



2025:AHC:172951-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL APPEAL No. - 740 of 1984

Mahanarain And
Others

.....Petitioners(s)

Versus

State

.....Respondents(s)

Counsel for Petitioners(s)	:	C.S.Saran, Kamal Krishna, Sushma Devi, V.K.Singh
Counsel for Respondent(s)	:	G.S.Chaturvedi, Shachindra Kumar Mishra, Sharda Prasad Pandey

Court No. - 44

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE TEJ PRATAP TIWARI, J.

1. Heard Sri Kamal Krishna, learned Senior Counsel assisted by Sri Pradeep Kumar Rai and Ms. Sushma Singh, learned counsel for the appellant and Sri Vikas Goswami, learned AGA and Sri Sachindra Kumar Mishra, learned counsel for the first informant.

2. Present criminal appeal arises from the judgment and order dated 03.03.1984 passed by Sri O.N. Asthana, learned 1st Additional District and Sessions Judge, Varanasi in S.T. No. 93 of 1982 (State vs. Mahanarain, Nahar Singh and Mangala Singh). Learned court below has convicted the appellants Mahanarain and Nahar Singh for offence under Section 302 I.P.C. Also, the appellant Mangala Singh along with other accused, namely,

Sharda Singh, Sheetala Prasad, Omkar Nath, Guru Prasad Singh, Hari Shankar Singh and Vipin Bihari Singh (all in Sessions Trial No. 215 of 1982 have been acquitted).

3. Against their conviction, the appellants Mahanarain and Nahar Singh have been awarded life imprisonment.

4. Upon the present appeal being filed, both appellants were enlarged on bail. During pendency of the appeal, the appellant Mahanarain died. The sole surviving appellant Nahar Singh would be about 67 years of age.

5. The prosecution story emerged on the strength of Written Report dated 26.10.1981 submitted by Ramesh Singh (P.W.-1) who is the son of the deceased Jurawan Singh at Police Station Mirzamurad, Varanasi. In that it was narrated, on the date of the occurrence, Ramesh Singh (P.W.-1) along with the deceased Jurawan Singh had left their home for the district court / 'Kutchehry', at about 8:30 a.m. They boarded a bus from Takku-ki-Bawli. They were accompanied by Parmeshwar Singh, Janardan (both not examined), Kailash Narain Singh (P.W.-2) and Babban Singh (not examined). The two appellants Mahanarain and Nahar Singh also boarded that bus from its front gate, to travel to Varanasi. They stood in front of his father the deceased Jurawan Singh. The bus had barely moved two furlong, when Mangala Singh (acquitted in Sessions Trial No. 93 of 1982) was seen standing on the road, with a bicycle alongwith an unnamed accused. They waved the bus to stop. As the bus stopped, Mahanarain and Nahar Singh pulled out their country made weapons and shot at the deceased Jurawan Singh, on his head. Having caused the occurrence, both accused got down from the bus and went away on the bicycle of the Mangala Singh and the unnamed accused (who were standing on the road), towards the Takku-ki-Bawli. The deceased died on the spot. The Written Report is Ex.Ka-1 at the trial. On that Written Report, the F.I.R.

was registered at Police Station Mirzamurad, Varanasi at about 11:10 a.m. It is Ex.Ka-10.

6. Thereafter, On 26.10.1981, recoveries were made of blood that had spread on the bus floor. It is Ex.Ka.-3. Recovery of sample of blood stained earth was made from near the place where the bus was found parked. It is Ex.Ka-4. Also, sample of plain earth was recovered from where the bus was parked. It is Ex.Ka-5.

7. Further, a pair of sandles and a pair of slippers and also a file bag was recovered from the spot. That Recovery Memo is Ex.Ka-6. Further, an empty of cartridge of 12 bore along with cardboard cap / 'tikli' of 12 bore cartridge with brass base marked "K.F Special" was recovered. That recovery memo is Ex.Ka-7.

8. Also, on 26.10.1981, the Investigation Officer Ram Pyarey Chaudhary prepared the Inquest Report between 11:40 a.m. and 12:15 p.m. The said Inquest Report contains details of F.I.R. lodged (Ex.Ka-10). The Inquest Report is Ex.Ka.-11.

9. Further on 26.10.1981, Dr. H.M. Agarwal (P.W.-9) conducted the autopsy examination on the dead body of the deceased. In that he noted the following ante-mortem injuries :-

(1) Lacerated wound on left side of head just above hairline obliquely anterior posterior 7 cm long at posterior end it is 2 cm broad and scalp deep and it anterior end. It is 3 cm broad and skin deep flap of skin at the anterior end is averted down wards and out wards anterior end 6 cm above middle of eyebrow (left) and posterior end is 12 cm above route of nose. One wadding piece recovered from the wound.

(2) Gun shot wound of entry (inverted margins) 3.5 cm x 3 cm into brain deep on right side of back of head. 8.5 cm behind upper margin of ear at its level. Brain matter coming out two rounded metallic shots recovered along with one wadding piece from the brain matter just under wound of entry. Brain matter lacerated in area of 4 cm x 4 cm x 2 cm deep. Another track horizontally.

The Autopsy Report is Ex.Ka-9 at the trial.

10. Upon conclusion of investigation, the Investigation Officer Ram Pyarey Chaudhary (P.W.-10) submitted the charge sheet. Upon the case being committed for trial to the court of Session, following charge came to be framed against the present appellants.

“That you on the 26th day of October, 1981 at about 8.30 a.m. inside Bus No. U.P.S. 9149 near village Kakerhwa (Matuka) on Bhadohi – Varanasi road, police station Mirzamurad, District Varanasi in furtherance of your common intention did commit murder by intentionally and knowingly causing the death of Jurawan Singh and thereby all of you committed an offence punishable under Section 302 read with Section 34, I.P.C. and within the cognizance of this Court.”

11. At the trial, beside relying on the above documentary evidence, the prosecution led oral evidence through ten witnesses. In that the first informant, who is son of deceased Jurawan Singh, namely, Ramesh Singh was examined as P.W.-1. Beside proving the F.I.R. lodged by him, he proved the fact occurrence wherein he narrated that the deceased was the Gram Pradhan of village Bhikhampur. They used to walk from their village to Takku-ki-Bawli on foot. From there, they used to take a bus, for Varanasi.

12. He proved, the accused appellant Nahar Singh was the nephew of Mahanarain. They along with Sheetala Prasad, Sharada, Guru Prasad, Hari Shankar Singh, Vipin Bihari Singh and Omkar belonged to the same political party and group. Thereafter, he proved, on 30.01.1979, while returning by bus from Kashi Vidyapeeth, Varanasi, Mahanarain, Vipin Bihari Singh, Mahendra Pratap and Dooth Nath had physically assaulted him near Nanas Chauraha crossing. His father the deceased Jurawan Singh lodged a police report with respect to that occurrence.

26.10.1981 was the date fixed before the Magistrate, in that case. To attend that hearing, he along with his father reached Takku-ki-Bawli at around 8:15 a.m. there Bechan Singh (P.W.-3), Kailash Narain Singh (P.W.-2), Babban and Janardan (not examined) were also present. On that date, the evidence of Kailash was to be recorded. The accused persons, Mahanarain and Nahar Singh also arrived, a few minutes later. After about ten minutes, the bus came and stopped. His father deceased Jurawan Singh boarded the bus from the front gate with others following. One seat in the second row behind driver was vacant. The deceased sat on that seat while Ramesh Singh (P.W.-1) stood beside him as no other seat was vacant. Babban Singh, Bechan Singh (P.W.-3), Kailash Narain Singh (P.W.-2) and Janardan also boarded the bus and stood 2–3 paces behind the said witness. The appellants Mahanarain and Nahar Singh also boarded the bus from the front gate and stood beside the seat occupied by deceased Jurawan Singh. The bus had barely covered two furlong distance when the witness saw the acquitted accused Mangala Singh and another (unknown accused) standing on the road with their bicycles, waving to the bus driver to stop the bus. As the bus slowed and reached near 25th milestone, Mahanarain drew a country made pistol from his waist band and shot the deceased on his head from point blank range i.e. 2–3 inches. As the witness shouted, the accused Nahar Singh also drew his pistol from his waist band and shot at the deceased. Both accused reloaded their weapons with ammunition drawn from their pant pockets and fired again. Both accused had used country made firearms in that occurrence.

13. On such occurrence, the bus stopped after about 100 paces near the house of one Jhanna. Both the accused fled from the bus holding out threats to the passengers to not interfere. The accused fled on the bicycles with Mangala Singh and the unnamed accomplice. While fleeing, they held out threat to the

public to not chase them, else they would be shot. The accused fled towards Takku-ki-Bawli.

14. The said witness further proved that the deceased fell on the bus floor. He was dead. The witness then went to the police station after writing the Written Report at the house of Sarbjeet for a time period 15–20 minutes. He was dropped at the police station by passerby who gave him lift on his bicycle, up to the Police Station located about 7 kilometers from the place of the occurrence. He described the name of that person as Mainulla. However, he returned to the bus, on lift offered by a motorcyclist.

15. Thereafter, the witness proved that the Police Inspector arrived and brought down the dead body of the deceased from the bus. Beside a pair of sandals of the deceased, a pair of slippers of another passenger was also recovered after the occurrence. He also proved the recovery of a file bag, Material Ex.Ka.-6.

16. Thereafter, Kailash Narain Singh was examined as P.W.-2. He is a peon at the Secondary School of which the deceased was the Manager. He proved he had earlier gone to Varanasi Court to lead evidence on behalf of Jurawan Singh, on 24.09.1981. The next date fixed in that case was 26.10.1981. For that reason, the victim side was travelling to Varanasi, on the date of the occurrence. He also proved that the bus stop for Varanasi was at Takku-ki-Bawli.

17. On 26.10.1981, at around 8:00 a.m., he reached Takku-ki-Bawli to travel to Varanasi to lead evidence in the case listed before the Munsif Magistrate. He met up with Janardan Singh, Bechan Singh (P.W-3) and Babban Singh at Takku-ki-Bawli bus stop. A little while later, the deceased Jurawan Singh and his son Ramesh Singh (P.W.-1), also arrived. On being asked, he informed, he was with the deceased travelling to Varanasi to lead evidence in the case against Mahanarain Singh. The others were also travelling for Varanasi, for the same case.

18. A little while later, Mahanarain and Nahar Singh arrived at the Takku-ki-Bawli. The bus arrived around 8:30 a.m. The deceased Jurawan Singh, Ramesh Singh (P.W.-1), Babban Singh, Bechan Singh (P.W.-3) and the witness (P.W.-2) boarded the bus from the front gate. All seats were occupied. Only one seat on the second bench behind the driver was vacant. The deceased Jurawan Singh asked the passenger on that bench to shift and take the window seat. Thereafter, he sat down on the seat thus vacated towards the aisle. Janardan Singh, the witness Kailash Narain Singh (P.W.-2), Bechan Singh (P.W.-3), Babban Singh and Ramesh Singh (P.W.-1) stood behind Jurawan Singh. Thereafter, Mahanarain and Nahar Singh boarded the same bus from the front door. Mahanarain stood behind the deceased Jurawan Singh while Nahar Singh stood beside him. The bus had barely travelled two furlong, when he saw Mangala Singh and an unnamed accused standing on the road with their bicycles, near the house of Raja Ram. They waved the bus to stop near the 24th milestone. As the bus slowed down, the accused Mahanarain drew his country made pistol from his waist band and shot at Jurawan Singh followed by the accused Nahar Singh who also drew his country made firearm from his waist band and shot at the deceased near his ear. The accused reloaded their weapons and threatened the passengers with dire consequences if they intervened. The bus stopped after about 18 – 20 paces near the house of Jhanna. The assailants got down from the front gate of the bus, wielding their firearms and fled on the two bicycles of Mangala Singh and an unnamed accused, towards Takku-ki-Bawli.

19. Though the witnesses and the other passengers alighted from the bus, they were fearful and could not do anything to stop the assailants. The deceased fell on the bus floor and died. Ramesh Singh (P.W.-1) started crying. The witnesses advised him to rush to the Police Station. Then, first informant (P.W.-1) wrote

the Written Report, at the house of Sarbjeet (not examined) and travelled to the Police Station on a bicycle of a passerby, who dropped him there. On return, he was dropped by another passerby on his motorcycle. The Police Inspector arrived a little later along with police force. He saw the dead body of the deceased lying inside the bus. It was brought down from the bus for preparation of the Inquest Report, thereafter, it was sealed and sent for autopsy examination. Thereafter, the Investigation Officer recorded the statement of Ramesh Singh (P.W.-1) and made recoveries.

20. Third, Bechan Singh, who became a member of the Committee of Management of the Secondary School of which the deceased was the Manager, was examined as (P.W.-3). He also proved, he reached the Takku-ki-Bawli bus stand at about 8 am, on the day of the occurrence. There, he met Babban Singh and Janardan Singh (both not examined). About two minutes later, Kailash Narain Singh (P.W.-2) arrived. On being asked, the latter informed that he was traveling to Varanasi to attend a court hearing. A little while thereafter, the deceased Jurawan Singh and his son Ramesh Singh (P.W.-1) arrived. Thereafter, the accused persons Mahanarain Singh and Nahar Singh also arrived. After some time, at about 8.30 a.m., the (private) bus arrived from Bhadohi. The deceased Jurawan Singh, his son, the first informant Ramesh Singh (P.W.-1), Babban Singh, Kailash Narain Singh (P.W.-2), Bechan Singh (P.W.-3) and Janardan Singh boarded that bus from the front gate, in that order. The accused Mahanarain Singh and Nahar Singh also boarded the same bus. Jurawan Singh sat down on the only vacant seat on the second bench behind the driver, while Ramesh Singh (P.W.-1), Babban Singh, Kailash Narain Singh (P.W.-2), Janardan Singh and the said witness Bechan Singh (P.W.-3) remained standing. A little to their front and behind the deceased Jurawan Singh, stood the accused person Mahanarain while the co-accused Nahar Singh

stood beside Jurawan Singh. The bus had barely travelled for two furlong and reached near the 25th milestone, when he saw two persons including Mangala Singh and an unnamed accused standing on the road, waving to the bus driver to stop the bus. As the bus slowed down, Mahanarain drew out a country made pistol from his waist band and shot at Jurawan Singh at his head from very close distance. In quick succession, Nahar Singh also drew out another country made pistol and shot at the deceased Jurawan Singh, near his ear.

21. The accused persons reloaded their firearms while throwing out the empties. They also warned other passengers in the bus to not intervene or they would be killed. The bus stopped near the house of Jhanna. The accused persons got out from the bus brandishing their firearms in their hands, and fled on the two bicycles along with Mangala Singh and an unnamed accused person, towards Takku-ki-Bawli. The witness and others found that the deceased was dead, and had fallen. He also proved that a file bag of the accused Mahanarain fell to the ground, as he fled.

22. Thereafter he proved that Ramesh Singh (P.W.-1) started crying. He was advised to lodge the FIR. On that advise, Ramesh Singh (P.W.-1) went to the house of Sarbjeet and prepared the Written Report. A passerby dropped him at the Police Station, on his bicycle. He returned around 11.30 a.m. when a motorcyclist dropped him. After about 10-15 minutes, the Police Inspector arrived and started the investigation.

23. Thereafter, the driver of the bus bearing Registration No. UPS-9149, Sitaram Tiwari, was examined as P.W.-4. He stated, after he started from Takku-ki-Bawli, no body stopped the bus. At about two furlong distance from Takku-ki-Bawli, he heard a noise, which he could not identify. On that noise, he stopped the bus at about 15-20 paces. At that point, he saw that a passenger had fallen near the gate. He was bleeding. The passengers and others

got down from the bus while he himself stood on the other side. The Police Inspector arrived after about two hours. He could not prove if any investigation was carried out by the Police Inspector or if he was questioned on any issue.

24. Thereafter, the said witness Sitaram Tiwari (P.W.-4) also proved that a person had come to him and asked him to sign certain documents. Those he had signed without reading the contents and left on the vehicle that was parked outside. At that point he was shown material exhibit, namely, an affidavit submitted by him. It was marked as Ex.Ka.-8. He further proved that he neither read nor understood the contents of that affidavit. As to the nature of noise he heard, he proved that to be similar to the noise of a tyre burst. He also proved that his bus had not suffered a tyre burst.

25. Thereafter, Constable Ramchandra Maurya was examined as P.W.-5. He proved the handling of the dead body of the deceased Jurawan Singh. Thereafter, Faujdar Singh was examined as P.W.-6. Kashinath Singh was examined as P.W.-7 and Somaru Singh was examined as P.W.-8. Those witnesses led evidence to establish criminal conspiracy. However, it is a fact that those accused of that offence were acquitted by the learned court below. To the extent that there is no Government Appeal, no need exists to notice the evidence led by those witnesses.

26. Thereafter, Dr. H.M. Agarwal, who conducted the autopsy examination on dead body of the deceased Jurawan Singh was examined as P.W.-9. He also proved the nature of injuries suffered by the deceased as also the seat of those injuries. He also proved that the piece of cardboard and wadding were recovered from inside the skull of deceased, along with two pellets. During his examination-in-chief, the said doctor clearly proved that both the injuries had been caused by two different firearms.

27. Thereafter, Investigation Officer Ram Pyarey Chaudhary was examined as P.W.-10. He proved the steps of investigation and recoveries etc. and submission of the charge sheet.

28. Thereafter, the three Court witness, namely, Krishna Mohan Saxena (C.W.-1), Chandrama Mishra (C.W.-2) and Janardan Singh (C.W.-3) was examined. Thereafter, statement of accused Nahar Singh was recorded under Section 313 Cr.P.C. In that he denied the role in the occurrence and he claimed that he has been falsely implicated for the reason of political rivalry.

29. Thereafter, the defence led evidence through K.P. Seth (D.W.-1), Asharfi Devi (D.W.-2), Ashok Kumar (D.W.-3) and Ram Soorat Singh (D.W.-4). To the extent those witnesses did not prove any fact relevant to the present appellant Nahar Singh, that evidence has not been referred to or relied upon by learned Senior Counsel for the appellant Nahar Singh.

30. In that state of evidence, the learned court below has convicted the appellants Mahanarain and Nahar Singh for offence under Section 302 I.P.C. and sentenced them accordingly.

31. In such facts, learned senior counsel for the sole surviving appellant Nahar Singh submits that the prosecution story is completely false. The F.I.R. itself is ante-timed. In any case, the implication of Nahar Singh is wholly false inasmuch as, he is not an accused person in the earlier case wherein Ramesh Singh (P.W.-1) was allegedly assaulted. Further, the fact that the F.I.R. is ante-timed is also borne out from the delayed submission of the Special Report. While the occurrence is of 26.10.1981, Special Report was first communicated to the learned Magistrate on 03.11.1981. No explanation has been furnished by the prosecution, for that inordinate delay. Also, wholly unbelievable / improbable account was offered - that Ramesh Singh (P.W.-1) travelled on a bicycle to the Police Station and returned on a motorcycle.

32. In fact, reason to falsely implicate Nahar Singh existed, as he had been acquitted in the earlier case lodged against him by the deceased Jurawan Singh containing allegation of theft of fish from a village pond.

33. The presence of the prosecution witnesses Ramesh Singh (P.W.-1), Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3), has also been doubted. It has been submitted, the account offered by those witnesses to establish their presence contains material improvement over the case initially disclosed at the stage of the F.I.R. being lodged and during the police investigation. At that stage, no disclosure was made of any date fixed in any proceeding, before a learned Magistrate at Varanasi, on 26.10.1981.

34. Since, those witnesses were not present at the time of occurrence, they have narrated a wholly inconsistent account. Ramesh Singh (P.W.-1) described four shots were fired - first by Mahanarain, second by Nahar Singh, both at the deceased. Thereafter, one shot each was again fired - first by Mahanarain and second by Nahar Singh. That disclosure is inconsistent both to the F.I.R. narration as also the police investigation. Further, it is wholly contradicted by the evidence led by other fact witness - Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3). In fact the learned court below has rightly disbelieved the evidence led by Kailash Narain Singh (P.W.-2). No recoveries commensurate to the narration made by Ramesh Singh (P.W.-1) have been made. In an occurrence such as this, if two or more shots had been fired inside a moving bus, certainly those would have hit the bus body or injured someone else as well. In any case, empties or fired bullets / pellets etc. would have been recovered, inside the bus. There is no such recovery.

35. All the eye witnesses produced are highly partisan and such as were wholly under the influence of the deceased Jurawan

Singh and his son Ramesh Singh (P.W.-1). It is clearly established, Jurawan Singh was the Gram Pradhan of village Bhikampur and also Manager of the Secondary School at that village. His son Ramesh Singh (P.W.-1) became the Manager of the said institution after the death of Jurawan Singh. Kailash Narain Singh was a peon at the same school and Bechan Singh became a member of Committee of Management of the said school, subsequently. Referring to their cross-examination statements, none of the witnesses could stand the test of cross-examination to establish their presence at Takku-ki-Bawli, to board a bus to Varanasi. The prosecution story is riddled with doubts. The witnesses would not have reached the same bus stop to board the same bus, to travel for different purposes, without any prior communication between them. Insofar as Bechan Singh (P.W.-3) is concerned, he offered a completely different version narrating that he reached the bus stop to travel to Varanasi to buy some paint etc.

36. Referring to the account of the occurrence, it has been submitted, a wholly improbable account has been offered wherein the deceased is described to have been shot at twice from very close quarters inside a moving bus. Neither the seat that was occupied by the deceased in that bus was consistently described nor it is possible that in a crowded bus, such an occurrence may have been caused without any injury suffered by any other person.

37. Referring to the statement of the Investigation Officer Ram Pyarey Chaudhary (P.W.-10), it has been submitted, he could not even describe correctly, the sitting arrangement in the bus i.e. whether it provided for seating of two passengers on either side of the aisle or two passengers on one side and three passengers on the other side of the aisle.

38. Further referring to the cross-examination statement and the suggestions, thrown at the witnesses, it has been stressed - the occurrence was caused otherwise, at another place. In that the deceased was being carried on the bus for medical treatment. He died midway. On that the prosecution narration has arisen. Reference has also been made to the affidavit of the driver of the bus, namely, Sita Ram Tiwari (P.W.-4) as Ex.Ka.7 to state that the deceased had been shot at, elsewhere.

39. Learned senior counsel for the appellants has relied upon the decision of the Supreme Court in ***Ishwar Singh Vs. State of U.P. (1976) 4 SCC 355***. He also relied on the recent decision of the Supreme Court in ***Sakhawat and Another Vs. State of U.P. AIR 2025 SC 2635***.

40. On the other hand, learned A.G.A. would submit, the present is not a case of circumstantial evidence. Therefore, issue of motive does not exist. Therefore, absence of motive may never give reason to doubt the prosecution story. Second, the prosecution has led reliable direct evidence of the occurrence through credible ocular account of Ramesh Singh (P.W.-1), who is son of the deceased. His presence was wholly natural in accompanying his father to attend Court proceedings, at Varanasi, involving allegation of physical assault made on the said Ramesh Singh (P.W.-1). Third, the ocular account is consistent, barring a few embellishments that were wholly natural in the course of cross-examination. No material improvement has been made by any prosecution witness of fact. Merely because Ramesh Singh (P.W.-1) described two other shots fired after the occurrence had been caused, it may not amount to material improvement or a serious contradiction in the prosecution story. To the extent, Ramesh Singh (P.W.-1), Bechan Singh (P.W.-2) and also Kailash Narain Singh (P.W.-3) offered a consistent account, wherein all witnesses disclosed that the deceased came to be seated in the

second row behind the driver, with the witnesses standing a little behind and beside him, wherein the accused Mahanarain stood immediately behind and Narain Singh stood beside the deceased, absolutely no inconsistency exists.

41. Also, no inconsistency exists of two shots fired. First, by the accused Mahanarain Singh the head region and the second by the accused Nahar Singh, near the ear of the deceased. Both firearm shots were fired in quick succession, whereafter the bus stopped and the accused got down from the bus and fled on two bicycles (with the acquitted co-accused). To the extent, such consistent account exists and to the extent, it finds wholesome corroboration from the recoveries of one empty and cap / '*tikli*' from inside the bus, two pellets, pieces of wadding as also cardboard inside the skull cavity of the deceased, it was wholly proved, the deceased was shot at (twice), from very close range. The medical opinion corroborates, two firearm shots fired at the deceased, from very close range.

42. The FIR was promptly lodged i.e. within two hours and the occurrence was consistently described by all three witnesses. Absolutely no doubt exists in the prosecution story.

43. As to the late submission of the Special Report, it has been stressed, the same was dispatched on 27.10.1981 itself. Relevant G.D. entries were also proven. The fact that it may have reached late, may make no difference to the credibility of the prosecution story inasmuch as, even if external test is applied, there is no doubt that the Case Crime Number and all details of the FIR are recorded in the Inquest Report that undoubtedly was prepared between 11.40 a.m. and 12.15 p.m.

44. As to the narration of the case pending before the learned Magistrate at Varanasi, it has been stressed, present is not a case, where no such narration had been made in the FIR - in fact

the FIR itself mentions that the deceased left home to attend a court proceeding. The fact that I.O. did not ask and the witness did not state during his statement recorded under Section 161 Cr.P.C., the details of the proceeding in that case, is of no consequence, to the extent such fact was duly proven at the trial. In the context of direct evidence led to prove the occurrence by Ramesh Singh (P.W.-1), the objection being raised may remain hyper - technical. Reliance has been placed on the decision of the Supreme Court in **State of U.P. Vs. Krishna Master and others (2010) 12 SCC 324.**

45. Learned counsel for the informant has adopted the submissions advanced by the learned A.G.A. In addition, he would submit, no reasonable doubt may ever arise as to the presence of Ramesh Singh (P.W.-1), Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3) alongwith the deceased. They were travelling to attend the Court proceedings at Varanasi courts. Undeniably, beside his status as the Manager of Secondary School, the deceased was the elected Pradhan of Village Bhikampur. It is a commonly observed fact - persons who occupy such public offices, do not travel alone especially to attend formal proceedings etc. No judgment is required to be drawn on such conduct offered. The occurrence being of the year 1981, the village Pradhan may not have had means to travel by his personal vehicle. He may, therefore, have travelled on a public conveyance and in that he may have travelled with his supporters, including close/trusted family members. Thus, even if it is assumed that Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3) had a close relationship with the deceased, their presence may not be doubted. On the contrary, considering the social practices, their presence is natural. Second, it has been stressed, Dr. H.M. Agarwal (P.W.-9) had specifically proven that two firearms were involved in the occurrence. That evidence led by medical expert

has not even been doubted by the defence. Clearly, two firearms were used - one by Mahanarain and another by Nahar Singh.

46. Having heard the learned counsel for the parties and having perused the record, the prosecution has narrated, the deceased was shot at around 8.30 a.m., while he was traveling in a private bus bearing registration No.UPS 9149. Second, the deceased was shot at twice on his vital body part, namely, the head region, with two weapons. There is absolutely no doubt raised to the opinion of the doctor as to the time of death or the two firearm injuries suffered by the deceased.

47. On the contrary, it has been submitted by learned Senior Counsel, the case of the defence is injury was first caused to Jurawan Singh, at another place. He was being brought from there on the bus in issue when he died near Takku-ki-Bawli. The doubts have been raised only with respect to who caused the occurrence and in what manner. As to the other place of occurrence, though it is true that it is not for the defence to lead that evidence, yet, in the present case, other than that nebulous argument, no clear suggestion had been thrown at any prosecution witness that the occurrence was caused at any other place, except inside the bus. The recovery of one empty, a cap / "*tikli*" as also the recovery of blood from the floor of the bus and a pair of sandals, another pair of slippers and file bag left behind - in the commotion that would have arisen, corroborate that the deceased was shot at, inside the bus in which he was travelling (even according to the defence).

48. Seen in that light, before we come to the late dispatch of the Special Report, the prosecution story as to how the FIR came to be lodged requires consideration, first. In view of our observation on undoubted/undisputed facts - that the occurrence was caused at 8.30 a.m., on 26.10.1981, Ramesh Singh (P.W.-1), who is the son of the deceased disclosed that he started crying after the

occurrence. That first reaction of Ramesh Singh (P.W.-1) has also been consistently narrated by Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3). He was advised to lodge the FIR. For that purpose, he claimed to have walked to the house of Sarbjeet, that was nearby. No doubt exists as to that fact and in any case, in the entirety of the narration, it is not decisive of any material issue as the F.I.R. came to be lodged within three hours from the occurrence.

49. Second, all witnesses of fact proved that Ramesh Singh (P.W.-1) travelled to the Police Station on the bicycle of a passerby and he returned after two hours on the motorcycle of another passerby. The police arrived a few minutes later and started the investigation including, preparation of the Inquest Report. That report has been prepared between 11.40 a.m. and 12.15 p.m. It is wholly consistent to the time description and how the F.I.R. came to be lodged, as narrated by the prosecution witnesses, namely, Ramesh Singh (P.W.-1), Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3). Further, the recoveries of one empty, a cap / *'tikli'* and blood and also plain earth were made from near the place bus stopped. No doubt exists as to those facts.

50. Even if the evidence of Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3) were to be kept aside, we are not in a position to reach a conclusion that the F.I.R. was ante-timed because the Special Report came to be submitted on 03.11.1981 and not earlier. In the first place as noted above, internal tests are wholly satisfied inasmuch as the first informant Ramesh Singh (P.W.-1) clearly proved that on the occurrence taking place, he was shocked and started crying. Then he was advised to lodge the F.I.R. In absence of any doubt that the Police Station was about 6 kilometers from the place of occurrence, his further narration that he went to Police Station on a bicycle of a passerby after preparing the Written Report at the house of Sarbjeet that was nearby, may not be disbelieved. Ramesh Singh (P.W.-1) was

a student of Kashi Vidyapeeth - as narrated by him from beginning. Therefore, he could read and write. Also, he was a young man at that time. Considering the occurrence took place in 1981 on a public road in the morning hours, near a village, there is nothing to doubt the prosecution story either as to the first reaction of extreme shock suffered and then of offering a rational response to the occurrence, within a reasonable short time.

51. Second, the occurrence involved the murder of the father of Ramesh Singh (P.W.-1), in his presence. To that extent, to maintain that he responded in the manner disclosed, such that with reference to the occurrence is 8:30 a.m., he managed to prepare the Written Report at the house Sarbjeet and then travelled to the Police Station 6 Kilometers away, to ensure that the F.I.R. came to be registered on 11:10 a.m. was also corroborated by the formal witness, namely, Investigation Officer Ram Pyarey Chaudhary (P.W.-10). To the extent the cross-examination of the said witness does not give rise to any reasonable doubt, we find there is no reason to doubt that the F.I.R. was lodged, as disclosed.

52. As to the external test, it is equally undisputed that there is no material to doubt that the Inquest Report was prepared between 11:40 a.m. and 12:40 p.m. A bare perusal of the said report reveals that the details of the F.I.R. are recorded on the header of page 1, as well as on page 2 of that Inquest Report. In the list of documents annexed thereto, there is also a mention of the inclusion of copy of the check report

53. Seen in that light, dispatch of the Special Report remained an action to be taken by the police authorities, primarily the Investigation Officer, who also confirmed that the Special Report was prepared and sent to the concerned Magistrate, forthwith. During his cross-examination, the Investigation Officer Ram Pyarey Chaudhary (P.W.-10) maintained that the G.D. Entry No.

16 was recorded on 10:20 a.m. on 26.10.1981. Thereafter, the G.D. Entry No. 17 pertaining to the present case was recorded. He also maintained that both entries were recorded in the Case Diary, as well.

54. With respect to the Special Report, he stated that it was prepared under G.D. Entry No. 18 at 11:24 a.m. on 26.10.1981, and that the report was dispatched through Constable Raj Bali Singh. However, the return entry was not recorded on 26.10.1981. Referring to the check report (Ex. Ka-10), he stated that it was received by the Magistrate on 03.11.1981. He denied the suggestion that, upon receiving information about the death of Jurawan Singh, he had stopped making G.D. entries to make it convenient for himself to record them later. Thereafter, he was questioned when the Case Diary's Parcha were first countersigned by the Circle Officer, to which he replied that they were first countersigned on 27.10.1981.

55. Though, cross-examined extensively, he was not questioned (at all), as to the reason why the Special Report remained pending till 03.11.1981. In **Ishwar Singh** (supra), it has been observed as under :

“Mr. Frank Anthony appearing for appellant Ishwar Singh submitted that in affirming the Judgment of the trial Court, the High Court also overlooked certain important aspects of the case that the Sessions Judge had failed to consider. He pointed out that the F.I.R. which is stated to have been lodged at 9.05 A. M. on February 14, 1973 was sent out from the police station the next day, February 15; the time when it was despatched is not stated, but it appears from the record that the Magistrate received it on the morning of February 16. The Court of the Magistrate was nearby, which makes it difficult to understand why the report was sent to him about two days after its stated hour of receipt at the police station. Section 157 of the CrPC, 1898 as well as of 1973 both require the first information report to be sent

"forthwith" to the Magistrate competent to take cognizance of the offence. No explanation is offered for this extraordinary delay in sending the report to the Magistrate. This is a circumstance which provides a legitimate basis for suspecting, as Mr. Anthony suggested, that the first information report was recorded much later than the stated date and hour affording sufficient time to the prosecution to introduce improvements and embellishments and set up a distorted version of the occurrence. In this case the suspicion hardens into a definite possibility when one finds that the case made in Court differs at least in two very important particulars from that narrated in the F.I.R. Mahabir Singh, who lodged the first information report, stated in-Court that he had invited some people to his house to effect a settlement between him and Ishwar Singh, and that he had also sent Ghanshyam to call Ishwar Singh there. The F.I.R. does not mention anything like this. From the F.I.R. it appears as if the accused persons came uninvited to his house, demanded why he had demolished the drain, and started assaulting him and the other persons who were present there. It is also difficult to understand why Mahabir should invite anyone to his house for a settlement, if really Ishwar Singh had permitted him to demolish the drain as he claimed. Further, the F.I.R. does not mention that Mahabir and Satyapal wielded lathis in their defence when attacked and that this resulted in some of the accused getting injured, but that is what both Mahabir (P.W. 1) and Satyapai (P.W. 2) stated in their evidence in Court. These variations relate to vital parts of the prosecution case, and cannot be dismissed as minor discrepancies. In such a case, the evidence of the eye-witnesses "cannot be accepted at its face value", as observed by this Court in Mitter Sain v. State of U.P."

56. We are unable to rely on that reasoning in the present facts inasmuch as though it was stated by the Investigation Officer Ram Pyarey Chaudhary (P.W.-10) that the Special Report dispatched on 26.10.1981 was first acknowledged by the learned Magistrate on 03.11.1981, absolutely no doubt emerged during his cross-

examination as to the reasons why such delay may have been caused. The defence abandoned or left the issue at that - without exploring the reason for that gap of time and without seeking any explanation as to that.

57. It has been submitted - in this appeal, long delay of almost one week is itself a clear indicator that no Special Report was dispatched in the meanwhile and that is clear indicator that the F.I.R. was not prepared on 26.10.1981 or that it was prepared much later, by way of a well thought out exercise, upon due consultation. Since the fact witnesses Ramesh Singh (P.W.-1), Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3) were not present at the time of occurrence, the prosecution story has emerged much later.

58. We are unable to accept that plea, inasmuch as merely because some time may have been consumed in submitting the formal acknowledgment of the Special Report, it may not be enough to doubt the time when the F.I.R. was lodged. Though, it is the duty to submit Special Report forthwith i.e. within the shortest time, it was for the defence to establish any doubt that it was not done within the feasibility or availability of time and circumstances as they existed. That may have been done through effective cross-examination of the Investigation Officer, Ram Pyarey Chaudhary (P.W.-10). That witness was never asked what transpired between 26.10.1984 and 03.11.1984 and what prevented the Special Report to be submitted to the learned Magistrate during that period. The procedural aspect of such Special Report being first approved by the Circle Officer was also not put to the said witness.

59. Therefore, in our view, the defence has left the issue of delay unattended i.e. without seeking any explanation from the Investigation Officer as to the cause of that delay. Only if such an explanation had been sought by putting doubts to the witness, it

may have become necessary for the Court to consider the adequacy or reliability of such an explanation, as may have given rise to doubt, if any, regarding the delay in sending the Special Report. In **Ombir Singh vs. State of UP (2020) 6 SCC 378**, The Supreme Court has observed as under:

“4. There was undoubtedly a delay in compliance of section 157 of the Code, as the FIR was received in the office of the Chief Judicial Magistrate with a delay of 11 days. Effect of delay in compliance of Section 157 of the Code and its legal impact on the trial has been examined by this court in Jafel Biswas v. State of West Bengal after referring to the earlier case laws, to elucidate as follows:

“18. In State of Rajasthan (State of Rajasthan v. Daud Khan, (2016) 2 SCC 607 : (2016) 1 SCC (Cri) 793] in paras 27 and 28, this Court has laid down as follows:

(SCC pp. 620-21) “27. The delay in sending the special report was also the subject of discussion in a recent decision being Sheo Shankar Singh vs. State of U.P. [Sheo Shankar Ssingh v. State of U.P., (2013) 12 SCC 539 : (2014) 4 SCC (Cri) 390] wherein it was held that before such a contention is countenanced, the accused must show prejudice having been caused by the delayed dispatch of the FIR to the Magistrate. It was held, relying upon several earlier decisions as follows: (SCC pp. 549-50, paras 30-31) ‘30. One other submission made on behalf of the appellants was that in the absence of any proof of forwarding the FIR copy to the jurisdiction Magistrate, violation of Section 157 CrPC has crept in and thereby, the very registration of the FIR becomes doubtful. The said submission will have to be rejected, inasmuch as the FIR placed before the Court discloses that the same was reported at 4.00 p.m. on 13-6-1979 and was forwarded on the very next day viz. 14-6-1979. Further, a perusal of the impugned judgments of the High Court [Sarvjit Singh v. State of U.P., 2003 SCC OnLine All 1214 : (2004) 48 ACC 732] as well as of the trial court discloses that no case of any prejudice was shown nor even raised on behalf of the appellants based on alleged violation of Section 157 CrPC. Time and again, this Court has held that unless serious prejudice was demonstrated to have been suffered as against the accused, mere delay in sending the FIR to the Magistrate by itself will not have any deteriorating (sic) 1 (2019) 12 SCC 560 effect on the case of the prosecution. Therefore, the said submission made on behalf of the appellants cannot be sustained.

31. In this context, we would like to refer to a recent decision of this Court in Sandeep v. State of U.P., (2012) 6 SCC 107 :

(2012) 3 SCC (Cri) 18] wherein the said position has been explained as under in paras 62-63: (SCC p. 132) “62. It was also feebly contended on behalf of the appellants that the express report was not forwarded to the Magistrate as stipulated under Section 157 CrPC instantaneously. According to the learned counsel FIR which was initially registered on 17-11-2004 was given a number on 19-11-2004 as FIR No. 116 of 2004 and it was altered on 20-11-2004 and was forwarded only on 25-11-2004 to the Magistrate. As far as the said contention is concerned, we only wish to refer to the reported decision of this Court in *Pala Singh v. State of Punjab*, (1972) 2 SCC 640 : 1973 SCC (Cri) 55] wherein this Court has clearly held that (SCC p. 645, para 8) where the FIR was actually recorded without delay and the investigation started on the basis of that FIR and there is no other infirmity brought to the notice of the court then, however improper or objectionable the delay in receipt of the report by the Magistrate concerned be, in the absence of any prejudice to the accused it cannot by itself justify the conclusion that the investigation was tainted and the prosecution insupportable.

63. Applying the above ratio in *Pala Singh v. State of Punjab*, (1972) 2 SCC 640 : 1973 SCC (Cri) 55] to the case on hand, while pointing out the delay in the forwarding of the FIR to the Magistrate, no prejudice was said to have been caused to the appellants by virtue of the said delay. As far as the commencement of the investigation is concerned, our earlier detailed discussion discloses that there was no dearth in that aspect. In such circumstances we do not find any infirmity in the case of the prosecution on that score. In fact the above decision was subsequently followed in *Sarwan Singh v. State of Punjab* [*Sarwan Singh v. State of Punjab*, (1976) 4 SCC 369 : 1976 SCC (Cri) 646] , *Anil Rai v. State of Bihar* [*Anil Rai v. State of Bihar*, (2001) 7 SCC 318 : 2001 SCC (Cri) 1009] and *Aqeel Ahmad v. State of U.P.* [*Aqeel Ahmad v. State of U.P.*, (2008) 16 SCC 372 : (2010) 4 SCC (Cri) 11] ”

28. It is no doubt true that one of the external checks against antedating or ante-timing an FIR is the time of its dispatch to the Magistrate or its receipt by the Magistrate. The dispatch of a copy of the FIR “forthwith” ensures that there is no manipulation or interpolation in the FIR. [*Sudarshan v. State of Maharashtra*, (2014) 12 SCC 312 : (2014) 5 SCC (Cri) 94] If the prosecution is asked to give an explanation for the delay in the dispatch of a copy of the FIR, it ought to do so.

Meharaj Singh v. State of U.P., (1994) 5 SCC 188 : 1994 SCC (Cri) 1391] However, if the court is convinced of the prosecution version's truthfulness and trustworthiness of the witnesses, the

absence of an explanation may not be regarded as detrimental to the prosecution case. It would depend on the facts and circumstances of the case. [Rattiram v. State of M.P., (2013) 12 SCC 316 : (2014) 1 SCC (Cri) 635] ”

19. The obligation is on the IO to communicate the report to the Magistrate. The obligation cast on the IO is an obligation of a public duty. But it has been held by this Court that in the event the report is submitted with delay or due to any lapse, the trial shall not be affected.

The delay in submitting the report is always taken as a ground to challenge the veracity of the FIR and the day and time of the lodging of the FIR.

20. In cases where the date and time of the lodging of the FIR is questioned, the report becomes more relevant. But mere delay in sending the report itself cannot lead to a conclusion that the trial is vitiated or the accused is entitled to be acquitted on this ground.

21. This Court in Anjan Dasgupta v. State of W.B. [Anjan Dasgupta v. State of W.B., (2017) 11 SCC 222 : (2017) 4 SCC (Cri) 280] (of which one of us was a member, Hon'ble Ashok Bhushan, J.) had considered Section 157 CrPC. In the above case also, the FIR was dispatched with delay. Referring to an earlier judgment [Rabindra Mahto v. State of Jharkhand, (2006) 10 SCC 432 : (2006) 3 SCC (Cri) 592] of this Court, it was held that in every case from the mere delay in sending the FIR to the Magistrate, the Court would not conclude that the FIR has been registered much later in time than shown.”

60. In that context, as per the calendar for the year 1981, it does appear that Diwali fell on Tuesday, 27.10.1981. Furthermore, 1st November 1981 was a Sunday. What may have transpired in the meantime may remain a speculative exercise, for the Court to go into. The defence having failed to raise a doubt on the issue of delay, by indicating/suggesting that there was no reason for the non-submission of the Special Report in the meantime and in absence of any material improvement or contradiction or other reasonable doubt as to presence of Ramesh Singh (P.W.-1), and his narration as to the occurrence (as may be discussed a little later), no adverse inference may be drawn, on that count, to doubt the prosecution story. Thus, on the issue of the F.I.R. being ante-

timed, we are unable to find that the prosecution story suffers from any reasonable doubt.

61. Thus, even the external test is found to be satisfied. The FIR was lodged promptly and not with delay. Consequentially, inherent support exists as to the credibility of the prosecution narration. To the extent, it may be unwise to suspect that the real version of the occurrence has been hidden from the Court, to any extent. This, we observe especially keeping in mind the fact that the FIR narration arose at the hands of the son of deceased Jurawan Singh, namely Rajesh Singh (PW-1), who may never have any intent to hide the real culprits.

62. Second, coming to the presence of Ramesh Singh (P.W.-1), we are unable to accept the doubt being claimed that the prosecution story suffers from material improvement. The FIR did contain narration of date fixed in proceedings before the learned Magistrate on 26.10.1981. In that, both the deceased and Ramesh Singh (P.W.-1) had to travel to District Court / '*Kutchehry*,' to attend the hearing. It is a well settled principle in law that only needs to be stated without elaboration that an FIR is not a encyclopedia. It need not disclose full facts, with every minute detail and the prosecution is not obligated to write a detailed essay about the genesis, motive and the occurrence and the aftermath of the occurrence, in any F.I.R. To the extent, the FIR discloses cognizable offence, it remains competent in law. Further, to the extent, Ramesh Singh (P.W.-1) clearly narrated in the FIR that the said witness and the deceased Jurawan Singh had to travel to the District Court/'*Kutchehry*' to attend a date, we find necessary disclosure had been made in the FIR as to the presence of the deceased along with the witness Ramesh Singh (P.W.-1) at the bus stand Takku-ki-Bawli. During his examination-in-chief, the said witness offered full elaboration by stating that an occurrence had taken place on 13.01.1979, wherein Vipin Bihari,

Maharendra Pratap and Doodhnath had physically assaulted him. That occurrence had been reported by the deceased giving rise to proceedings before the Munsif Magistrate, Sri R.P. Tripathi. Those were pending. 26.10.1981 was the date fixed in that proceeding. To attend that, the deceased along with the witness were travelling to the district court at Varanasi. During his cross-examination, though questioned with reference to the other case of theft of fish from a village pond, the said witness was not doubted (at all) as to the date fixed before the learned Magistrate on 26.10.1981.

63. Only this much was asked if he remembered having made any statement to the Investigation Officer, during the investigation that he was going to the Court to record his statement. Here we may note, a certified copy of the order-sheet of Case No. 160 of 1982 State Vs. Mahanarain and others, pending in the Court of learned VIII Munsif, Varanasai, exists on record as Ex.Ka-2. It does reflect that 26.10.1981 was the date fixed in those proceedings and that none of the accused namely Mahanarain, Vipin Bihari, Mahendra Pratap appeared before the Court. Accordingly, non-bailable warrants were issued. By merely asking the witness if he had made a statement to the Investigation Officer that his presence in the Court was required for recording of his statement and the fact that the witness denied that, it did not establish that there was no date fixed in the proceedings. It is an accepted fact that many dates are fixed in a legal proceeding for many different purposes and only some are to lead evidence. The question put to the witness appears to be cleverly framed to elicit a response that creates an illusion - as if no date has been fixed in the proceedings. In the first place, the illusion remains an illusion but not a fact. We clearly see through the same. There is no basis to infer that the witness denied that 26.10.1981, was a date fixed in the proceeding. He only stated that he had not informed the Investigation Officer, during investigation that his

evidence was to be recorded on that date. That he stated in response to a specific query - that he had not stated to the Investigation Officer (during investigation) that 26.10.1981 was date fixed for his evidence. He did not state that he had not told the Investigation Officer that 26.10.1981 was a date fixed in that case. Still, he was never asked if no date had been fixed in the proceeding for 26.10.1981. Had his response to that query (if raised) been in the negative, an issue may have arisen for consideration, but not otherwise. In any case, as noted above, 26.10.1981 was clearly a date fixed in the proceedings as is made out from the plain reading of the certified copy of the order-sheet. Hence, no reasonable doubt may ever arise on that count.

64. Once, the above fact is clearly established, it is wholly natural that the victim i.e. Ramesh Singh (P.W.-1) who was a victim in Case No. 160 of 1981, State Vs. Mahanarain had to travel to attend that date alongwith the complainant, who was his father i.e. the deceased-Jurawan Singh. Other things apart, a father, who may have lodged a complaint against physical assault suffered by his son may naturally be expected to be accompanied by his son - the victim, to attend the Court proceeding, where his prayer for justice was pending. Therefore, the presence of Ramesh Singh (P.W.-1) is found to be wholly natural. Considering their natural relationship, a presumption exists that such a witness would speak the truth about the identity of the assailants of his father and would not hide the real assailants / culprits.

65. Seen in that light, the said witness Ramesh Singh (P.W.-1) first narrated - two shots were fired at the deceased, one by Mahanarain Singh and another by Nahar Singh. Then, he described, both assailants reloaded their firearms. Though, there is a further narration that both assailants fired again / second time, he never stated that those shots were also fired at the deceased or at any person/passenger. He was never asked to doubt if those two (other) shots had been fired at any person / object inside the

bus or outside or with the firearms held outside the bus, through a window etc. The fact of two different firearm injuries caused to the deceased is a fact corroborated by medical evidence led by Dr. H.M. Agarwal (P.W.-9). Further, statement of Ramesh Singh (P.W.-1) that both shots have been fired from very close range is also corroborated by the said doctor through the presence of cardboard pieces, pieces of wadding and two pellets inside the skull cavity of the deceased. Moreover, the skin and hair around the entry wound of the deceased had suffered burning/singeing that again corroborates firearm injury suffered from a very close range.

66. Seen in that light, it would be wrong to over rely on a singular statement made by Ramesh Singh (P.W.-1) an otherwise wholly natural and reliable witness, that four shots had been fired by the assailants. That part of his statement may remain an inconsequential exaggeration that does not impact the credibility of the prosecution story that the two accused persons fired one shot each at the deceased, that hit him in his head region. At most, it is an embellishment in an otherwise truthful narration of the occurrence made by Ramesh Singh (P.W.-1). It is indicative of the truthfulness of the statement and not its falsity. It is such defects and deficiency, that prove the authorship of a human mind. How one perceives, narrates and how at times in that process of the occurrence narrated (to others), over a period of time, minor omissions or embellishments or inconsistencies arise is a certain indication of its truthfulness. To err is human. To the extent, evidence led by the said witness has an unbroken ring of truth and further to the extent, it can easily be separated and ignored from the other part of his statements as to the manner in which the injuries were caused to the deceased, we are disinclined to doubt the said witness on such minor embellishments.

67. We also note, the presence of Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3) may itself have not been doubtful. It being another admitted/proven fact that the deceased - Jurawan Singh was the elected village Pradhan of Bhikampur and also was the Manager of the Secondary Village School at that village. It may therefore be wholly natural that such a person would be accompanied by people, who have been close to him, even if, though such other persons may have relationship involving subordination to him. It is not the desirability of the presence of such persons that the Court may judge with respect to the purpose of the journey, to examine the reliability of their depositions. If their presence is natural, their evidence may remain reliable. Considering the societal practices, the Court may remain mindful that in such circumstances, the village Pradhan, who was also the Manager of the Secondary School may have been accompanied with persons of his trust who may have found it more convenient and purposeful to accompany him than other persons who may have been close to him by blood or other relations. The people, who stand to gain to those in power are often seen with them in public spaces – treating those in power to be their leaders.

68. In the above facts, it is not for the Court to judge the morality of that societal practice. Rather, it is recognized that Kailash Narain Singh (P.W.-2) peon of the Secondary School and Bechan Singh (P.W.-3), who became a member of the Committee of Management of School were persons of trust of the deceased Jurawan Singh making their presence more natural for reason of their relationship of trust with the deceased.

69. Even then, the learned court below discounted the evidence led by Kailash Narain Singh (P.W.-2). He did not add or subtract from the narration made by Ramesh Singh (P.W.-1). Insofar as Bechan Singh (P.W.-3) is concerned, essential facts may remain the same. These witnesses narrated, two shots were fired at the

deceased - one each by the two accused Mahanarain Singh and Nahar Singh. They also narrated, both assailants reloaded their firearms with bullets that they were carrying in their pockets. The said witness may have made some needless embellishments by stating that they were travelling with the deceased to lead evidence or for other work to buy paint etc. However, neither their deposition may be discarded nor their presence may be disbelieved for that reason.

70. Second, it is the quality of evidence led and not the quantity of evidence that may convince the Court or lead to conviction of the accused. Here, even if any doubt is entertained with respect to the deposition of Kailash Narain Singh (P.W.-2) and Bechan Singh (P.W.-3), those doubts were academic in face of the wholly truthful narration offered by Ramesh Singh (P.W.-1), who was the son of the deceased.

71. To the extent, though in a case of direct evidence corroboration is not a rule, at the same time, the narration offered by Ramesh Singh (P.W.-1) finds wholesome corroboration through medical evidence led by Dr. H.M. Agarwal (P.W.-9), as has already been noted above. The said doctor was never doubted by the defence about his opinion of involvement of two firearms in the occurrence. Therefore, the submission advanced by learned senior counsel that there was absolutely no motive with Nahar Singh to cause such occurrence, loses all value, in face of his direct involvement proven and corroborated.

72. We are equally unimpressed by the submission advanced by learned senior counsel for the appellant, on the strength of the evidence of Sitaram Tiwari (PW-4). Though he did not see the occurrence, he proved he heard a loud bang – akin to a tyre burst, after the bus moved from Takku-ki-Bawli. He also proved having seen ‘a passenger’ fell inside the bus. He was bleeding. To that extent, he proved that passenger was grievously injured inside the

bus driven by him from the bus stop, Takku-ki-Bawli. He was not doubted if someone else (other than Jurawan Singh) had been shot.

73. Seen in that light, he did not prove as correct, the contents of the document presented as his earlier affidavit. He disowned knowledge of its content. Rather, he claimed ignorance about its contents – having signed on blank papers. If this was to be given primacy, he may remain a partially reliable witness who stated facts consistent to Ramesh Singh (PW-1) that the occurrence was caused inside the moving bus.

74. The ratio of ***Sakhawat (supra)*** is not applicable to the present facts. In that case, three out of four prosecution witnesses had filed their personal affidavits at the bail hearing, stating they had not seen the occurrence. Those affidavits remained uncontroverted and in fact the prosecution hid them. That coupled with prior detention of those witnesses, led the Supreme Court to doubt the fairness of the trial. Here, not only the affidavit of Sitaram Tiwari (PW-4) was exhibited at the trial, but the said witness wholly explained it and in any case maintained that he heard a loud bang near Takku-ki-Bawli, resulting in grievous hurt caused to a passenger.

75. Also, there is no reason to doubt the prosecution narration that the informant side did not spend enough time on the bus as may have allowed them to buy their tickets. They boarded the bus from the front gate of the bus at Takku-ki-Bawli. It had barely moved two furlong when the occurrence was caused. Thus the occurrence would have been caused within two minutes of bus starting from Takku-ki-Bawli. Therefore, no doubt may arise for reason of bus ticket not bought or the bus conductor, not produced.

76. Accordingly, the appeal fails and is **dismissed**. Since the appellant - Nahar Singh has remained on bail, he is directed to

surrender before the learned court below by 17.10.2025 to serve out his remaining sentence. Failing that, the learned court below is directed to take coercive steps in accordance with law. Subject to the appellant surrendering before the learned court below, his bail bonds shall stand cancelled and sureties discharged. Appropriate compliance report be also submitted by the learned court below. Let lower court record be returned, forthwith.

(Tej Pratap Tiwari,J) (Saumitra Dayal Singh,J)

September 22, 2025

Manoj/NSC/Anurag