronto lat. aspect of the left arm 3" above left elbow.

(ii) Injury 1/8" x 1/8" x skin deep in front of the upper part manubrium sterni

(iii) Injury 1/8" x 1/8" x skin deep on the Rt. Side neck 1/2" below the angle of the mandible Rt. side”.

Bhanu Pratap

“(i) Lacerated wound 1/4" x 1/8" x skin deep on the left Ala Nasi.

(ii) Injury 1/8" x 1/8" x skin deep in front of left fore-arm and 3 1/2" above the left wrist joint.”

6. Also, on the advise of the said doctor, X-ray examination was conducted, with respect to injuries reported by Surya Bhan (not examined) and Bhanu Pratap (P.W.-2), by Dr. Iqbal Hussain (P.W.-5). The X-ray report pertaining to Surya Bhan is Ex.Ka-13 at the trial. Also, the X-ray report of Bhanu Pratap (P.W.-2) is Ex.Ka-14 at the trial. For ready reference, those reports read as below :

Surya Bhan

“MI- A black mole in front of left deltoid region lateral to anterior axillary fold.

BB- Sultan Khan CP 181 PS Charwa Distt Alld.

Skiagram neck & chest

There are two rounded shadow of metallic density seen in soft tissue of Rt side neck & interclavicular region of chest.

Skiagram of left upper arm.

There is a small rounded shadow of metallic density seen in soft tissue of lower 1/3 of left upper arm.”

Bhanu Pratap

“MI- A black mole on palmar side of Rt little finger distal interphalangeal joint.

BB- Sri Sultan Khan CPNO 181 PS Charwa Distt Alld.

Skiagram of left fore arm

There is a small rounded shadow of metallic density seen in soft tissue of lower 1/3 of left fore arm.

Skiagram face for nose.

There is a small rounded shadow of metallic density seen in region of left lateral wall of nose.”

7. The dead body of the deceased Banshi Lal was subjected to autopsy examination, by Dr. K.R. Chaturvedi (P.W.-11) on 26.06.1982, at 4 p.m.. He proved that the deceased had received the following injuries :

- “1. Fire-arm wound 1/2" x 1/2" x bone deep on medial side of left fore-arm just above left wrist joint, with fracture of lower end of both bones radius and ulna Blackening present at wound of entrance.*
- 2. Lacerated wound 3/4" x 3/4" x through and through of tip of left thumb.*
- 3. Fire-arm wound of entrance 1/4" x 1/4" x skin deep on front of left elbow joint. Blackening present.*
- 4. Abrasion 1" x 1/2" on left side of chest 5" below and lateral to left nipple.*
- 5. Fire-arm wound of entrance 1/4" x 1/4" x cavity deep on left lower part of abdomen 1 1/2" above root of penis, blackening present.*
- 6. Fire-arm wound of entrance 1/4" x 1/4" x bone deep on middle part of symphysis pubis, blackening present.*
- 7. Fire-arm wound of entrance 1" x 1" x muscle deep on back of left thigh 6" above left knee joint. Blackening present.*
- 8. Multiple abrasions in an area of 6" x 6" on outer part of left hip. Size varying from 1/6" x 1/6" to 1/4" x 1/4".*
- 9. Multiple abrasion of varying size from 1/6" x 2/6" to 1/4" x 1/4" in an area of 6" x 4" on left side of chest 4" below left nipple.*
- 10. Multiple abrasion of varying size from 1/6" x 1/6" to 1/4" x 1/4" in front of left upper arm in an area of 6" x 4".*
- 11. Two abrasion 1" apart from each other, 3" below umbilicus on middle of lower abdomen, size varying from 1 1/2" x 1 1/2" to 3/4" x 3/4".*
- 12. Abrasion 3/4" x 3/4" on root of penis.”*

In his opinion, death was caused 48 hours earlier, as a result of ante-mortem injuries. The Autopsy Report is Ex.Ka-20 at the trial.

8. Upon completion of the investigation, charge sheet was submitted by the Second Investigation Officer, Dev Singh (P.W.-8), on 28.07.1982.

9. Upon the case being committed for trial to the Court of Sessions, following charges came to be framed against the appellants :

Against Bharat Lal

“That you on 24.6.1982 at 7 P.M. in village Sikandarpur Aima, Police Station Charwa, District Allahabad committed murder of Banshi Lal son of Ram Prasad by causing injuries of fire-arm by intentionally causing the death of aforesaid Banshi Lal and thereby committed an offence punishable u/s 302 I.P.C. and within the cognizance of this Court.

And I hereby direct that you be tried by this Court on the said charge.”

Against Ravi Shankar and Siddha Narain

“That you on 24.6.1982 at 7 P.M. in village Sikandarpur, Aima, Police Station Charwa, District Allahabad in furtherance of common intention of both of you, one of your associates Bharat Lal fired from his gun and caused fire-arm injuries to Banshi Lal and committed the murder of aforesaid Banshi Lal by intentionally causing death of the said Banshi Lal and thereby committed an offence punishable u/s 302 read with Section 34 I.P.C. and within the cognizance of this Court.

And I hereby direct that you be tried by this Court on the said charge.”

Against Ravi Shankar and Bharat Lal

“That you on 24.6.1982 at 7 P.M. in village Sikandarpur, Police Station Charwa, District Allahabad in furtherance of common intention of you all, one of your associates Siddha Narain caused fire-arm injuries to Suraj Bhan and Bhanu Pratap with such intention and knowledge and under such circumstances that if by that act death would have been caused, you would have been guilty of murder and thereby committed an offence punishable u/s 307 I.P.C. read with Section 34 thereof and within the cognizance of this Court.

And I hereby direct that you be tried by this Court on the aforesaid charge.”

Against Siddha Narain

“That you on 24.6.1982 at 7 P.M. in village Sikandarpur Aima, Police Station Charwa, District Allahabad caused fire-arm injuries to Suraj Bhan and Bhanu Pratap with such intention and knowledge and under such circumstances that if by that act the death would have been caused, you would have been guilty of murder and thereby committed an offence punishable u/s 307 I.P.C. and within the cognizance of this Court.

And I hereby direct that you be tried by this Court on the said charge.”

Against Bharat Lal

“That you on 24.6.1982 at 7 P.M. in village Sikandarpur Aima, P.S.Charwa, district Allahabad, in furtherance of the common intention you alongwith Ravi Shanker and Sidh Narain intentionally caused the death of Banshi Lal s/o Ram Prasad by firing from fire-arm, and thereby you committed an offence punishable u/s 302 read with Section 34 of I.P.C. and within the cognizance of this court.”

10. At the trial, besides relying on the above documentary evidence, the prosecution led oral evidence through 11 witnesses. In that, the first informant Ram Vishal an eye-witness of the occurrence, proved the prosecution story as narrated in the FIR. He was examined as P.W.-1. However, he now introduced a third shot fired by Ravi Shankar that injured Banshi Lal. One injured witness namely, Bhanu Pratap aged about 15 years on the date of occurrence was examined as P.W.-2. He also proved the occurrence as narrated by the prosecution.

11. Then, Constable Hoti Lal was examined as P.W.-3. He proved the transportation of the dead body of the deceased Banshi Lal. Next, first Investigation Officer, S.I., Babu Rai was examined as P.W.-4. He proved the crime scene as observed the next morning and the Recovery Memos pertaining to : recovery of two pellets and one pointed bullet (Ex.Ka-3); the bloodstained webbing of the cot on which the deceased was found lying (Ex.Ka-2) and, samples of bloodstained and plain earth from the crime scene (Ex.Ka-4). He also proved the Inquest Report (Ex.Ka-5) prepared between 7 a.m. to 8:30 a.m., that day.

12. Dr. Iqbal Hussain was examined as P.W.-5. He proved the X-ray reports prepared by him (Ex.Ka-13 and Ex.Ka-14). He also proved the handwriting of Dr. P.K. Sen, on the Injury Reports (Ex.Ka-15 and Ex.Ka-16).

13. Constable Sultan Khan was examined as P.W.-6. He proved taking the injured to the Civil Hospital, Allahabad, for their medical examination, on 26.06.1982. Constable, Khurshid Ali was examined as P.W.-7. He proved: samples of bloodstained clothes; samples of bloodstained and plain earth and, bloodstained webbing of the cot recovered from the crime scene, were sent for chemical examination.

14. Head Constable Lal Mani Yadav was examined as P.W.-7. He proved the registration of the FIR at 1:45 a.m., on 25.06.1982 and the corresponding G.D. entries. Second Investigation Officer Dev Singh was examined as P.W.-8. He proved the completion of investigation and submission of charge sheet. Constable Khurshid Ali was again examined as P.W.-10 to prove the recovery of bloodstained clothes etc. and those items also being sent for chemical examination.

15. Dr. K.R. Chaturvedi, the doctor who conducted the autopsy examination on the dead body of the deceased Banshi Lal, was examined as P.W.-11. He proved, death had been caused 48 hours prior to the autopsy examination. He also proved, the deceased had received 12 injuries including 5 caused by firearm, one lacerated wound and six abrasion injuries. He further proved that the deceased may have been killed around 7 p.m. on 24.06.1982.

16. Thereafter, the statement of the accused persons were recorded under Section 313 Cr.P.C. They claimed false implication, for reason of other disputes.

17. In that state of evidence, the learned court below has convicted the present appellants and sentenced them as noted above.

18. First submission of Shri Singhal, learned Senior Advocate for the appellants is, the first informant Ram Vishal (P.W.-1), had not seen the occurrence. In fact he was not present at that time, at the place of occurrence. Besides making material improvement during his examination-in-chief, during his cross-examination, he contradicted the basic prosecution story as narrated in the FIR. In the FIR, the first informant Ram Vishal (P.W.-1) narrated, he ran to the Police Station whereas during his cross-examination he offered a materially different version.

19. Second, the FIR is wholly ante-timed. The occurrence is disclosed at 7 p.m. whereas the FIR was lodged much later. The delay is unexplained as the Inquest Report was prepared late and the autopsy examination was conducted very late. A wholly unbelievable explanation has been offered

that the autopsy examination could not be conducted earlier because the doctor did not receive the papers. Dr. K.R. Chaturvedi has not supported that prosecution story.

20. Third, most natural witness namely the wife of the deceased Banshi Lal, was not produced at the trial. A wholly unbelievable story was offered by the prosecution-that she escaped unhurt. In the nature of occurrence disclosed wherein at least 3 shots were fired, it is unbelievable that she received no injury. In fact, the occurrence was caused otherwise, at another place. It was not seen by anyone. By not examining the wife of the deceased Banshi Lal, the prosecution had hidden the true version of the occurrence. The dead body of the deceased was later placed at the place disclosed in the FIR. Therefore, material contradictions exist in the deposition made by the ocular witnesses, including the manner in which the injured claim to have been injured. In fact Bhanu Pratap (P.W.-2) did not suffer firearm injuries. In any case, he did not receive those injuries, in the occurrence, as narrated.

21. On the other hand, learned A.G.A. would submit that the prosecution story is wholly truthful. It has been duly proven beyond reasonable doubt. Minor inconsistencies and deficiencies in investigation may never amount to or result in a reasonable doubt. To the extent, the evidence of the injured witness Bhanu Pratap (P.W.-2) stands unshaken, no benefit may arise to the prosecution in such facts and evidence.

22. Having heard learned counsel for the parties and having perused the record, in the first place it may not be denied that the occurrence is disclosed at 7 p.m., on 24.06.1982, outside the dwelling house of the deceased Banshi Lal, where his wife (not examined at the trial) was massaging his neck. According to the first informant Ram Vishal (P.W.-1), he was sitting outside his house alongwith the sons of the deceased namely Bhanu Pratap (P.W.-2) aged about 12 years and Suraj Bhan aged about 16 years (not examined at the trial). After the first shot was fired at the deceased, by Bharat Lal (with his gun), Ram Vishal (P.W.-1), Bhanu Pratap (P.W.-2) and Suraj Bhan (not examined) ran towards the injured

Banshi Lal. In such circumstance, a second shot came to be fired by Sidh Narain with his countrymade pistol. It injured both-Bhanu Pratap (P.W.-2) and Suraj Bhan (not examined). At that time, it also injured Banshi Lal fell, while the first informant Ram Vishal (P.W.-1) hid behind an unspecified object, in the dark.

23. That clear narration of the FIR-describing two shots fired exists in the FIR. He also narrated, after the occurrence, he ran to the Police Station to lodge the FIR. The Written Report submitted by Ram Vishal (P.W.-1), was written by the scribe Shiv Sewak Singh (not examined at the trial). Yet, during the trial he tried to maintain that he went to the Police Station, later.

24. In the first place, during his examination-in-chief, the witness Ram Vishal (P.W.-1) introduced the third firearm shot and also fear having prevented him from lodging the FIR, sooner. During his cross-examination, he narrated that his village was at a distance of 24 kms. from Sulem Sarai and that he had started living at Sulem Sarai since 1982 i.e. near about the time of the occurrence. On being questioned why no narration was made in the FIR of the third firearm injury caused by Ravi Shankar, he gave a wholly unbelievable explanation that he had told the scribe to write the same but the latter missed it because he was sleepy. On being further questioned as to the place of occurrence, he now narrated that Banshi Lal was lying in front of his house, to the east of the lane/path.

25. Also, on being confronted-that prior to his previous statement being recorded (during examination-in-chief), he had never disclosed any occurrence of the year 1978 wherein the deceased may have been assaulted, he stated-he did not have any opportunity to make that statement. To that extent, it stands clearly established that even during investigation, Ram Vishal (P.W.-1) had not made any disclosure of that earlier occurrence.

26. Clearly, the witness Ram Vishal (P.W.-1) has made material improvements to the prosecution story from the stage of the FIR being

lodged and during investigation, on one hand, and his stand at the trial. Also, inherent contradictions and doubts exist-why he did not lodge the FIR promptly and why previous occurrence was not disclosed by him, any earlier.

27. Thus, the presence of Ram Vishal (P.W.-1) at the time of the occurrence is wholly doubtful. For the reasons noted above, we find that the said witness is not a wholly reliable witness. His statements made to the Court are not consistent either to the story first narrated by him through the FIR or to the other facts proven at the trial. Clearly, he reached the place of occurrence later. He being an elder male member of his family, went to the Police Station to lodge the FIR, at that time.

28. Insofar as Bhanu Pratap (P.W.-2) is concerned, he is an injured witness. With respect to his injuries, Doctor Iqbal Hussain proved the medico legal examination conducted by Dr. P.K. Sen on 26.06.1982 at 10.30 a.m. Those injuries were two namely lacerated wound 1.4 inches x 1.8 inches and another 1.8 inches x 1.8 inches skin deep near wrist joint. Dr. Iqbal Hussain also proved the X-ray examination conducted by him of the injured on 26.06.1982 (Ex. Ka-14). In that he proved-both with respect to the X-ray examination of Bhanu Pratap (P.W.-2) and Suraj Bhan (not examined), there existed evidence of pellets embedded in those injuries. He was not cross examined to any extent to doubt the presence of pellets inside the body of the two injured Bhanu Pratap (P.W.-2) and Suraj Bhan (not examined). To that extent, his opinion remained conclusive.

29. Once the firearm injuries suffered by the injured witness Bhanu Pratap (P.W.-2) remained unshaken, all that may require examination is the element of time gap between the injuries being caused and the medical examination of that injured witness. Here, the occurrence took place around 7 p.m. on 25.06.1982 whereas the injured Bhanu Pratap (P.W.-2) and Suraj Bhan (not examined) were medically examined on the request of the police authorities at the Civil Hospital, Prayagraj on 26.06.1982 between 10:15 a.m. to 10:30 a.m. Thus, the injured witness

was examined within 15 hours of the occurrence. One night intervened in the meanwhile. The occurrence being of the year 1982, we may also bear in mind the difficulties that existed in getting the prompt medical attention, those days.

30. In another set of facts, the issue of delay in the medical examination of the injured witness may be examined in an individual facts of each case. Here, the injured were young boys who had lost their father in the occurrence. They may have taken time to respond adequately including as to getting themselves medically examined. The fact that they were taken for the medical examination by the police itself indicates that they required that help for that purpose. Also, there is nothing to doubt that the injured were examined by Dr. P.K. Sen (who died before evidence), at the Civil Hospital, Prayagraj. The medico legal report (MCR) prepared by Dr. P.K. Sen was also proven by Dr. Iqbal Hussain (P.W.-5).

31. Bare perusal of that injury report reveals that firearm injuries (as were corroborated by the X-ray examination report proved by Dr. Iqbal Hussain (P.W.-5)) were caused on amongst others on the neck area of Suraj Bhan (not examined) and Bhanu Pratap (P.W.-2).

32. The presence of pellets inside the body of the injured is not doubted. Thus, keeping in mind the entirety of the facts and circumstances noted above, we are not in a position to disbelieve the injury suffered by Bhanu Pratap (P.W.-2) or the further fact that firearm injury also suffered by Suraj Bhan (not examined). They being young boys who had lost their father considerably late in the evening on 25.06.1982, neither they had time to manufacture those injuries during night time nor we are able to prima facie entertain that doubt keeping in mind that at least one firearm injury suffered by Suraj Bhan (not examined) was to a vital body part namely neck. Further, there is no inordinate delay or gap of time between the occurrence and the medical examination of the injured. The fact that the medical examination was conducted on the request of the police for which purpose the injured were taken to the Civil Hospital, Prayagraj in police protection itself lends credibility to the prosecution story with respect to medical examination.

33. In **State of M.P. v. Mansingh, (2003) 10 SCC 414**, merely because it remains from the first informant to mention the knife in the first information report was not enough to wash away the effect of evidence of the injured witnesses. In face of credible evidence led by the injured witness, the minor discrepancies attributable to the first informant were found not relevant.

34. In **Shivalingappa Kallayanappa v. State of Karnataka, 1994 Supp (3) SCC 235**, it was observed as below :

“6.....The fact that the two deceased persons met homicidal death and that P.Ws. 2 to 4 received injuries in the same occurrence is beyond dispute. When once presence of P.Ws. 2 to 4, they being injured, at the scene of occurrence is not doubted, then their evidence assumes great importance and unless there are strong grounds the same cannot be rejected on the basis of some minor discrepancies.....”

35. In **State of U.P. Vs. M.K. Anthony, (1985) 1 SCC 505**, the Supreme Court clearly observed that in appreciating oral evidence the Court must ascertain if the evidence of witness, read as a whole, has a ring of truth about it. Once that ring of truth arises, deficiencies, drawbacks and infirmities pointed out in such evidence must be scrutinised as a whole. Against such evaluation, the doubts that may be expressed as to the truthfulness of such evidence may be examined. Thus, it was observed as below :

"10. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hyper-technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details. Even honest and truthful witnesses may differ in some details unrelated to the main incident because power of

observation, retention and reproduction differ with individuals. Cross-examination is an unequal duel between a rustic and refined lawyer."

(emphasis supplied)

36. Further, in **State of U.P. Vs. Krishna Master, (2010) 12 SCC 324**, in the context of oral evidence led by rustic witness, it was observed as below :

"24. The basic principle of appreciation of evidence of a rustic witness who is not educated and comes from a poor strata of society is that the evidence of such a witness should be appreciated as a whole. The rustic witness as compared to an educated witness is not expected to remember every small detail of the incident and the manner in which the incident had happened more particularly when his evidence is recorded after a lapse of time. Further, a witness is bound to face shock of the untimely death of his near relative(s). Therefore, the court must keep in mind all these relevant factors while appreciating evidence of a rustic witness."

(emphasis supplied)

37. Again, in **Prem Prakash @ Lillu & Anr. Vs. State of Haryana, (2011) 11 SCC 687**, it was observed as below :

"19. The evidence, essentially, must be viewed collectively. The statement of a witness must be read as a whole. Reliance on a mere line in the statement of the witness, out of context, would not serve the ends of justice and the conclusion of the court based on such appreciation of evidence could be faulted."

38. Also, though he proved the hand writing of Dr. P.K. Sen and the Injury Reports prepared by him (Ex. Ka-15 and Ka-16), the fact that Dr. Iqbal Hussain could not prove if Dr. P.K. Sen had actually physically examined those injuries, is of no consequence in face of evidence of preparation of those Injury Reports by Dr. P.K. Sen and it's corroboration in the evidence led by Dr. Iqbal Hussain.

39. In that light, the evidence led by Bhanu Pratap (P.W.-2) may be considered. Here, we find, the said witness narrated that at about 6 p.m. on 24.06.1982 he alongwith his brother Suraj Bhan and the first informant Ram Vishal (P.W.-1) were sitting on a raised platform in front of his house i.e. the house of the deceased, the witness being son of the deceased. At that time, his father was lying in the open area of that house, on a cot-where his mother was giving him a massage on his neck area. At that time, the appellants arrived. Bharat Lal was armed with gun while Shiv Narain and Ravi Shankar were armed with country made

pistols. They challenged his father and exhorted each other to kill him. At that point, Bharat Lal shot at his father, first. It hit the deceased on his thigh. His mother ran towards east. As his father shouted for help and as the said witness alongwith his brother ran to help him, Shiv Narain fired second. It hit him and Suraj Bhan. He also proved that a third shot was fired by Ravi Shankar that hit his father. Last, he proved that there were pre-existing disputes between the accused persons on one side and his father and uncle Ram Vishal (P.W.-1), on the other, with respect to land and trees. No cross-examination exists to doubt that version either on account of material improvement or contradiction with any previous statement.

40. As to the police investigation, it started the next morning. It is an undisputed fact that the FIR was lodged at about 1:45 a.m. by Ram Vishal. In that view of the matter, considering the further fact that the occurrence is of the year 1982 i.e. more than 43 years ago, it is not abnormal to accept that the police waited for day break to begin the investigation (formally). It may not give rise to an inference that the FIR was therefore wholly ante-timed. The police witness have duly proven that the FIR was registered at the time disclosed i.e. 1:45 a.m. Corresponding G.D. entries were also proven. Therefore, no reasonable doubt arises in favour of the defence that the FIR was ante-timed. The fact that Dr. K.R. Chaturvedi proved that he received the papers along with the dead body at 2:30 p.m., the next day on 26.06.1982, and in absence of any cross-examination of the said doctor as may indicate that the dead body was taken to that hospital earlier, no reasonable doubt may arise on that count, either.

41. The time of death estimated by Dr. K.R. Chaturvedi (P.W.-11) also corroborates the time of the occurrence as narrated by the injured witness Bhanu Pratap (P.W.-2).

42. In face of the injured witness Bhanu Pratap (P.W.-2) having been examined and his testimony being wholly reliable, we have no reason to doubt the prosecution story on any other count including the fact the

wife of the deceased was not examined. She escaped the occurrence perhaps because the assault was directed against the deceased.

43. Thus, keeping aside the substantive evidence of the occurrence led by Ram Vishal (P.W.-1), Bhanu Pratap (P.W.-2) is a wholly reliable witness. He is an injured witness. The ring of truth as to the essential part of the occurrence narrated by him remains unbroken. His presence at the time and place of occurrence cannot be doubted. The fact that he received firearm injuries in that occurrence, also cannot be doubted. The injuries received by his brother Surya Bhan were also proven by Dr. Iqbal Hussain (P.W.-5). In absence of any cross-examination of the said doctor on the vital aspect whether such injuries had been received with use of firearm, we are not in a position to doubt either his presence at the time and place of occurrence, or his injuries or his narration as to the occurrence. We also note that the said witness clearly and consistently narrated three firearm shots fired at the deceased. No doubt emerged during his cross-examination as to that part of the prosecution story, either.

44. Dr. K.R. Chaturvedi proved that the deceased had suffered five firearm injuries; one lacerated wound and six abrasion. He also proved, he had suffered death at around 7 p.m. on 24.06.1982. That part of his deposition is not doubted. He also proved that the firearm injuries may have been caused with three different weapons. Remarkably, no question was put to the said doctor with respect of the other injuries. Suffice to note, that those were wholly minor and had not resulted in the death of the deceased Banshi Lal. In absence of any effective cross-examination to that effect, no reasonable doubt may arise on that count.

45. As to blackening, in face of ocular version of an injured witness, it would be hyper technical and perhaps largely academic to enter into that issue as sound ocular evidence led by Bhanu Pratap (P.W.-2) that the present appellants collectively assaulted the deceased with firearms resulting in his death at 7 p.m. just outside his house.

46. In view of the above, the appeal is **dismissed**. The surviving appellants **Bharat Lal and Sidh Narain** are on bail. They are directed to surrender forthwith before the trial court to serve the remaining sentence. Failing that, the learned court below is directed to get them arrested and sent to jail to serve out their remaining sentence. Subject to the appellants surrendering before the trial Court, their bail bonds and sureties shall stand discharged. The order of conviction offered by the learned trial Court is thus maintained. Pending applications, if any, are disposed of.

47. A copy of this judgment be transmitted to the Court concerned for necessary compliance. Compliance report be submitted to this Court, at the earliest. Office is directed to keep the compliance report on record.

(Madan Pal Singh,J.) (Saumitra Dayal Singh,J.)

September 26, 2025

SA/Faraz