



2025:AHC:172698-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

1. CRIMINAL APPEAL No. - 5846 of 2022

Ravindra And Another Appellants

Versus

State of U.P. Respondents(s)

Counsel for Appellants	: Rajesh Singh
Counsel for Respondent	: Arun Kumar Rana, Atul Tej Kulshrestha, G.A., Jai Prakash Singh, Parvish Kumar, Piyush Dubey, Vinay Singh, Vivek Sharma

With

2. CRIMINAL APPEAL No. - 5731 of 2022

Bablu Alias Ajay Appellants
Shukla And
Another

Versus

State of U.P. Respondent

Counsel for Apellants	: Sanjeev Kumar Rai
Counsel for Respondent(s)	: Rajesh Singh, Arun Kumar Rana, Atul Tej Kulshrestha, G.A., Jai Prakash Singh, Parvish Kumar, Piyush Dubey, Vinay Singh, Vivek Sharma

With

3. CRIMINAL APPEAL No. - 5732 of 2022

Harveer Singh Appellant(s)

Versus

State of U.P. Respondents(s)

Counsel for Appellant(s)	: Birendra Singh Khokher, G.S. Chauhan, Gaurav Singh Chauhan
Counsel for Respondent(s)	: Rajesh Singh, Arun Kumar Rana, Atul Tej Kulshrestha, G.A., Jai Prakash Singh, Parvish Kumar, Piyush Dubey, Vinay Singh, Vivek Sharma

With

4. CRIMINAL APPEAL No. - 5770 of 2022

Boby Tyagi @ Vineet Tyagi Appellant(s)

Versus

State of U.P. Respondents(s)

Counsel for Appellant(s)	: Rajesh Singh
Counsel for Respondent(s)	: Arun Kumar Rana, Atul Tej Kulshrestha, G.A., Jai Prakash Singh, Parvish Kumar, Piyush Dubey, Vinay Singh, Vivek Sharma

With

5. CRIMINAL APPEAL No. - 5773 of 2022

Anil And Another Appellant(s)

Versus

State of U.P. Respondents(s)

Counsel for Appellant(s)	: Rajesh Singh
Counsel for Respondent(s)	: Arun Kumar Rana, Atul Tej Kulshrestha, G.A., Jai Prakash Singh, Parvish Kumar, Piyush Dubey, Vinay Singh, Vivek Sharma

With

6. CRIMINAL APPEAL No. - 5776 of 2022

Vidit And Another Appellant(s)

Versus

State of U.P. Respondents(s)

Counsel for Appellant(s)	: Rajesh Singh
Counsel for Respondent(s)	: Arun Kumar Rana, Atul Tej Kulshrestha, G.A., Jai Prakash Singh, Parvish Kumar, Piyush Dubey, Vinay Singh, Vivek Sharma

With

7. CRIMINAL APPEAL No. - 5816 of 2022

Smt. Meenu @ Vandana Appellant (s)
Tyagi

Versus

State of U.P. Respondents(s)

Counsel for Appellant(s)	: Adarsh Bhushan, Ishwar Chandra Tyagi, Nanhe Lal Tripathi, Pankaj Kumar Tyagi, Rajesh Singh
Counsel for Respondent(s)	: Arun Kumar Rana, Atul Tej Kulshrestha, G.A., Jai Prakash Singh, Parvish Kumar, Piyush Dubey, Vinay Singh, Vivek Sharma

With

8. CRIMINAL APPEAL No. - 5956 of 2022

Mamata And Another Appellant (s)

Versus

State of U.P. Respondents(s)

Counsel for Appellant(s)	: Rajesh Singh
Counsel for Respondent(s)	: Arun Kumar Rana, Atul Tej Kulshrestha, G.A., Jai Prakash Singh, Parvish Kumar, Piyush

Dubey, Vinay Singh, Vivek Sharma

With

9. CRIMINAL APPEAL No. - 5985 of 2022

Vinod And 2 Others

.....Appellant (s)

Versus

State of U.P.

.....Respondents(s)

Counsel for Appellant(s)	: Rajesh Singh
Counsel for Respondent(s)	: Arun Kumar Rana, Atul Tej Kulshrestha, G.A., Jai Prakash Singh, Parvish Kumar, Piyush Dubey, Vinay Singh, Vivek Sharma

Court No. - 44

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

1. Heard Sri Rajesh Singh learned counsel for the appellants, Sri Vikas Goswami learned AGA-I for the State and Sri Jai Prakash Singh and Sri Piyush Dubey learned counsel for the informant.

2. Present appeal arises against the judgment and order dated 04.07.2022 passed by Sri Chhote Lal Yadav, learned Additional Sessions Judge/Special Judge POCSO Act, Court No. 2, Muzaffarnagar in Sessions Trial No. 1184 of 2011 (State of U.P. Vs. Mamta, Anil, Shubham, Lokesh, Pramod, Manoj, Mohit, Dharmendra, Ravindra, Vinod, Vidit, Bablu alias Ajay, Bobby Sharma alias Vineet Sharma and Bobby Tyagi alias Vineet Tyagi), Sessions Trial No. 1164A of 2011 (State of U.P. Vs. Smt. Meenu alias Vandana Tyagi and Sessions Trial No. 70 of 2012 (State of U.P. Vs. Harveer Singh). By that judgment and

order, the learned court below convicted and sentenced the appellants as below:

Sl No.	Name of appellants	Conviction under Section of IPC	Punishment awarded	Fine imposed	Sentence awarded in default of payment of fine
1.	Mamta	307/120B	Life Imprisonment	Rs. 20,000	1 year
		302/120B	Life Imprisonment	Rs. 40,000	2 years
2.	Anil	307/120B	Life Imprisonment	Rs. 20,000	1 year
		302/120B	Life Imprisonment	Rs. 40,000	2 years
3.	Shubham	307/120B	Life Imprisonment	Rs. 20,000	1 year
		302/120B	Life Imprisonment	Rs. 40,000	2 years
4.	Lokesh	307/120B	Life Imprisonment	Rs. 20,000	1 year
		302/120B	Life Imprisonment	Rs. 40,000	2 years

5.	Pramod	147	2 years		
		307/149	Life Imprisonment	20,000	1 year
		302/149	Life Imprisonment	40,000	2 years
6.	Manoj	147	2 years		
		307/149	Life Imprisonment	20,000	1 year
		302/149	Life Imprisonment	40,000	2 years
7.	Mohit	147	2 years		
		307/149	Life Imprisonment	20,000	1 year
		302/149	Life Imprisonment	40,000	2 years
8.	Dharmendra	307/120B	Life Imprisonment	Rs. 20,000	1 year
		302/120B	Life Imprisonment	Rs. 40,000	2 years
9.	Ravindra	307/120B	Life Imprisonment	Rs. 20,000	1 year
		302/120B	Life Imprisonment	Rs. 40,000	

					2 years
10.	Vinod	147	2 years		
		307/149	Life Imprisonment	20,000	1 year
		302/149	Life Imprisonment	40,000	2 years
11.	Vidit	147	2 years		
		307/149	Life Imprisonment	20,000	1 year
		302/149	Life Imprisonment	40,000	2 years
12.	Bablu @ Ajay Shukla	307/120B	Life Imprisonment	Rs. 20,000	1 year
		302/120B	Life Imprisonment	Rs. 40,000	2 years
13.	Bobby Sharma @ Vinit Sharma	307/120B	Life Imprisonment	Rs. 20,000	1 year
		302/120B	Life Imprisonment	Rs. 40,000	2 years
14.	Bobby Tyagi @ Vineet Tyagi	307/120B	Life Imprisonment	Rs. 20,000	1 year

		302/120B	Life Imprisonment	Rs. 40,000	2 years
15.	Meenu @ Vandana Tyagi	307/120B	Life Imprisonment	Rs. 20,000	1 year
		302/120B	Life Imprisonment	Rs. 40,000	2 years
16.	Harveer	147	2 year		
		307/149	Life Imprisonment	20,000	1 year
		302/149	Life Imprisonment	40,000	2 years

3. Arising from that judgment and order, nine appeals have been filed on behalf of the convicted appellants. Details of the same together with status of bail is given below :

Sl.No.	Criminal Appeal Number	Accused Name	Appellant on bail or in jail
1.	5846 of 2022	1. Ravindra	Bail granted vide order dated 22.04.2024
		2.Dharmendra	Bail granted vide order dated 22.04.2024
2.	5731 of 2022	1. Bablu alias Ajay Shukla	Bail rejected vide order dated 22.4.2024
		2. Bobby Sharma alias Vineet Sharma	Bail granted vide order dated 22.04.2024
3.	5732 of 2022	Harveer Singh	Bail granted vide order dated

			22.04.2024
4.	5770 of 2022	Boby Tyagi @ Vineet Tyagi	Bail granted vide order dated 22.04.2024
5.	5773 of 2022	1. Anil	Bail granted vide order dated 22.04.2024
		2. Shubham	Bail granted vide order dated 22.04.2024
6.	5776 of 2022	1. Vidit	Bail granted vide order dated 22.04.2024
		2. Mohit	Bail granted vide order dated 22.04.2024
7.	5816 of 2022	Smt. Meenu @ Vandana Tyagi	Bail rejected vide order dated 22.4.2024
8.	5956 of 2022	1.Mamata	Bail granted vide order dated 22.04.2024
		2. Lokesh	Bail granted vide order dated 22.04.2024
9.	5985 of 2022	1. Vinod	Bail granted vide order dated 22.04.2024
		2. Manoj	Bail granted vide order dated 22.04.2024
		3. Pramod	Bail granted vide order dated 22.04.2024

4. The prosecution story emerged on the strength of the Written Report dated 11.07.2011 (Ex.Ka-1) submitted by Brajveer Singh (P.W.-1) written by Ranjan Veer Singh, son of Rajveer Singh (not examined). In that, it was disclosed, on 11.07.2011, his elder brother Rajveer Singh alongwith the ladies of his family were travelling in an Indica car while his younger brother Udaiveer Singh was driving Peugeot jeep

(hereinafter referred to as the 'jeep'). In that, the son of the first informant namely Paramveer (P.W.-2), Gaurav Veer, Samarveer, Shyamveer, Kalpna, Divya, Pranav and Vasu (all deceased) were travelling alongwith Radhika, wife of Paramveer namely, Reetu (P.W.-3), Harsh, Vineesha and Daksh (all survivors). The Indica car was following the jeep. As the jeep reached near Badkali tri-junction, a Wagon-R car was seen approaching from the opposite direction driven by the accused Meenu @ Vandana Tyagi, wife of Vikki Tyagi @ Vikrant, wherein Mamta, Anil, Shubham, Akash and Lokesh were also travelling. The said Wagon-R car was being trailed by a truck bearing registration no. UP11-T-8887 (hereinafter referred to as the 'truck') driven by the accused Upendra wherein Manoj, Mohit, Vinod, Harveer, Vidit and Pramod were seated.

5. The accused travelling in the Wagon-R car were making hand gestures, thus indicating and also they were exhorting the truck driver to collide his truck with the jeep (also described as the vehicle of the Chairman). Thereupon, the truck collided with the jeep. The occupants of the truck got down and proclaimed that the family of the Udaiveer had been done to death. The accused travelling in the truck fled towards the jungle, while those travelling in the Wagon-R car fled in that vehicle. The occurrence took place at around 11:35 a.m. It was witnessed by Rajveer Singh (not examined) and other members of the family, including ladies.

6. Thereafter, the Written Report narrated, upon hearing cries for help, many people arrived. The injured were sent to the hospital in different vehicles. In that, Gaurav Veer, Samarveer, Shyamveer and Divya were declared brought dead, while the others were grievously injured.

7. Last, the Written Report narrated, the accused persons bore animosity towards the deceased Udaiveer and his family. Conspiracy had therefore been hatched by Dharmendra son of Bhopal alongwith Vikki @ Vikrant Tyagi.

8. On such Written Report, FIR was registered at P.S. Kotwali, Muzaffarnagar, on 11.07.2011 at 06:30 p.m. in Case Crime No. 780 of 2011, under Sections 147, 302/34, 120B, 307, 427 IPC.

9. Arising from that occurrence, four Inquest Reports were prepared, on 11.07.2011 itself. All Inquest Reports were witnessed by Kaushal Kumar, Jogendra Kumar, Ashok Kumar, Dharmendra Kumar and Veer Sen. Their description is as below:

S.No.	Name of the deceased	Time of preparation of Inquest Report	Exhibit Number
1.	Bhola @ Shyamveer son of Udaiveer	01:35 p.m. to 2:55 p.m.	Ka-14
2.	Daksh son of Samarveer	01:35 p.m. to 3:30 p.m.	Ka-19
3.	Samarveer son of Udaiveer	01:55 pm. 2:50 p.m.	Ka-24
4.	Gaurav Veer son of Brajveer	01:35 p.m. to 3:30 p.m.	Ka-29.

10. Autopsy examination was conducted by Dr. Karan Singh on the dead body of the deceased namely Bhola @ Shyamveer son of Udaiveer, Daksh son of Samarveer, Samarveer son of Udaiveer and Gaurav Veer son of Brajveer, on 11.07.2011 itself. Those details are noted as below:

Sl No.	Name of deceased	Date and time of Autopsy Report	Prosecution witness	Ex. No.
1.	Bhola @ Shyamveer	11.7.2011 4.40 p.m.	P.W.-5	Ka-2
2.	Daksh	11.7.2011 6.30 p.m.	-do-	Ka-5
3.	Samarveer	11.7.2011 5.20 p.m.	-do-	Ka-3
4.	Gaurav Veer	11.7.2011 5.50 p.m.	-do-	Ka-4

11. Also, it may be noted, on 13.7.2011, 14.7.2011, 15.7.2011 and 25.7.2011, four other injured in the same occurrence namely Smt.

Kalpana @ Kukki, Km. Rudra @ Vasu, Pranav son of Gaurav Veer Singh and Udaiveer died during the course of treatment. Their Inquest Reports were prepared accordingly. Details of the same are given as below:

Sl No.	Name of the Deceased	Date and Time of preparation of Inquest Report	Witnesses of Inquest	Exhibit Number
1.	Kalpana @ Kukki	13.7.2011	1. Iqbal Singh 2. Virendra Singh 3. Dharmendra Singh 4. Ravindra 5. Jitendra Kumar	Ka-59
2.	Km. Rudra @ Vasu	14.7.2011	1. Suresh Kumar 2. Narendra Pal 3. Devendra 4. Dhiru Singh 5. Gandhi	Ka-53
3.	Pranav	15.7.2011	1. Mukesh Kumar 2. Jogendra Kumar 3. Ranjanveer Singh 4. Sudhir Kumar 5. Vikas	Ka-48
4.	Udaiveer	25.7.2011	1. Virendra Singh 2. Arun Chauhan 3. Vikas Chaudhary 4. Robin Singh-appellant 5. Ranjanveer	Ka-36

12. Details of the autopsy conducted on the dead body of Smt. Kalpana @ Kukki, Km. Rudra @ Vasu, Pranav son of Gaurav Veer Singh and Udaiveer are noted as below:

Sl No.	Name of deceased	Date and time of Autopsy Report	Name of doctor who has conducted autopsy	Prosecution witness	Ex. No.
1.	Kalpana @ Kukki	13.7.2011 3.40 p.m.	Dr. Radheyshyam Verma	P.W.-10	Ka-11
2.	Km. Rudra @ Vasu	14.7.2011 5.00 p.m.	Dr. Pankaj Kumar	P.W.- 12	Ka-13
3.	Pranav	15.7.2011 1.00 p.m.	Dr. S.S. Ken	P.W.-7	Ka-10
4.	Udaiveer	26.7.2011 12 noon	Dr. Bharat Bhushan	P.W.- 11	Ka-12

13. Arising from the above occurrence, on 12.7.2011, sample of plain soil was recovered from the place of occurrence. That Recovery Memo is Ex. Ka-44 at the trial. Sample of blood stained soil was also recovered. That Recovery Memo is Ex.Ka-45 at the trial. Further, broken headlight of the truck was recovered. Its Recovery Memo is Ex.Ka-46 at the trial.

14. Thereafter, on 17.8.2011, upon arrest of the accused Upendra i.e. the driver of the truck, two SIM cards for mobile Nos. 9897094866 and 9760163860 were also recovered. That Recovery Memo is Ex.Ka-68.

15. Also, on the arrest of the accused Mamta, her disclosure statement was recorded with respect to recovery of certain SIM cards. It is Ex.Ka-70 at the trial. Further, on the arrest of the accused Bablu @ Ajay Shukla similar disclosure statement with respect to recovery of other SIM card was recorded. It is Ex.Ka-71 at the trial. Thereafter, on 20.8.2011, disclosure statement of accused Bablu @ Ajay Shukla was recorded with respect to recovery of mobile phone. Such mobile phone device was recovered from his house. It is Ex. Ka 72 at the trial.

16. Another recovery was made on 20.8.2011, upon arrest of the accused Mamta. In that SIM card for mobile No. 9997674007 described to have been installed in the mobile phone used in the occurrence was recovered. That recovery was made from inside her house. It is Ex. Ka-74 at the trial.

17. Another disclosure statement was recorded of the accused Meenu Tyagi, after her arrest, with respect to recovery of the Wagon-R car together with Rs. 20,000. It is Ex. Ka-76 at the trial. Consequently, the said motor vehicle alongwith Rs.20,000/- found lying inside it and a SIM card for mobile No. 9557434185 was recovered on 21.8.2011. That is Ex. Ka-77 at the trial.

18. It is also on record, Harendra Singh, Officer Incharge of the Forensic Science Laboratory, Muzaffarnagar (P.W.-17) prepared initial report narrating therein that a head-on collision had been caused between two vehicles namely jeep and the truck. In that, the front right hand side of the truck and the right side of the jeep were damaged. Right side of the jeep was found extensively damaged with front part of the said vehicle intact. Tentatively, it was opined that the driver of the jeep may have made all efforts to avoid the collision inasmuch the jeep had turned to his left while the oncoming truck had turned to his right and hit the jeep on its right side. That initial report is Ex. Ka-42 at the trial.

19. Upon completion of investigation, the investigation officer submitted the charge sheet in two parts, on 12.10.2011 and 22.11.2011. Those are Ex. Nos. Ka-79 and Ka-80 at the trial. On the case being committed for trial to the Court of Sessions, charges came to be framed against accused Manoj, Mohit, Upendra, Vinod, Vidit and Pramod for the offence under Sections 147, 302/149 and 307/149 IPC; against the accused Vikki Tyagi @ Vikrant Tyagi, Smt. Mamta, Anil, Subham, Lokesh, Dharmendra, Ravindra, Sushil Shukla, Bablu @ Ajay Shukla, Bobby @ Vineet Sharma and Bobby Tyagi @ Vineet Tyagi for the offence under Sections 307/120B, 302/120B; against the accused Smt. Meenu @ Bandna Tyagi for the offence under Section 307/120B and 302/120B IPC and against

the accused Harveer for the offence under Section 147, 302/149 and 307/149 IPC.

20. At the trial, besides relying on the above documentary evidence, prosecution relied on oral evidence led through 23 witnesses. First, the informant Brajveer Singh who is the elder brother of the deceased Udaiveer Singh was examined as P.W.-1. He is also an eye witness. His son Paramveer was examined as P.W.-2. He was put up as an injured eye witness. Reetu, the wife of Paramveer Singh was also examined as an injured eye witness, as P.W.-3. Besides those three fact witnesses of the occurrence, Rishipal Singh was examined as P.W.-4, to establish existence of criminal conspiracy. Angreju @ Shaukeen was examined as P.W.-8. He is a witness to establish existence of criminal conspiracy. Other witness of fact Mohd. Dawood was examined as P.W.-9. However, he was declared hostile during his examination-in-chief as he did not support any part of the prosecution story. Dr. Karan Singh, Dr. S.S. Ken, Dr. Radheyshyam Verma, Dr. Bharat Bhushan and Dr. Pankaj Kumar who conducted autopsy examinations on the dead bodies of the eight deceased, were examined as P.W.-5, P.W.-7, P.W.-10, P.W.-11 and P.W.-12, respectively.

21. Head Constable Rajkirti Singh was examined as P.W.-6. He proved the registration of the criminal case. During his cross-examination, he also established, information had been broadcast on the police wireless network with respect to accidental occurrence, involving two motor vehicles, namely the truck and the jeep.

22. S.I. R.S. Tomar was examined as P.W.-13. He proved the preparation of the Inquest Report of Bhola @ Shyamveer and Daksh. S.H.O. Charan Singh was examined as P.W.-14. He proved preparation of Inquest Report of Samarveer son of Udaiveer and Gaurav Veer son of Brajveer. Thereafter, Head Constable Balveer Singh, the then H.C., M.T. was examined as P.W.-15. He proved that the jeep had suffered extensive damage on its right side while the truck had been damaged on its front right side. He also proved that the truck was lying damaged and it was

not in working condition at the time of inspection. Thereafter, S.I. Dharmendra Dahiya was examined as P.W.-16. He proved preparation of the Inquest Report of Udaiveer Singh. Thereafter, Scientific Officer, Harendra Kumar Singh was examined as P.W.-17. He also proved that in his opinion the truck had left its lane and collided with the jeep that was moving in its lane i.e. its left side of the road. He also proved that it appeared to him that the truck had moved onto its wrong side and collided with the jeep, while the jeep its driver was making efforts to avoid the collision whereas the driver of the truck may not have made any such attempt. He also opined that it did not appear to him that the occurrence may have been caused while overtaking. During his cross-examination, he further stated that there existed tyre marks of the truck on the road. Thereafter, Lala Ram Verma, retired S.H.O., the Investigation Officer was examined as P.W.-18. He proved the various steps of investigation and submission of chargesheet. Thereafter, Dr. Rajesh Marwah, a dentist was examined as P.W.-19. He proved that Reetu (P.W.-3) had suffered lower jaw fracture, in the occurrence. He also proved his prescription. It was marked as Ex. Ka-81 at the trial.

23. Dr. Ajay Pawar was examined as P.W.-20. He proved the injury sustained by Vineesha aged about eight years. She had suffered shock arising from the collision of the jeep (wherein she was seated) with the truck. He proved his prescription document Ex.Ka.-82.

24. Thereafter, Dr. Prashant Rastogi was examined as P.W.-21. He proved the fracture injury received by Vineesha aged about six years, in the occurrence.

25. Next, Kaushalendra Tiwari-the Officer Bhartiya Airtel Ltd. was examined as P.W.-22. He proved the CDR of mobile Nos. 9997674607 of Mamta Rani, 9557434185 of Meenu Tyagi and 9760163860 of Upendra. In that, he also proved the fact of conversation made between those three members as also between Meenu Tyagi and Abdul Gafoor from mobile No.9557434185. However, on a specific query he stated,

the CDR was not certified under Section 65-B of the Indian Evidence Act.

26. Last, Shri Vishal Sharma, the Nodal Officer Idea Ltd., Meerut was examined as P.W.-23. He proved the CDR of Mobile Nos. 9719595004 of Vineet @ Bobby Tyagi and 9759014566 of Bobby @ Vineet Sharma and all the calls made between those numbers. The CDR was certified in terms of Section 65-B of the Indian Evidence Act.

27. Thereafter, three Court Witnesses were examined to confirm the death of the accused Upendra and Sushil Shukla.

28. Thereafter, the statement of the accused persons were recorded under Section 313 Cr.P.C. They claimed false implication and described the occurrence to be purely accidental.

29. After such statements were recorded, the defence produced four witnesses. In that, Kamlesh Singh, the Jailor of District Jail, Muzaffarnagar was examined as D.W.-1,. He proved, on 04.07.2011, the accused Vikrant @ Vikki Tyagi was lodged at that jail. He was taken to the Muzaffarnagar District Court at 1.02 p.m. and brought back at 3.41 p.m. However, during his cross-examination, he first tried to prove those facts on the strength of copy of the register produced but later, on further cross-examination, he could not prove that the said accused Vikrant @ Vikki Tyagi was lodged at District Jail, Muzaffarnagar, on 04.07.2011.

30. Next, Jitendra was examined as D.W.-2. He tried to establish that he received injury in the occurrence, which he described as accidental. He claimed, some part of one of the two vehicles flew out in the impact, and hit him on his leg, causing a fracture injury. At the same time, it is a fact, neither recovery of any such object/vehicle part was made, nor in the FIR that was lodged by his father such occurrence, was even narrated. On the contrary, in the FIR lodged by the father of Jitendra, namely, Baleshwar Tyagi, it was disclosed - the deceased had received injury in a truck accident. During his cross-examination, it also came out that a

Closure Report was submitted in the FIR lodged by Baleshwar Tyagi and the compensation claimed under the Motor Vehicle Act, was declined.

31. Next, Ashish Shukla was examined as D.W.-3. He proved that he alongwith accused Bobby @ Vineet were present at Allahabad on 11.07.2011, to attend a Court proceeding, before this Court.

32. Last, Dr. Sanjay Bhatnagar was examined as D.W.-4. He proved the injury of Neeraj Kumar, son of Bheempal. However, during his cross-examination, the said doctor also stated, it was not disclosed to him at the relevant time that that injury had been received in an accidental occurrence. In that, he clarified, cases of accidental occurrence are recorded in a separate register maintained for that purpose only. Also, he admitted, such injuries may have been caused with a hard blunt object- wooden staff/ 'lathi'.

33. In that state of evidence, the learned court below convicted all the appellants and as sentenced them, as noted above.

34. Before, we consider the submission advanced, it may be noted, during the pendency of trial, Vikki Tyagi was murdered during Court, proceedings in this (trial), itself. That occurrence of murder was caused in open Court. Post conviction, the accused Upendra died. His appeal was declared abated. At present, it has been reported, the accused appellant Mohit died on 09.05.2024. Learned A.G.A. has placed on record the death certificate of accused Mohit, as received by him. The same has been marked as 'X' and retained on record. Accordingly, the appeal filed by the accused-Mohit is also declared abated.

35. During pendency of this appeal, all accused persons, except Meenu Tyagi and Bablu @ Ajay Shukla were granted bail. The informant side through Brajveer approached the Supreme Court by means of S.L.P. (Criminal) No. 6535-6542 of 2024 against bail granted. It was disposed of by the following order dated 18.02.2025 :-

“SLP(Crl.) Nos.6535-6542/2024

Heard learned counsels appearing for the parties.

Having regard to the facts and circumstances of the case, that the paper books are ready, and the appeals are listed for final hearing before the High Court, we are not inclined to interfere with the said impugned order at this juncture. However, we request the High Court to hear the appeals pending before it, as expeditiously as possible but not later than three months from the date of receipt of a copy of this order. All appeals shall be heard on priority basis.

Learned senior counsel, Mr. Ratnakar Dash, appearing for the respondent(s)-convicts, who are the appellants before the High Court, states that they shall not ask for adjournment during the hearing of the appeals.

Having regard to the said submissions, the present special leave petitions are dismissed.

Pending application(s), if any, shall stand closed.”

36. Meenu Tyagi also approached the Supreme Court by means of S.L.P. (Criminal) No.15679 of 2024. It was dismissed on 18.02.2025, with the following observation:

“SLP(Crl) No. 15679/2024

Heard learned counsels appearing for the parties.

Without expressing any opinion on the merits of the case, we are not inclined to interfere with the impugned judgment and order passed by the High Court, more particularly, when we have already requested the High Court, in the connected matters i.e. SLP(Crl.) Nos.6535-6542/2024, to hear the appeals pending before it as expeditiously as possible, but not later than three months from the date of receipt of a copy of this order.

The special leave petition is, accordingly, dismissed.

Pending application(s), if any, shall stand closed.”

37. Upon that order, being communicated to this Court, the matter was placed before a bench (of which one of us was a member), on 08.07.2025. On the request of learned counsel for the informant, the matter was adjourned to 03.08.2025 to be taken up peremptorily. Submissions continued over the next few dates. However, the original record of the trial Court remained untraceable. In such circumstances, vide order dated 27.08.2025, office was granted one more opportunity to trace out the original records, failing which judicial notice may be taken. The record was traced out and placed on record on 10.09.2025. Thereafter, the hearing re-commenced on 16.09.2025. It proceeded, almost on day-to-day basis. It concluded on 23.09.2025. Thereafter, the order has been pronounced.

38. Despite all intent, the appeal may not have been heard any earlier, for reason of our continuous efforts to balance competing and equally compelling urgencies that exist in other criminal appeals including 5 to 10 oldest appeals listed everyday, for final hearing. Those are of years 1984-88. Further, competing urgencies exist arising from matters where the accused, especially those who have no criminal antecedents, including ladies or persons of young age and very old age are in jail for considerably long time and other matters that require urgent consideration, for reason of their own peculiarities.

39. At present, learned counsel for the appellants has submitted, the presence of Brajveer Singh (P.W.-1) is wholly doubtful. To begin, he was not in the jeep that was involved in the collision. He claimed, he was travelling in the Indica car that was following the jeep. Thus, he remained unhurt. His younger brother and eight other family members died in the occurrence while others were injured. Yet, no FIR came to be lodged by him over a long period of eight hours. He did not transport the injured or the dead body of any of the deceased, to the hospital. He did nothing to chase the occupants of the truck, who are described to have jumped out and fled into the jungle, on their feet. In absence of any deadly weapon involved in the occurrence, that is wholly unbelievable. He also did nothing to chase the Wagon-R car driven by Meenu Tyagi. The information of the occurrence was broadcast by the police authority on their internal radio set wherein the occurrence had been reported to be one of the fierce accident between two motor vehicles. Though he claims to have been present at the time of the occurrence, he is not a witness of any of the Inquest Reports prepared on 11.07.2011 and he did not accompany the injured or the deceased to the hospital. Keeping in mind that the FIR was wholly belated in view of the above, his presence is wholly doubtful. Therefore, he remains a completely unreliable witness.

40. Presence of Paramveer (P.W.-2) who is the son of Udaiveer Singh (P.W.-1) has also been doubted. In that, it has been submitted, though he claimed to be an occupant of the jeep that was involved in the collision,

he escaped without any injury. Initially, the prosecution described him as an injured witness. However, his injuries were never proven at the trial. There is no evidence of his hospitalisation or treatment. As with Brajveer (P.W.-1), so with this witness, neither he informed the police about the occurrence nor he brought any of the injured to the hospital. He is also not a witness of any of the Inquest Reports. Keeping in mind the nature of the occurrence described wherein the deceased Gaurav Veer Singh was driving the jeep while Udaiveer Singh was sitting next to him, on his left and he (Paramveer) was sitting left to Udaiveer with a child sitting in his lap, in an occurrence of this nature, it is impossible to believe that the said witness would have escaped unhurt. Therefore, his presence is also wholly doubtful. He is an unreliable witness.

41. With respect to Reetu (P.W.-3), it has been submitted, her statement was first recorded after two - three months. She did not receive any injury. Her claim that she had received a fracture injury to her leg was never proven through medical evidence and the medical evidence led through Dr. Rajesh Marwah (P.W.-19), that she had suffered a fracture injury to her lower jaw, was never proven by the said witness. Also, it is unbelievable that her minor child who was sitting in the lap of Paramveer (P.W.-2) also escaped unhurt. Similarly, her other minor child who was sitting next to her, also escaped unhurt. In any case, those injuries are manufactured.

42. Referring to the evidence led by Harendra Singh, Officer Incharge of the Forensic Science Laboratory, Muzaffarnagar (P.W.-17) and Head Constable Balveer Singh (P.W.-15), it has been stressed - the occurrence was wholly accidental. The tyre marks of the truck and the nature of collision where the truck did not collide with the jeep head on but side on wherein the truck smashed into right side of the jeep, the prosecution has only given wings to imagination that the occurrence was deliberate. That imagination arose from the fact that it is undisputed that there exists old animosity between the parties wherein it may not be denied that Dharampal a member of the family of Dharmendra, Ravindra and

Upendra (all accused), had been murdered wherein Udaiveer Singh and others were accused. Similarly, Sushil, Vineet, Ajay (all residents of Bahedi village) were accused in the murder of one Satish, a business associate of Udaiveer. In that case, Sushil Shukla, Vineet Sharma @ Bobby, Ajay @ Bablu, Vikki Tyagi and Meenu Tyagi were convicted. Only to take revenge on Udaiveer, for reason of his pursuing that criminal case against the accused side, the appellants came to be named as accused persons alongwith their family members.

43. By impleading all family members and others against whom informant side had a grievance, a wholly unbelievable allegation of criminal conspiracy was introduced on the strength of evidence led by Rishipal Singh (P.W.-4) and Angreju @ Shaukeen (P.W.-8). It is wholly unbelievable that Rishipal Singh (P.W.-4) would have over heard a conversation between the accused Vivek Tyagi and Sushil Tyagi on 04.07.2011, disclosing the ingredients of criminal conspiracy also involving Dharmendra, Ravindra, Meenu Tyagi, Mamta, Vikki Tyagi, Sushil Tyagi, Bittu. Though, he was a relative of the deceased Udaiveer, having heard of that criminal conspiracy, he did not bother to inform the family of the deceased at the relevant time and his statement was first recorded during investigation on 06.11.2011.

44. Insofar as Angreju @ Shaukeen is concerned, it has been submitted, no reliance may be placed on his statement as he tried to prove that the truck had been purchased by one Bobby Sharma @ Vineet Sharma, Bablu @ Ajay Shukla in the name of Mahendra. Undeniably, registration of truck was transferred by Angreju @ Shaukeen (P.W.-8), in favour of one Mahendra, on 11.07.2011. The prosecution deliberately withheld Mahendra. Therefore, no adverse inference may be drawn on the strength of evidence led by Angreju @ Shaukeen. No element of criminal conspiracy was ever established by the prosecution as may lead to conviction of the present appellants.

45. Also, though the site plan was prepared in the presence of Brajveer (P.W.-1), no disclosure was made of the place where the Wagon-R Car

was spotted and crucially no disclosure has been made where the Indica Car had reached, from where the occurrence may have been seen. In short, it has been submitted, the F.I.R. is wholly delayed. The eye-witnesses Brajveer (P.W.-1), Paramveer (P.W.-2) and, Reetu (P.W.-3) were not present at the place and time of the occurrence. Therefore, they are wholly unreliable. The occurrence is wholly accidental. A simple road accident howsoever disastrous it may be, in terms of human lives lost and injuries suffered, it may not be treated as an occurrence caused with intent. Existence of tyre marks clearly indicate that the driver of the truck had braked and tried to avoid the collision.

46. Referring to the C.D.R., it has been submitted, neither that is wholly certified under Section 65B of the Indian Evidence Act nor it establishes presence of any of the accused at the time and place of occurrence. In the context of established animosity, it has been stressed - a completely false prosecution story emerged before the trial court. The learned court below has erred in convicting all the appellants. In any case, the ingredients of offence under Sections 147, 149 I.P.C. were never made out. Similarly, no ingredient of the offence alleged under Section 120B I.P.C. is made out.

47. To support his submissions on the delayed F.I.R. and its effect, reliance has been placed on the decision of the Supreme Court in **Jafarudheen & Ors. vs State of Kerala, (2022) 8 SCC 440** and also in **Khema @ Khem Chandra & Ors., State of U.P., (2023) 10 SCC 451**, to support his further submission that no reliance may be placed on evidence led by the witnesses whose statements may be recorded very late during investigation, again, reliance has been placed on the aforesaid two decisions.

48. Further, reference has been placed on the decision in **Khema (supra)** to submit, if the presence of an injured witness is doubtful, the prosecution story may not be believed solely because the prosecution has relied on witness claimed to have been injured in the occurrence.

Here, by way of fact, no injury was suffered by any of the eye-witnesses, examined at the trial.

49. Reliance has also been placed on **Khema (supra)** to submit long standing animosity may itself create reasonable doubt in the prosecution story.

50. Further reference has been placed on **Ravindra Singh vs State of Punjab, (2022) 7 SCC 581** to submit, in absence of due certification under Section 65B of the Indian Evidence Act, electronic documents may not be read as evidence.

51. Last, relying on **Vijayan vs State of Kerala, (1999) 3 SCC 54**, it has been stressed, to succeed on the charge of criminal conspiracy, the prosecution must establish a connection between the alleged conspiracy and the act. To establish that there existed an agreement between the parties to do an unlawful act, there must further exist some material from which it may be established, there existed a connection between the alleged conspiracy and the act done, pursuant thereto.

52. On the other hand, learned A.G.A. would submit - undeniably, the occurrence involved gruesome death of eight members of one family. In that, maximum damage was inflicted on two branches of the family, namely, Udaiveer Singh who alongwith his two sons, namely, Samarveer and Shyamveer and one grandson Divya, son of Samarveer died. Other four who died in the same occurrence were also members of the same clan being collaterals. In that, Gaurav Veer [son of Brajveer (P.W.-1)], his wife Kalpana, daughter Vasu, son Pranav also died. Arising from such a shocking occurrence witnessed by the first informant, he may have lost sense of time and ability to rationally think and act involving lodging the F.I.R. The first priority would have remained to attend to the deceased and the injured that too after he would have been able to gather himself and enabled enough, to act. To the extent the occurrence was seen with naked eyes, the sense of shock would have been so disastrous that it would have paralyzed the conscious faculties of the witnesses to

act with promptitude as suggested by learned counsel for the appellants. It is on record, other people had come out to help. In that, the injured were carried to hospitals. Four persons died on the spot. Other four were taken to the District Hospital Muzaffarnagar whereas those grievously injured were taken to Gangaram Hospital, Muzaffarnagar and from there to Anand Hospital, Meerut. One of them, namely, Udaiveer was taken to Fortis Hospital, Gurgaon. The condition of the injured remained serious. Four of them succumbed to their injuries, on 13.7.2011, 14.7.2011, 15.7.2011 and 25.7.2011. Therefore, it cannot be doubted that the occurrence was of such devastating magnitude and of such scale that it may be imprudent to test the prosecution story on the anvil of the strict timelines - of promptitude of F.I.R. being lodged, within an hour or so.

53. To the extent, Brajveer (P.W.-1), Rajveer were the elder male members of their clan and they were travelling without their wives and to the extent Sonia and Kamlesh were lady members of their family – one being the widowed daughter-in-law and other their sister, they were travelling in the Indica Car while others were travelling in the jeep. Shock was suffered by all four persons seated in the Indica car. Therefore, Brajveer Singh (P.W.-1) stayed back to make arrangements - to transport the dead and the injured and other occupants of the jeep, to safety. He was able to ensure and supervise that transportation. Thereafter, the said Brajveer Singh (P.W.-1) travelled to Meerut, to attend to the grievously injured Udaiveer. Only on his return therefrom, he could prioritize the lodging of the F.I.R. He lost no time thereafter and lodged the F.I.R. at 6:30 p.m. Therefore, there is no inordinate or unreasonable delay in the F.I.R. being lodged. Neither the prosecution story nor the presence of Brajveer Singh (P.W.-1) may be doubted, for reason of the F.I.R. lodged after 8 hours, of such a devastating occurrence.

54. Referring to the F.I.R. allegations, it has been submitted, it contains the gist of the prosecution story as was narrated and established at the trial. Neither any material improvement was made nor any material

contradiction emerged, despite extensive cross-examination of Brajveer Singh (P.W.-1), Paramveer (P.W.-2) and Reetu (P.W.-3). Though such cross-examination extended over days and months, those prosecution witnesses remained wholly true to the prosecution story, as narrated by them, during their examination-in-chief. In that, they clearly narrated that before the occurrence, they saw the Wagon-R car travelling in the opposite direction, being driven by Meenu @ Vandana Tyagi wherein other accused namely Mamta, Anil, Shubham, Akash and Lokesh were seated. Those persons waved (to the truck following them) - in the direction of the jeep and shouted to the driver of the truck, to collide it with the jeep. They further proved that the truck was being driven by Upendra wherein Manoj, Mohit, Vinod and Harveer, Vidit and Pramod were seated. No reasonable doubt emerged during the cross-examination of those witnesses, on that count. Therefore, the prosecution story, to that extent remains wholly true and duly proven.

55. Then, the said witness further proved that Gaurav Veer tried to avoid the collision by veering to his left. However, he could not avoid the collision for constraint of space. In that, Upendra first collided the truck on the right side of the jeep that remained on its side of the lane/road. He backed out and collided the truck for the second time, resulting in the injuries and deaths caused to the occupants of the jeep. In absence of any doubt as to that nature of the occurrence, the theory of accidental occurrence is wholly unbelievable and non-existent. Once the truck was collided against the jeep, for the second time, element of accidental occurrence may never exist.

56. As to doubt being expressed with respect to lack of serious injuries to all the occupants of the jeep, it has been stressed - luck, chance or fate may have saved those occupants. It is not uncommon that even in most serious occurrences, some occupants escape unhurt or with minor injuries though many others may suffer grievous injuries as may result in death.

57. Insofar as the issue of criminal conspiracy is concerned, heavy reliance has been placed on the evidence led by Rishipal Singh (P.W.-4) and Angreju @ Shaukeen (P.W.-8). Merely because there may be some delay on the part of Rishipal Singh (P.W.-4) in making his statement to the police, his evidence may not be discarded for that reason alone. To the extent, the Investigation Officer Lala Ram Verma (P.W.-18) was not doubted on the issue of delay in recording the statement of Rishipal Singh (P.W.-4), no undue credence may be given to that objection.

58. At the same time, it may be kept in mind that the defence wholly relied on false evidence to meet the evidence led by Rishipal Singh (P.W.-4). Inasmuch as Kamlesh Singh (D.W.-1), the Jailor of District Jail, Muzaffarnagar clearly led false evidence to establish that Vikki Tyagi had been lodged in District Jail, Muzaffarnagar at 3:41 p.m. on 04.07.2011 and to the extent, it came out during his cross-examination that the said Vikki Tyagi was not lodged in that jail, that day, it is clear that every effort was made by the accused Vikki Tyagi to hoodwink the Court by leading false evidence, through government functionaries.

59. In any case, the evidence led by Angreju @ Shaukeen (P.W.-8) is to the extent, he first established that he had purchased the truck alongwith his partner Aijaz and had later sold it (after repairing it), to Bobby Sharma @ Vineet Sharma and Bablu @ Ajay Shukla, in the name of Mahendra. Mahendra was not a bonafide purchaser.

60. Referring to the cross-examination statement of the said witness, it has been stressed that no reasonable doubt emerged in the evidence led by Angreju @ Shaukeen (P.W.-8), that the truck had been purchased by the above described accused persons. Therefore, non-production of Mahendra by the prosecution loses significance.

61. Sri Jai Prakash Singh, learned counsel for the informant would submit, the disclosure statement of the Wagon-R car recovered at the pointing out of Meenu @ Vandana Tyagi is equally important to the extent it remained undisputed that the said vehicle did not have a

registration plate and its engine/chassis number were found wiped out/erased with a grinder machine. It clearly indicates pre-existence of conspiracy inasmuch as that vehicle was found hidden under a hay stack. Further, conspiracy as an offence may not be established, through direct evidence, only.

62. Besides the submission advanced by learned A.G.A.-I and the recovery of Wagon-R car, it is also clear that animosity was suffered by the deceased Udaiveer and his family. First, animosity existed for reason of Udaiveer and other family members being involved in the murder of Dharampal that gave rise to motive with Dharmendra, Ravindra and Upendra. Second, motive arose to Sushil Shukla, Vinod Tyagi @ Baboo and Bablu @ Ajay Shukla as also the Vikki Tyagi and Meenu @ Vandana Tyagi for reason of them being accused and convicted for offence of murder of Satish Tyagi, a close business associate of the deceased Udaiveer in which murder case the said Udaiveer had done 'pairvi'. Therefore criminal conspiracy came to be hatched as was narrated by Rishipal Singh (P.W.-4) and Angreju @ Shaukeen (P.W.-8).

63. Third, it has been stressed, the second collision caused by the truck *ipso facto* proves beyond reasonable doubt that occurrence was deliberate and not accidental.

64. All other submissions advanced by learned counsel for the appellants to indicate delays and mistakes and lapses on the part of the Investigation Officer may pale into insignificance in view of such facts clearly proven. He has relied on **Gurpreet Singh Vs. State of Punjab, Neutral Citation : 2025 INSC 957**.

65. Having heard learned counsel for the parties and having perused the record, before we may proceed to consider the exact submission advanced, certain undisputed facts may be noted. First, there is absolutely no doubt that collision of two motor vehicles did take place on 11.07.2011 involving the jeep and the truck at about 10:30 a.m. near Baetkali tri-junction, on Rohana-Muzaffarnagar road. Second, the front

right side of the truck collided on the right side of the jeep. Third, at the time of that collision the truck was travelling at high speed on its wrong side of the lane i.e. the side of the road on which jeep was coming from the opposite direction, as of right. Fourth, there is also no doubt that in the nature of occurrence disclosed and it was established that the driver of jeep did make effort to avoid the collision inasmuch as he had tried to drive his vehicle further left, to avoid the oncoming truck that was on a collision path with that jeep. Fifth, arising in that collision, undeniably eight persons namely the driver of the jeep-Gaurav Veer, alongwith Samarveer, Shyamveer, Kalpna, Divya, Pranav, Vasu and Udaiveer died. Sixth, it is also admitted, certain communications emanated (on their own appraisal by the police authorities), at the relevant time i.e. in the morning hours of 11.07.2011, that the occurrence was accidental. Seventh, the F.I.R. came to be lodged at 6:30 p.m., the same day, by Brajveer (P.W.-1). Eighth, out of eight who died, four died on the spot. Their Inquest Reports and autopsy examination were conducted the same day. In the Inquest Reports, none of their close family members became witness. Ninth, there is no denial to the fact that there pre-existed animosity between the victims and their family and the accused persons. That animosity may be summarised on three counts :

(i) Dharmendra, Ravindra, Upendra all sons of Bhopal and residents of village Baheri Khurd are described to have borne animosity towards Udaiveer and others, for reason of Udaiveer and his others family members being accused in the murder of their father Dharampal, who was killed in 1991.

(ii) Sushil Shukla, Vineet Sharma @ Bobby, Ajay @ Bablu, all residents of Beheri village are described to be persons who bore animus towards Udaiveer, for reason of their conviction in the murder of Satish Tyagi, a close business associate

of Udaiveer in which murder case Udaiveer may have done '*pairvi*'.

(iii) Similarly, Vikki Tyagi and Meenu @ Vandana Tyagi, both residents of village Pawti were also described to be persons who bore animus towards Udaiveer for the same reason of his doing '*pairvi*' in the murder trial of Satish wherein those accused also came to be convicted.

66. Keeping those undisputed or undeniable or admitted facts in mind, we have to test the prosecution story whether the occurrence of collision between a heavy motor vehicle namely the truck and a light motor vehicle i.e. jeep (wherein both vehicles were travelling in opposite directions also involving the truck travelling on its wrong side of the road), was a deliberate act and not an accidental occurrence.

67. Keeping that nature of the occurrence in mind, we are mindful in such a case direct evidence of deliberate act may never be established as in any other case of murder. It is so, because normally, a vehicle is not a weapon. It is driven by a human being. At the same time, it is true, sometimes motor vehicles are used to cause such heinous occurrences, as well. Therefore, neither there is a presumption in favour of the accused nor against them. Yet, the Court may remain mindful that the evidence that may be led in such cases may not be of a variety wherein the accused is seen to have shot at or strangled or assaulted the victim with any weapon. The injuries would also be different and largely irrelevant, where occurrence is proven.

68. Therefore, the prosecution story may first be tested on the well established principle - if there exists any reasonable doubt in the narration offered by the fact witnesses and if at all such doubt arises, the extent to which it may dilute the prosecution story, whether in entirety or against any individual accused.

69. Coming to the submission advanced by learned counsel for the appellants, first, the occurrence took place at 10:30 a.m.; the police station Kotwali at about 10 km away from the place of occurrence, information was broadcast on the police RT set that an accident had taken place, at around 10:30 a.m. [as stated by Raj Kirti Singh (P.W.-6)]; The field unit of FSL submitted its report dated 23.07.2011 based on its observations of the accident site suggesting accidental occurrence; Brajveer who is the elder brother of the deceased Udaiveer and closely related to the other deceased was not an injured person; he was not travelling in the jeep but in the Indica car that was following the jeep; he neither lodged the F.I.R. any earlier nor he carried any of the injured to the hospital nor he is a witness of the Inquest.

70. With respect to the submission that the F.I.R. was delayed, it may be noted that the first informant Brajveer (P.W.-1) was travelling in the Indica car that was following the jeep. Three other persons were sitting in that car namely his brother Rajveer, his sister Kamlesh and Sonia wife of pre-deceased - Amarveer. For reason of his travelling in the car not involved in the collision, he never claimed any injury.

71. During his examination, he proved, the Wagon-R Car driven by accused Meenu Tyagi, was travelling in the opposite direction and was in front of the truck, that caused the collision. In that, he placed Mamta Tyagi, the wife of Dharmendra, (who is the son of Bhopal), alongwith Anil, Subham, Akash and Lokesh. They waved to the driver of the truck, namely, Upendra and exhorted him to collide the truck against the jeep. He further claimed, he heard the occupants of the Wagon-R Car instruct Upendra (driver), to kill the Chairman and his entire family i.e. Udaiveer. In that, his son-Gaurav Veer, who was driving the jeep tried to save the collision by driving the jeep to its left. Having caused the collision once, Upendra reversed the truck and collided it with the jeep the second time. Thereafter, the occupants of the truck, namely, Upendra (driver), Manoj, Mohit, Vinod, Harveer, Vidit and Pramod jumped out and fled into the jungle, speaking words to the effect that they had

fulfilled their object. The occupants in the Wagon-R Car fled towards Gohana. He further proved, the occurrence was seen by his brother Rajveer and the ladies of his house. Many people gathered at the place of occurrence. They somehow pulled out the occupants of the jeep, with great difficulty. The injured were transported to Muzaffarnagar Government Hospital on vehicles passing by and thus came to be arranged. Samarveer, Gaurav Veer, Shyamveer and Udit were declared brought dead. Udaiveer was referred to Anand Hospital, at Meerut. Brajveer (P.W.-1) went there. After returning from Muzaffarnagar, he prepared the Written Report and got the F.I.R. registered.

72. In sum and substance, it has been submitted, if Brajveer (P.W.-1) had been present at the time and place of occurrence, there may have existed no reason to let him survive. Though, the truck was collided with the jeep, no attempt was made to cause similar occurrence with the Indica car, in which the said witness was travelling. If the object of the assailants was to kill the entire clan of Udaiveer, the occurrence as narrated would remain incomplete or inconsistent to the object disclosed by the prosecution. Second, stress has been laid to the fact, the conduct offered by Brajveer (P.W.-1) is wholly unnatural for the reason of his not attending either to the deceased or the injured. In fact, he took all the time in the world to lodge the F.I.R. - after about eight hours from the occurrence. In the meantime, the police authorities made their own inspection and found that the occurrence was accidental. Only to settle old scores, a false prosecution narration emerged.

73. During his cross-examination, Brajveer (P.W.-1) was first asked questions as to when he started from village Badhai Khurd and at what time it took him to reach the place of occurrence. He described, the journey started around 10.30 a.m. and they had reached the place of occurrence, around 11.00 a.m. On being questioned, why he had disclosed the time of occurrence around 10.30 a.m. in the F.I.R., he stated, there may be some error in that. He denied owning a mobile phone. He also could not recollect if his son Paramveer had a mobile

phone. He denied, he had reached the place of occurrence after being informed by one Sanjay. He maintained, he stayed back for 15 minutes. Thereafter, he went to the hospital. There he stayed for about 10 minutes. He further narrated, others who had gathered at the place of occurrence had pulled out the passengers from the jeep and then carried the injured to the hospital. He denied, any injured or deceased was taken to the hospital on the Indica car, in which he was travelling. He maintained, he took Radhika to the hospital. He denied having made any call to the Police, in the meantime. He also could not recall the time when his son Paramveer (P.W.-2), went to the hospital or whether he met them there. Yet, he maintained the condition of Udaiveer was very serious. He was referred to Meerut for better treatment and that he went to Meerut in that connection. At that time, he was not aware if any other injured had been referred to a higher medical center, at Meerut. He also maintained, he had reached the post-mortem house around 7.30-8.00 p.m. During his further cross-examination, he also maintained, he had spent some time at the place of occurrence and gathered valuables of the deceased. In that, he had collected the mobile phones of the deceased Gaurav Veer, Samarveer and Udaiveer, from their pockets. He maintained, after the first collision was caused, the truck was reversed and the second collision was caused with great force. He maintained, he had only brought the injured Radhika, the wife of Samarveer, in the car. She was taken to Muzaffarnagar Hospital, where she was treated for her injuries. However, he could not recall, who examined the said Radhika or who got her examined. He also denied knowledge that Jitendra and Neeraj, both bystanders, were injured in the occurrence. He was also not aware of any case lodged by or on behalf of those persons.

74. He also admitted, the possibility that those sitting behind the driver of the truck, may not have been visible to him, while he was seated in the Indica car. He also admitted, as many as about 14 accused persons were residents of village Badhai Khurd, while six others belonged to other village. He also admitted, the deceased Udaiveer had contested the

election of Block Pramukh against the accused Vikki Tyagi but that he lost that election.

75. Thus, we observe, though examined over a long duration beginning 04.07.2014 and ending 18.02.2016 i.e. over one and a half year, over many dates, involving his cross-examination statement running into scores of pages, he continued to maintain the basic fabric of his narration. Therein, he disclosed, without any flaw that he was travelling in the Indica car that was following the jeep. He also maintained, the occurrence was deliberately caused by the driver of the truck and that after causing the first collision, the said driver reversed the truck and caused the second fierce collision with the jeep. Besides that consistent narration, he also maintained, he came out of the vehicle after the occurrence was over and saw the assailants i.e. Upendra and the other occupants of the truck flee into the jungle. He got busy in taking care of the injured and the deceased but did not accompany either to the hospital. His car remained with him till he left with Radhika. Thereafter, he visited Muzaffarnagar Hospital and travelled to Meerut, to attend the grievously injured. Only after he returned to Muzaffarnagar, he lodged the F.I.R.

76. To test the prosecution story, we may first examine if there was an occasion for the said witness to travel in a separate car that may have followed the jeep being driven by Gaurav Veer. It would be useful to consider the occupancy of the jeep, as disclosed. In the first place, it cannot be denied, the eight deceased were sitting with others travelling in the jeep. Four were seated in the Indica car.

77. The other occupants of the jeep are described to be Paramveer (P.W.-2), who is the brother of Gaurav Veer. His wife, namely, Reetu (P.W.-3), his son Harsh and daughter, namely, Vineesha (injured). In the first place, Gaurav Veer (son of Brajveer (P.W.-2) and his sons, namely, Pranav and Vasu died.

78. The other son of Brajveer, namely, Paramveer (P.W.-2) was travelling in the vehicle with his wife Reetu (injured-P.W.-3) and their children Harsh and Vineesha. Then, Udaiveer alongwith his two sons, namely, Samarveer and Shyamveer (all three dead) was also travelling in that jeep. In that, Samarveer (dead) was travelling with his wife Radhika (injured but not examined) and their children, namely, Divya (dead) and Daksha.

79. Clearly, the prosecution has narrated that the families of Brajveer Singh (P.W.-1) and his brother Udaiveer Singh were traveling in the jeep. It is also not disputed to the defence that Brajveer Singh (P.W.-1) had an elder brother Rajveer Singh. In the context of such fact narrated in which almost the entire family of Brajveer Singh and Udaiveer Singh, including their sons, wife and grand-children were travelling, the prosecution story further narrates that Brajveer Singh (P.W.-1) was travelling with his elder brother Rajveer Singh, sister Kamlesh and Sonia, widow of the pre-deceased son of Rajveer Singh, namely, Amarveer Singh.

80. The consideration of the above fact is found relevant to the extent the prosecution has successfully established - almost all members of the clan of Brajveer (P.W.-1) and the families of Gaurav Veer and Udaiveer were traveling in the jeep. It is not uncommon, when a clan moves in such manner, more than one vehicle is employed. Often, the elderly are accommodated relatively more comfortably than those who may be younger in age. Here, Rajveer Singh, the elder brother of Brajveer Singh (P.W.-1) was driving the Indica car while his son Gaurav Veer was driving the jeep. In that, his youngest brother Udaiveer who was the 'Chairman' of the cooperative society, was sitting next to the driver i.e. Gaurav Veer. It is also not disputed to the defence that a plate with word written 'Chairman' was affixed to the said jeep. That undoubted narration clearly exists in the prosecution story narrated through Brajveer Singh (P.W.-1). For that reason as well, the presence of Udaiveer in that jeep may not be doubted.

81. Thus, almost the entire families of the three brothers were moving which is indisputable from the deaths caused to those family members of Brajveer Singh (P.W.-1). As noted above, the presence of two motor-vehicles for that purpose, is wholly normal. In that, one vehicle was following the other is also wholly normal. That may also remain beyond doubt. At what distance a vehicle may follow another (in such circumstance), may not be a matter to doubt the prosecution story when the consistent narration offered by Brajveer Singh (P.W.-1) during his examination at the trial that his Indica car was following the jeep, at a distance of 15-20 paces. That clearly indicates, both vehicles were moving together. Here, we note, in normal circumstances, it is difficult for a person sitting in a vehicle following the other in usual or normal way over long distance, that too as a passenger (not a driver) to make an exact assessment of the distance between the two vehicles. To the extent it has been narrated that the second vehicle i.e. Indica car was trailing the jeep and both were travelling with occupants closely related, no undue importance may be given to the fact that Brajveer Singh (P.W.-1) placed the Indica car very close to the jeep. It would be safe to infer that the two vehicles were travelling at a safe distance from each other, both unmindful of the occurrence that was to unfold. To the extent, it has not been narrated that the Indica car was trying to overtake the jeep, that assessment of fact made on the strength of evidence led, may not be avoided. Seen in that light, no doubt arises as to the presence of Brajveer Singh (P.W.-1), on that count.

82. As to observations made by Brajveer Singh (P.W.-1) he narrated, he first saw the Wagon-R car driven by Meenu Tyagi approached from the other side of the road followed by the truck and further, the driver of the Wagon-R, namely, Meenu Tyagi and others gestured to the truck driver to collide the truck with the jeep and had also exhorted the driver Upendra to do that, requires some consideration. To that extent, the prosecution witness narrated, Meenu Tyagi was driving the Wagon-R, that is a common observation possible to be made in such circumstances

where the parties were not only known from before but had experienced bad relations/animosity, from before. Further, to the extent, the said witnesses consistently narrated that Meenu Tyagi was gesturing Upendra i.e. driver of the truck (that was trailing the Wagon-R), to collide his truck with the jeep, it may also not be doubted, that it may have been observed by a person seated in the Indica car that was trailing the jeep, both travelling in the same directions on a single lane road.

83. However, the further statement made by the said witness that Meenu Tyagi and all others were verbally exhorting the driver Upendra to cause the collision and finish the family of the Udaiveer requires deeper consideration. The prosecution has clearly narrated all vehicles were moving. None was parked and none stopped before the occurrence. Also, the said witness has narrated that the truck was being driven at a fast speed while it was trailing the Wagon-R driven by Meenu Tyagi with Mamta, Anil, Shubham, Akash, Lokesh seated therein. That appears to be a complete embellishment in the prosecution story. When both vehicles were moving together, consistent to the ocular evidence led by the prosecution that the truck was being driven at a high speed, the technical evidence proved that the right side of the jeep was completely smashed, while the front of the said vehicle was intact. It is difficult to accept that the Wagon-R that was being driven in front of the truck could have been travelling at a slow speed. To allow that is to allow for the impossible to exist wherein the fast moving truck that was trailing the Wagon-R on a single lane road managed to collide when the jeep coming from the opposite direction while completely avoiding to collide against the Wagon-R, from behind. Here, we are mindful that in technical reports, it has come on record that there is no element of overtaking involved in the occurrence. Once the truck was not trying to overtake any vehicle when it caused the occurrence, the presence of a slow moving Wagon-R so close and in front of the fast moving truck, in the same lane, one behind the other, as may have allowed the occupants of

Wagon-R to exhort the driver of the truck to cause the collision, is doubtful.

84. However, the prosecution story that Meenu Tyagi gestured Upendra to cause that collision does not inhere or involve such disability. To gesture is to wave a hand. That may be enough to cause such an occurrence. According to the prosecution story, Meenu Tyagi was driving the vehicle Wagon-R ahead of the truck only to correctly identify the vehicle i.e. jeep with which the collision was to be caused. Having made that gesture, Wagon-R moved on. There is absolutely no involvement of the said Wagon-R in the occurrence as narrated by the prosecution. Therefore it may not have been shown on the site plan prepared by the Investigation Officer.

85. In view of that appraisal made by us, we find, it was distinctly possible for Brajveer Singh (P.W.-1) to observe that Meenu Tyagi was driving the Wagon-R, leading the truck at high speed and also that she gestured the driver of the truck to cause the collision with the jeep in which Udaiveer was travelling with his family members. That admits of no reasonable doubt. To the extent that prosecution witness has further narrated element of exhortation (as discussed above), we find that to be an embellishment that may be separated from the trustworthy part of his narration which ends with the fact that he saw Meenu Tyagi gesture to Upendra, to cause the occurrence.

86. As to the occurrence, he maintained, Gaurav Veer tried to avoid the collision by moving to his left. However, the vehicle could not go beyond a point for reason of culvert obstructing the path of the jeep. In that circumstance, the truck collided against the jeep on its right side. For that occurrence, the truck would have travelled completely to its wrong side. It hit the near stationary jeep on its right side but not on its front. To that extent, we find, due corroboration from the technical evidence that the driver of the jeep tried to avoid the collision but the driver of the truck made no such effort and further, the front of the jeep

was involved in the collision. The tyre marks are also indicative, that the truck did not try to go left.

87. Then, Brajveer Singh (P.W.-1) further proved - having caused the occurrence once, Udaiveer reversed the truck and dashed against the jeep, second time. That narration he maintained throughout, over days and months. Besides asking the same question again and again, the defence did not confront him with any other fact to doubt his narration that the truck collided against the stationary jeep, the second time. It is relevant that after the first collision, the jeep was wholly stationary, it having been damaged extensively. That assumption may be safely drawn on the strength of the evidence on record. Both vehicles first collided while the truck a heavy motor vehicle with much larger wheels and road clearance is more strongly built, with heavy metal parts, the first impact would have been enough to immobilize the jeep as it did not overturn but was smashed. To cause that second collision, in that circumstance, establishes the intent of the driver of the truck, beyond reasonable doubt. To that extent that part of the narration made by Brajveer Singh (P.W.-1) was not contested beyond the point of putting that question again and again, no reasonable doubt exists in the prosecution story of the second collision. The issue of tyre marks on the road was not tested to create any doubt that those marks may not have been caused, as the truck would have backed out, before causing the second collision. Similarly, having caused that occurrence, Upendra fled without any opportunity to collide the truck with the Indica car.

88. What survives for consideration is presence of Brajveer Singh (P.W.-1), keeping in mind the fact that he did not lodge the F.I.R. promptly and further keeping in mind the fact that he did not make any effort to take any of the injured to the hospital in the car in which he was traveling. In the first place, the response offered by Brajveer Singh (P.W.-1) or any person who may have witnessed such an occurrence, whether accidental or deliberate, has to be seen in the context of magnitude of the same. Here, eight persons [all close relatives of Brajveer Singh (P.W.-1)] died

in a single occurrence that would have lasted barely for a few minutes. In that, his son, brother, wife of his brother, nephew and grand-children died. Four of them died on spot including his son Gaurav Veer. It would have had a numbing effect on his senses and faculties. It is difficult to weigh on a scale or a standard how a person placed in that circumstance may react. However, it is beyond any doubt that any person would suffer an extreme shock at becoming a witness of such an occurrence.

89. In the Indica car there were four occupants namely Brajveer (57 years of age), his elder brother Rajveer Singh, Sonia (widowed daughter-in-law) and sister Kamlesh. None of the persons thus accompanying him were persons who may have taken control of the situation. They would all have been all in a state of extreme shock. It is in that backdrop that the said witness proved, he stayed back for some time, gathered some valuables of the deceased only; arranged for transport for the injured, to the hospital in the vehicles of passers byes who stopped, and then left for the District Hospital Muzaffarnagar to check the well being of the injured survivors. In the meantime the police arrived, but could not have met him, as he had left for the hospital. There, he learnt that the condition of his younger brother Udaiveer was very serious and that he had been referred to a higher medical center, at Meerut. He travelled to Meerut, to attend to his younger brother Udaiveer. In doing all that, time was lost. When he reached back Muzaffarnagar, he lodged the F.I.R. at the first instance, at 6:30 p.m. In the meantime, Inquest Reports had been prepared.

90. Though the defence had suggested to the said witness that he was not present at the place of occurrence and he learnt of the same much later from one Sanjay, there is no basis to entertain that doubt. First, as noted above, the fact that the entire clan of Brajveer was travelling in two motor vehicles, is wholly natural. Second, there is no material to accept either that Brajveer was carrying a mobile phone or that he had a mobile phone or that he admitted that any mobile phone was used during the time between the occurrence and the F.I.R. being lodged. No phone

number belonging to Brajveer was shown to exist. Therefore, it is not difficult to accept that in the year 2011, Brajveer may not be carrying a mobile phone. There is no basis to accept, either that he had access to or was comfortable using mobile phones as may have allowed him to use that device of any other person or that he would have prioritized the lodging of F.I.R. over his grave and immediate concern to ensure the well being of the injured while dealing with the extreme loss of life suffered by him. Being in a state of extreme shock, he may have worked mechanically or as may have either been suggested to him or as he may have responded to on the basis of his appraisal/perception of facts, as they existed. To the extent, he narrated that he first stayed back to ensure that the injured were carried to the hospital, it appears to be a wholly natural concern of an elder family member who had suffered such an occurrence, whether accidental or intentional.

91. Second, gathering pieces of valuables of the deceased may also remain a very natural and normal activity in that circumstance, even though the person may have performed such task in a state of extreme shock. Third, since not less than eight persons were grievously hurt, four of whom died on the spot, it is equally natural to accept that the first vehicle that may have become available and whose driver may have agreed to carry the injured to the District Hospital, Muzaffarnagar, may have carried the injured to that hospital. The witness Brajveer may not have insisted that the injured be carried in the Indica car.

92. Then, in the circumstance that three other persons were travelling in the Indica car, it may also not be very prudent to accept that those persons (also closely related to the deceased), would have been in a better state of mind to drive the injured to the hospital. Further, since Brajveer and those travelling in the Indica car were seeking to secure the injured and the valuables and were dealing with that trauma of four deaths and another four seriously injured, it may not have occurred to them to either use the Indica car and in any case they may have left some space especially for themselves, especially the ladies - one sister and one

widowed daughter-in-law of Brajveer and to keep the retrieved items of the deceased etc. Obviously, there may have been no priority to transport those three persons (as passengers of the Indica car), first and in any case two being ladies may not have been left to fend for themselves in that condition while Brajveer or his elder brother Rajveer may have used the car to drive the injured to the hospital. Here, we also note, no suggestion was thrown at that witness, if he could drive the car.

93. Seen in that light, though by way of hindsight wisdom, it may be claimed by a neutral observer that affairs should have been managed otherwise as may appear more prudent, that may not be the test to be applied to doubt the prosecution story. What is to be seen is if the facts narrated by the prosecution are consistent and free from reasonable doubts. To the extent, a witness is obligated to speak the truth to the Court, the matter may end there. The test of truth may not be applied on the strength of most efficient human behaviour that may be expected, in such circumstance, that too by way of hindsight wisdom. In the first place, that test does not exist and second, it would be unwise and too harsh a test, as there is no scale to judge standard human behaviour, in such extreme circumstances. Individuals may react differently to similar situations and at times the same individual may react differently at different places or at different times or at different stages of his life. Therefore, that test may not be used or applied on such assumptions, to discard an otherwise trustworthy prosecution witness.

94. To the extent, the presence of Brajveer is natural and his narration found to be plausible and not improbable or inconsistent to human behaviour, he remains a reliable witness who has offered a truthful narration of the occurrence. Only embellishment offered by him is confined to his further narration that he heard the accused Meenu @ Vandana Tyagi, Mamta, Anil, Shubham, Akash and Lokesh and of others (besides Upendra) travelling in the truck and the accused, other than Upendra, being present at the place after the occurrence. That

embellishment, is clearly not linked to his narration as to the basic occurrence. Therefore, we discard the same.

95. Coming to Paramveer (P.W.-2) in the first place, as discussed above his presence on the vehicle may not be doubted. Considering all members of the family of Brajveer were travelling in two vehicles, in that widowed daughter-in-law and a sister of Brajveer were travelling in the Indica car, there is no reason to doubt that he was not present at the time, in the jeep. He too claims to have been injured. However, that injury was never proven. At the same time, it cannot be doubted that Gaurav Veer who was driving vehicle, died in the occurrence alongwith his wife and two children. Then, it is also his case that his own wife Reetu (P.W.-3) was also travelling. She has been examined as an injured witness. In the nature of the entire occurrence wherein the entire family of Paramveer (PW-2) was travelling, his presence may not be doubted. During his cross-examination, he claims, he stopped a vehicle and travelled therein with his injured wife Reetu (P.W.-3) and his two children Vineesha and Harsh and reached the hospital at around 11:40 a.m. However, he could not recall the make of that vehicle or the particulars of the driver. From the District Hospital Muzaffarnagar they were referred to Ganga Ram Hospital Muzaffarnagar situated at a distance of 300 metres from the house of his uncle Rajveer (not examined). He further claimed that his wife Reetu (P.W.-3) and his daughter were admitted to the hospital. No other member of his own immediate family was medically examined. It was thus indicated that neither he nor his son were medically examined. However, he also could not recall the claim of his family members that were admitted to the District Hospital Muzaffarnagar. He denied having spoken to his father Brajveer at his residence. His wife was discharged after about two days. He did not visit other injured persons but continued to attend to his wife and children. He maintained that his son was not injured in the occurrence while his wife who was sitting on the back seat was injured. He also mentioned that his first statement was recorded after about a

month of the occurrence. Here we may note that his statement under Section 161 Cr.P.C. may have been recorded after about 20 days as described by the witness. However, the Investigation Officer proved that his statement was first recorded on 28.8.2011 which would be about 1 ½ month after the occurrence. Majorly, the submission of learned counsel for the appellant is - if the accident was so fierce, the said witness who was seated on the first passenger seat of the left side may never have survived unhurt. We find the submission to be speculative. There is no rule in that regard. To the extent, the occurrence was not caused head on, and to the extent the front of the jeep including its grill were intact and further to the extent that the collision had been caused on the right side, the passenger sitting on the front but to the extreme left of that seat may not necessarily suffer injuries in that nature of the occurrence disclosed and proven. Chance, luck or providence play a major role in such occurrences. To the extent no inherent improbability is seen to exist in the nature of occurrence disclosed wherein it may have been impossible to accept that the said witness could not have survived unhurt, we may not doubt the presence of the said witness because he was not hurt or because his statement was recorded late. Though cross examined at length, the said witness did not make any inconsistent narration – either with reference to the narration offered by Brajveer (P.W.-1) or Reetu (P.W.-3), as to the seating arrangement inside the jeep. It has been consistently narrated by all those witnesses that Paramveer (P.W.-2) was seated next to Udaiveer who was seated next to Gaurav Veer who was driving the vehicle. The brunt of the collision has been borne by the right side of the jeep and therefore by the two deceased Gaurav Veer and Udaiveer who were seated to the right of this witness. In occurrences such as this, involving moving vehicles, little body movements at the time of the impact alter the manner in which shock may be transferred from the outer most surface of the vehicle to the passenger sitting inside. That itself may inhere in it numerous possibilities both as to injuries being caused and being avoided, by an individual.

96. In any case what Paramveer (P.W.-2) has proven nothing new or over and above what his father Brajveer (P.W.-2) has proven and has found our acceptance. To the extent, the said witness also narrated that Meenu Tyagi and other occupants of Wagon-R car had verbally exhorted Upendra to collide the truck with the jeep, has been found to be doubtful, that narration made by this witness remains equally doubtful, for the same reason.

97. However, there is no reason to doubt that the said witness would have first attended to his immediate family, of whom two were injured, namely, his wife and daughter. For that purpose he may have waved down any passing vehicle with request to be taken to the district hospital Muzaffarnagar. That is found to be a natural and normal human transaction or conduct. The fact that he could not recall with exact details certain facts, following the traumatic experience wherein he alongwith his wife and two children survived while other very close members of his family including his brother Gaurav Veer, his wife and two children had died, all seated inside the same jeep, may not doubt the conduct of such a witness on the anvil of normal human behaviour. To the extent it is wholly natural and normal for such a person to attend to immediate family needs, we find no reason to disbelieve his presence at the time of occurrence. Again, to the extent there was no mobile phone available with the said witness, it may not be inferred that the said witness did not inform the police immediately, about the occurrence.

98. As to the nature of injuries suffered by his daughter Vineesha and his wife Reetu (P.W.-3), it is true that Vineesha was barely 5-6 years of age on the date of occurrence. Her injury was proven by Dr. Ajay Pawar (P.W.-20) who proved that the said child was in a state of shock when first examined by him on 11.7.2021. She was administered fluids and one unit blood. She was then referred to higher medical centre. Her OPD prescription was proved as Ex.Ka-82. Though cross examined, no reasonable doubt was created by the defence if such treatment had not been offered to Vineesha or she had not been referred to a higher medical

centre. Further, Dr. Prashant Rastogi Orthopedic surgeon was examined as P.W.-21. He proved the treatment offered to Vineesha at Anand hospital, Meerut wherein she was operated, for a fracture injury. Clearly, the child was present in the jeep. Presence of that young child in the jeep, in the entirety of facts and circumstances of the case is itself indicative of the fact that her entire family was travelling wherein her father Paramveer (P.W.-2) would also have been present. It also explains the conduct of Paramveer (P.W.-2) who would have remained preoccupied to attend to his injured child and also his wife.

99. In the entirety of the appraisal made above, the presence of Paramveer (PW-2) in the jeep may not be doubted. The fact that he did not suffer any injury, himself may also not relied to doubt his presence in view of the discussion made above. The fact that he had not suffered injuries may not doubt his reliability or credibility as the prosecution witness of the occurrence. Only to the extent that he too like his father Brajveer (PW-1) narrated that Meenu Tyagi and others (travelling in the Wagon-R) car had spoken words to the effect directing the truck driver Upendra to cause the collision and to the extent other than Meenu Tyagi other accused was placed in that vehicle and further to the extent, Manoj Mohit, Vinod, Harveer, Vidit and Pramod had been placed inside the truck, we separate and thus discard that part of his deposition. The rest has an unbroken ring of truth about the occurrence and the manner in which it was caused. To the extent, he remains a reliable witness.

100. Insofar as Reetu (PW-3) is concerned, she was seated on the back seat of the jeep, on the left side i.e the passenger side. She was sitting behind her husband with her daughter Vineesha. To the extent the injuries of Vineesha are found proven, and further for the reason given to establish the presence of Paramveer (PW-2) is also been found established, in the context of almost the entire family of Brajveer (PW-1) travelling, there is less reason to doubt the presence of said Reetu (PW-3) in the jeep, especially when her daughter Vineesha who was barely 6-

8 years old was travelling in that jeep. Normally children that tender in age are accompanied by their parents, in such travels.

101. At the same time, as to the injuries suffered by her, there is discrepancy. During her oral evidence, the said witness claimed that she had suffered a fracture injury on her leg. However, that fracture injury was never proven by leading any medical evidence. Second, Dr. Rajesh Marwah (PW-19) was examined by the prosecution to prove the injuries suffered by said Reetu (PW-3). He, tried to establish that Reetu had suffered a fracture injury to her lower jaw. At the same time, the first statement of Reetu was recorded on 04.10.2011 which would be about 3 months after the occurrence. Also, Dr. Rajesh Marwah (PW-19) admitted that his statement was never recorded during investigation. The prescription that he produced in Court though marked as an exhibit was not part of the Case Diary. To that extent we find, her injuries to be not reliable. At the same time, in the entirety of discussion made above, her presence may not be doubted for that reason. In the peculiar facts of this case where the presence of her husband as also her young daughter who was clearly injured in the occurrence has been believed, merely because the prosecution did not lead effective evidence to prove her injuries, we may not treat her as an unreliable witness or accept that therefore this witness was not present inside the jeep. We also note, she too was sitting on the left bench behind the left passenger seat of the jeep. That front seat was occupied by her husband Paramveer (P.W.-2). The death suffered by Gaurav Veer and Udaiveer was for reason of their proximity to the right side of the jeep that collided with the truck. Other deceased were also sitting on the right side bench, behind the driver of that jeep.

102. At the same time, she was cross-examined extensively as to the seating arrangement inside the jeep. In that she narrated that Gaurav Veer was driving the vehicle while Udaiveer was sitting next to him, to his left and Paramveer was sitting to the left of Udaiveer Singh with a child in his lap. On the bench behind Paramveer, first was seated one sister-in-law(‘devrani’) of the witness. Seated next to her were the two children.

She was sitting next to them i.e. last. On the other bench behind the driver, her two brother-in-laws who would be Samarveer and Shyamveer (considering the relationship of the deceased/injured with the witness), were seated alongwith another sister-in-law of the witness with her children sitting in her lap. All persons sitting on right bench behind the driver died in the occurrence. To that extent her evidence bears the same ring of truth as established by Brajveer (PW-1) and Paramveer (PW-2). To the extent the said witness also tried to prove that the occupants of the Wagon-R car had verbally exhorted Upendra – driver of the truck to cause the collision and besides Upendra, there were others sitting in the truck, may not be free from doubt.

103. In view of the above, we find the witness to be reliable to the extent she has narrated the manner in which the occurrence was caused i.e by a deliberate act wherein after the first collision, Upendra reversed the truck and again collided it against the jeep, for the second time. To that extent, the ring of truth established by the said witness remains unbroken and consistent to the other evidence led at the trial.

104. On that appraisal of the fact evidence led by three prosecution witnesses relied by the prosecution namely Brajveer (PW-1), Paramveer (PW-2) and Reetu (PW-3), we find no error in the order of conviction drawn by the learned Court below in convicting the accused Upendra of causing a deliberate occurrence resulting in the death of eight persons belonging to the family of Brajveer (PW-1).

105. The issue then arises, if the other accused persons have been rightly convicted with the aid of Sections 147, 149 I.P.C and Section 120-B I.P.C. To apply Sections 147 and 149 I.P.C, the prosecution has simply relied on the presence of Manoj, Mohit, Vinod, Harveer, Vidit and Pramod alongwith Upendra inside the truck. No other act has been attributed to them in causing the occurrence as proven by the prosecution. They are described to be persons who were seated beside or behind Upendra. After the occurrence had been caused, they jumped out of the truck and uttered words to the effect that their object had been

achieved and fled on foot, into the jungle. That narration is not free from reasonable doubt. In the first place, it remains a fact that the driver of the truck is seated at a considerable height involving difference of about 4-5 feet above the seat of a person who may be seated in a jeep. Second, in the nature of occurrence involved, it is difficult to accept that a motivated assailant such as Upendra would have been accompanied by six other persons, to cause the collision that would necessarily involve receiving a physical shock by all persons seated in the truck as well, as the occurrence would involve a fast moving heavy vehicle such as the truck coming to a sudden halt on the collision being caused. Moreover, it is further doubtful, if the person sitting in a vehicle such as an Indica car or a jeep would have a clear view of the occupants of the truck, besides the driver, who may be seen seated right in front and be therefore visible.

106. In that view of the matter, we do not find the prosecution story believable to the extent it narrates that Manoj, Mohit, Vinod, Harveer, Vidit and Pramod had common object to cause the occurrence. Remarkably, while the prosecution has made efforts to prove elements of criminal conspiracy against the other set of accused, it has not led evidence to establish existence of common object with the above named accused persons. Those accused are therefore found entitled to a benefit of doubt.

107. The other set of accused persons namely Meenu Tyagi, Mamta, Anil, Shubham, Akash and Lokesh were made accused for charge of offence for criminal conspiracy. They were convicted with aid of Section 120-B I.P.C. In that Meenu Tyagi is wife of Vikki Tyagi, the master mind according to the prosecution story. That conversation occurred between the co-accused namely Dharmendra, Ravindra, Bablu @ Ajay Shukla, Bobby Sharma @ Vineet Sharma and Bobby Tyagi @ Vineet Tyagi and Meenu Tyagi. It was over heard by Rishipal Singh (PW-4). It lead to unraveling of criminal conspiracy. The prosecution has further relied on the evidence led by Angreju @ Shaukeen (PW-8) to establish

participation in criminal conspiracy by Bablu @ Ajay Shukla and Bobby @ Vineet Sharma who had purchased the truck from the said Angreju.

108. As in the case of Manoj, Mohit, Vinod, Harveer, Vidit and Pramod, so in the case of Mamta, Anil, Shubham, Akash and Lokesh, this set of accused came to be named only for reason of description made by Brajveer (PW-1), Paramveer (PW-2) and Reetu (PW-3) that they were seated in the Wagon-R car driven by Meenu Tyagi. The evidence of those witnesses that they over heard these persons exhort Upendra to collide his truck with the jeep has been disbelieved by us. To the extent, that exhortation may never have arisen in the entirety of the occurrence disclosed wherein the Wagon-R car was driving in front of the fast moving truck, before it collided with the jeep, we are unable to accept the role assigned to the accused Mamta, Anil, Shubham and Lokesh. Those accused are also similarly found entitled to a benefit of doubt.

109. Insofar as the remaining surviving accused Meenu Tyagi, Ravindra, Bablu @ Ajay Shukla, Bobby Sharma @ Vineet Sharma and Bobby Tyagi @ Vineet Tyagi are concerned, the same requires consideration on the strength of evidence led through Rishipal (PW-4) and Angreju (PW-8).

110. Rishipal (PW-4) did prove that on 04.07.2011 around 4-4:15 p.m., he over heard a conversation between the accused persons Vikki Tyagi, Meenu Tyagi, Sushil Shukla, Bablu @ Ajay Shukla, Bittu (not accused), Dharmendra and Ravindra, while he was eating at a road side stall, at the District Court premises. In that he heard Sushil Shukla informed Vikki Tyagi that the vehicle had been arranged. Around that time, Dharmendra and Ravindra arrived. They were asked by Vikki Tyagi what they thought of Udaiveer the Chairman as he had made their lives miserable. Dharmendra and Ravindra are disclosed to have informed - all preparations have been made and the work would be done.

111. Admittedly, the said witness did not inform Udaiveer or his family members about the same though he had some relationship with them. During his cross-examination, it came out that he was a practicing

lawyer at Tehsil, Devband. He was also a notary who had some practice on the criminal side. Therefore, his presence at the District Court may not be doubted. Such a person who may have private practice, may travel to the District Court as well. Though it is true that he did not inform Udaiveer and his family about what he had heard though it is also true that his statement was recorded late on 04.07.2011, we may remain mindful of the fact that the evidence of conspiracy may be discovered only later - during the course of investigation. It is not evidence that may arise by way of direct evidence of the occurrence as seen by observer/witness. While fact witness of actual occurrence are expected to be prompt in reporting their observations, the same may not be true of witnesses of criminal conspiracy. The element of criminal conspiracy may come to surface only later, during the course of investigation into the facts, that may be direct. Therefore, an element of time gap between the initial investigation and the time when such occurrence was first disclosed, may always exist.

112. Second though doubted for reason of delay, the defence chose to lead evidence through the Jailer, District Jail, Muzaffarnagar, Kamlesh Singh (DW-1). As has been noticed above, that witness spoke only falsehood. It is sad and indeed remarkable that a government official that too a Jailer of a District Jail chose to lead evidence first to indicate to that Court that Vikki Tyagi was lodged at the District Jail, Muzaffarnagar from where he was sent to the District Court on 04.07.2011 and where he returned before 04:00 P.M., the same day. Yet, during his cross-examination the truth spilled out from his mouth. He could not deny that the accused Vikki Tyagi was not lodged at Muzaffarnagar District Jail. To that extent the defence itself tried to set up a wholly false plea. Therefore, in the entirety of the discussion we find that the evidence of Rishi Pal (PW-4) to be reliable to the extent he proved the facts of involvement of Vikki Tyagi, Meenu Tyagi, Sushil Shukla, Bablu @ Ajay Shukla, Dharmendra and Ravindra, in hatching and participating in a criminal conspiracy to kill Udaiveer and his entire family.

113. Insofar as Angreju @ Shaukeen (PW-8) is concerned, he proved that the truck was earlier owned by him and his partner Aijaz Ali. On paper it was sold to Mahendra. At the same time he also proved that that sale transaction was confirmed and completed by the accused persons Bablu @ Ajay Shukla and Bobby @ Vineet Sharma. He gave full details of the manner of the transaction wherein the sale was agreed at Rs. 3,00,000/-. Of that he received Rs.2,49,000/- in parts, in cash. Rs. 1,000/- that had been paid to him in torn currency was never replaced and paid and he also did not receive the balance of Rs.50,000/-.

114. It is also established that to the extent that, the registered owner of the truck Mahendra was a former employee of Sushil Shukla (accused in this case), it is shown how and in what situation those accused persons may have obtained the necessary details of Mahendra, to purchase the vehicle.

115. To the extent the said witness Angreju @ Shaukeen (PW-8) proved the fact occurrence of truck purchased by the accused Bobby Sharma @ Vineet Sharma and Bablu @ Ajay Shukla against documents of Mahendra, the non-examination of Mahendra is of no consequence. Since the prosecution never claimed that Mahendra had purchased the vehicle, his examination as a prosecution witness was wholly unnecessary. Only his name had been used to describe the purchase transaction – to hide the criminal conspiracy but the purchase of the truck had not been made by him. Though extensively cross-examined, no reasonable doubt exists in the evidence led by Angreju @ Shaukeen (PW-8) to the facts proven by him that the accused Bablu @ Ajay Shukla and Bobby Sharma @ Vineet Sharma had purchased the vehicle from him and that Bobby Sharma @ Vineet Sharma had driven that vehicle.

116. To the extent the registered owner who sold the truck to the accused persons was examined by the prosecution and his evidence is found reliable, it is of no relevance that broker/mechanic through whom the sale transaction may have been initially negotiated, was not examined.

117. Consequently, **CRLA No. 5846 of 2022 filed by Ravindra and Dharmendra, CRLA No.-5731 of 2022 filed by Bablu @ Ajay Shukla and Bobby Sharma @ Vineet Sharma, CRLA No.5816 of 2022 filed Smt. Meenu @ Vandana Tyagi are dismissed.**

118. The other appeals being **CRLA No.5732 of 2022 filed by Harveer Singh , CRLA No.- 5770 of 2022 Bobby Tyagi @ Vineet Tyagi, CRLA No.5773/22 filed by Anil and Shubham, CRLA No.5776/22 filed by Vidit, CRLA No.5956/22 filed by Mamta and Mukesh, CRLA No.5985/22 filed by Vinod, Manoj and Pramod are allowed, on a benefit of doubt.**

119. Consequently, Ravindra, Dharmendra (in CRLA No. 5846 of 2022), and Bobby Sharma @ Vineet Sharma (in CRLA No.-5731 of 2022) who are on bail may surrender on or before 17th October, 2025 to serve their sentence. Subject to their surrendering by the stipulated time, their bail bonds shall stand cancelled and sureties discharged. Failing the above mentioned appellants surrendering within the time specified, learned trial Court is directed to take coercive measures to secure arrest of the appellants and lodged back to jail. The appellants-Harveer Singh, Bobby Tyagi @ Vineet Tyagi, Anil, Shubham, Vidit, Mohit, Mamata, Lokesh, Vinod, Manoj and Pramod are on bail. They need not surrender. Their bail bonds are cancelled and sureties discharged. However, they are directed to furnish bail bonds in compliance of Section 437-A Cr.P.C. to the satisfaction of the court below concerned.

120. A copy of this judgment alongwith original record of the trial Court 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.

(Tej Pratap Tiwari,J.)

(Saumitra Dayal Singh,J.)

September 24, 2025

Faraz/Prakhar/SA/Abhilash/Manoj/Anurag/PS