



2026:DHC:5596-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 22.05.2026
Pronounced on: 14.07.2026

+ CRL.A. 354/2003
STATE (GOVT.OF NCT OF DELHI) Appellant

Through: Mr. Aman Usman, APP with
Mr. Manvendra Yadav, Adv. &
Insp. Deepak Sharma, PS
Naraina, New Delhi

Versus

BUDH RAM & ANR. Respondents

Through: Mr. S.N. Parashar & Mr. Ritik
Singh, Advs. for R-2

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. State takes exception to the judgment dated 17th August, 1999 passed by the learned Additional Sessions Judge, New Delhi [**“Trial Court”**] whereby, the respondents namely Budh Ram and Smt. Kamlesh were acquitted of all the charges levelled against them in SC No. 112/1996 in case FIR No. 58/1996, registered at PS Naraina, under Section 302 read with Section 34 of the Indian Penal Code, 1860 [**“IPC”**].

FACTUAL MATRIX:

2. The brief facts of the case, as per the charge sheet, are that on



2026:DHC:5596-DB



09th March, 1996, at about 5.20 pm, an information was received at PS Naraina about a murder at *Jhuggi* No. B-248, NIA, Phase-I. The said information was recorded *vide* DD No. 22-A (Ex. PW-15/A). The copy of the DD entry was handed over to SI Manoj Kumar (PW-19), who along with Constable Sanjeev Kumar (PW-11) left for the spot. PW-21 also received the information on wireless and thereafter proceeded to the spot. On the way, PW-21 learnt that the incident had taken place at *Jhuggi* No. W-4/B-77, Indira Gandhi Camp, NIA. He accordingly reached at the said *jhuggi*. SI Manoj Kumar and other police officials were already present there.

3. Upon inspection of the spot, PW-21 found the dead body of Jangli Ram lying on a cot with deep cut over the neck. A lot of blood was lying on the *dari*, quilt, clothes of the deceased as also on the floor. A vegetable cutting knife with blood stains was lying on the floor. One more knife having small blade without handle was also lying nearby. It was also having blood on it.

4. No eye witness was present at the spot. PW-21 prepared the *rukka* Ex. PW-21/A and sent the same at the police station through PW-11 Ct. Sanjiv Kumar, on the basis of which, Duty Officer recorded the FIR (Ex. PW-15/B).

5. Crime Team and Dog Squad were called at the spot. Crime Team inspected the scene of crime. The photographs of the site were taken by a private photographer. The sketches of both the knives (Ex. P-3 & Ex. P-4) were prepared. Both the knives, blood stained quilt (Ex. P-1), blood stained *dari* (Ex. P-2), blood earth and earth control were lifted from the spot and were kept in separate pullandas, which



2026:DHC:5596-DB



were sealed with the seal of “MM” and seized *vide* separate seizure memos. The body was sent to Safdarjung Hospital for post-mortem.

6. During investigation, the statements of the two child witnesses Gudia (PW-1) and Ladli (PW-2), who are stated to be the eye witnesses of the occurrence, were recorded on 11th March, 1996. Their statements were got recorded under Section 164 of the Code of Criminal Procedure, 1973 [“Cr.PC”] on 23rd March, 1996. Both accused were arrested on 26th March 1996.

7. Dr. G.K. Chaubey (PW-14), conducted the post-mortem on the body of the deceased and prepared the post-mortem report (Ex. PW-14/A). As per the opinion of the doctor, the cause of death was haemorrhagic shock due to incised wound over the neck, which could be produced by a sharp-edged weapon and was sufficient to cause death in ordinary course of nature. Later on, the knives were produced before the doctor, who gave the subsequent opinion that both the knives could produce the injuries mentioned in post-mortem report (Ex. 14/A) (injury No. 1 & 3).

8. *Viscera* was preserved and was sent to CFSL for examination.

9. On completion of investigation, charge sheet was prepared under Section 302/34 IPC and both the accused were sent to Court for trial.

10. Charge under Section 302/34 IPC was framed against both the accused, to which, they pleaded not guilty and claimed trial.

11. In order to prove its case, prosecution examined 21 witnesses including two child witnesses Ms. Gudia (PW-1) and Ms. Ladli (PW-2), who were the alleged eye witnesses of the occurrence. After



2026:DHC:5596-DB



completion of prosecution evidence, statements of both the accused were recorded under Section 313 Cr. P.C., wherein, they stated that they were innocent and were falsely implicated. Accused Budh Ram stated that on 09th March, 1996, there was an engagement ceremony of the son of his brother and he and his wife remained busy there throughout the day at their residence. He further stated that Moti, father of Ladli (PW-2), was inimical to him, and due to strained relationship, he falsely implicated him and his wife Kamlesh by projecting the juvenile girls as witnesses of the occurrence. He further stated that he was mercilessly beaten up by the Investigating Officer and kept in custody for several days. According to him, on 20th March, 1996, he suffered injuries due to the kick given by the IO in his stomach, resulting in surgery at Lady Harding Medical College. Accused Kamlesh also stated that on 09th March, 1996, on account of engagement ceremony of the son of his brother in law at their house, she and her husband remained busy throughout the day at their residence.

12. In their defence, accused had examined three witnesses. DW-1 is Yogesh Kumar. He produced the medical record from Lady Harding Medical College. He deposed that Budh Ram was admitted in Lady Harding Medical College on 21st March, 1996 for Appendix operation and was discharged on 23rd March, 1996. DW-2 is Puran, and DW-3 is Smt. Sheela. They were examined by the accused in order to prove the *alibi*. They deposed that both the accused had attended the engagement function on 09th March, 1996.

13. *Vide* judgment dated 17th August, 1999, the learned Trial Court



2026:DHC:5596-DB



was of the view that that the prosecution failed to prove its case against both the accused beyond a reasonable doubt, and accordingly, acquitted them.

14. Unfortunately, during the pendency of the appeal, respondent No. 1 Budh Ram expired and proceedings *qua* him stood abated *vide* our Order dated 21st April, 2026.

SUBMISSIONS ON BEHALF OF THE APPELLANT/STATE:

15. Mr. Aman Usman, learned APP for the State, submitted that the impugned judgment is based on conjectures and surmises and is contrary to the law and facts of the case. It was submitted that the learned Trial Court erred in holding that the prosecution witnesses contradicted each other. Rather, no material particular contradiction is established on record and the presence of the two child witnesses, that is, PW-1 Gudia and PW-2 Ladli, who were aged about 3.5 years and 6 years respectively at the time of the incident, is also proved beyond doubt. It was argued that the learned Trial Court erred by not relying upon the testimonies of the two child witnesses, who were the eye witnesses to the occurrence. They were playing near the spot and were therefore natural witnesses of the occurrence.

16. The learned APP submitted that the learned Trial Court also erred in concluding that PW-1 and PW-2 of their having seen the murder of Jangli, appears to be doubtful on the ground that their conduct was unnatural, inasmuch, after seeing the crime, they did not cry or shout to draw the attention of the other people. The learned APP submitted that each person reacts differently in different



2026:DHC:5596-DB



situations and merely because the child witnesses did not create any hue & cry upon seeing the murder, cannot be a ground to disbelieve their testimonies.

17. It was further argued that the learned Trial Court ignored that the testimony of PW-1 and PW-2 find corroboration from the testimonies of their respective mothers to whom they had informed about the incident.

18. It was further argued that the learned Trial Court overlooked the opinion of PW-14 Dr. Chaubey, who conducted the post-mortem, that injuries No. 1 & 3 could be caused with knives Ex. P-3 & Ex. P-4, which were recovered by the police.

19. It was further submitted that the testimonies of PW-4 and PW-5, mothers of PW-1 and PW-2 respectively, lent corroboration to the prosecution case, inasmuch as, they deposed that their children disclosed the incident to them, where after, they informed the same to the police. The attention of the Court is also drawn to the testimony of PW-4, who testified that respondent No. 2 Kamlesh was the wife of Budh Ram and was also referred to as his “Saali”, thereby, explaining any confusion regarding her identity. It was further emphasized that PW-3 Om Prakash, a post-occurrence witness, stated that when he reached at the *jhuggi*, the deceased was found lying in a pool of blood with the door half closed, which is consistent with the child witness PW-2’s version. It was further argued that the Investigating Officer’s findings also corroborated the testimonies of the child witnesses, inasmuch as, the deceased was found lying on the bed with a quilt over him, exactly as described by PW-1 and PW-2. The post-mortem



2026:DHC:5596-DB



conducted on 11th March, 1996 at 10:00 am, opined the time of death to be approximately 48 hours, which was stated to align with the timing narrated by the child witnesses.

20. The learned APP further submitted that the Trial Court erred in acquitting the accused by failing to properly appreciate the ocular evidence of PW-1 and PW-2 and by overlooking the CFSL reports Ex. P.X and Ex .PY. It was argued that although the nail clippings of the accused were taken after two months and no serological report could be furnished due to insufficiency of blood, such lapses in investigation cannot enure to the benefit of the accused, when there is otherwise reliable ocular evidence on record. It was contended that prosecution was not required to establish motive as direct eyewitness testimonies were available and therefore the absence of proof of motive does not dilute the prosecution case. It was further argued that no suggestion was put to the prosecution witnesses during trial regarding any strained relationship between Ladli's father and the accused persons, thereby, ruling out the defence theory of false implication.

21. It was argued that the testimonies of the child witnesses are credible, reliable, and in consonance with each other on all material particulars. It was contended that both the child witnesses consistently deposed that they had seen the deceased being murdered inside his *jhuggi* by respondent No.1 Budh Ram, who slit the throat of the deceased with a knife while respondent No. 2 Kamlesh assisted him by holding the deceased's mouth. It was argued that their versions under Section 161 and 164 Cr. PC and in their testimonies before the Court remained materially consistent on the core facts and they



2026:DHC:5596-DB



identified both the respondents. It was further argued that minor contradictions in their testimonies are natural considering the tender age of the witnesses, and therefore, merely on account of the same, they cannot be disbelieved. It was also submitted that there is no material on record to suggest that PW-1 and PW-2 were tutored or planted witnesses and accused cannot be acquitted on account of any lapse, if any, on the part of the investigating agency.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO. 2/ KAMLESH:

22. The learned counsel for respondent no. 2 Kamlesh submitted that the prosecution case suffers from serious inconsistencies and improbabilities, which go to the root of the matter. It was argued that the entire case hinges upon the testimonies of the two child witnesses, PW-1 Gudia and PW-2 Ladli, whose versions are contradicted by the site plan Ex. PW-21/C as well as by the Investigating Officer (PW-21). PW-1 Ms. Gudia claimed that she had seen the occurrence from the window. However, this is in contradiction with the testimony of PW-21, who stated in cross examination that the *jhuggi* was having only one door and had no window and therefore the testimony of PW-1 that she witnessed the occurrence through the window, stands falsified.

23. The learned defence counsel further submitted that the stand of the prosecution had been that the eye witnesses met the police on 11th March, 1996, that is, two days after the incident. However, PW-10, in



2026:DHC:5596-DB



cross examination, stated that the statements of such witnesses were recorded at the spot on 09th March, 1996 itself.

24. It was argued that the identities of the respondents were known from the very beginning but they were arrested on 26th March, 1996, after a delay of about 20 days, for which, there is no explanation.

25. It was further argued that respondents were falsely implicated due to prior enmity between Moti, father of PW-2 Ladli and respondent Budh Ram. It was further contended that the medical evidence also does not support the prosecution version, inasmuch as, the post-mortem was conducted on 11th March, 1996 at 10.00 am, and as per post-mortem report, the time of death was approximately 48 hours earlier, meaning thereby, the death occurred between 10.00 – 11.00 am on 09th March, 1996, whereas, the child witnesses claimed to have seen the incident during the afternoon. This discrepancy in timing coupled with contradictions in the testimonies of the alleged eye witnesses and absence of recovery of weapon of offence from the accused and the defence plea of false implication arising out of prior enmity, create serious doubt in the prosecution case, thereby, entitling the respondents to the benefit of acquittal.

ANALYSIS AND REASONING:

26. The entire prosecution case hinges on the testimonies of the two child witnesses PW-1 Ms. Gudia and PW-2 Ms. Ladli, who are stated to be the eye witnesses of the occurrence. Before we proceed to undertake the analysis of their testimonies, it is necessary to understand how the testimony of the child witness should be looked into and applied.



2026:DHC:5596-DB



27. The Indian Evidence Act, 1872 (**Evidence Act**) does not describe any particular age as a determinative factor to treat a witness to be a competent one. On the contrary, Section 118 of the Evidence Act envisages that all persons shall be competent to testify, unless the Court considers that they are prevented from understanding the questions put to them or from giving rational answers to these questions, because of tender years, extreme old age, disease; whether of mind, or any other cause of the same kind. A child of tender age can be allowed to testify if the has intellectual capacity to understand questions and give rational answers thereto.

28. In **Radhey Shyam v. State of Rajasthan**, (2014) 5 SCC 389, the Hon'ble Supreme Court reiterated that the evidence of a child witness must be subjected to close scrutiny to rule out the possibility of tutoring. It can be relied upon if the Court finds that the child witness has sufficient intelligence and understanding of the obligation of an oath. As a matter of caution, the Court must find adequate corroboration to the child witness' evidence. If found reliable and truthful, and corroborated by other evidence on record, it can be accepted without hesitation.

29. In **Pradeep v. State of Haryana** reported in **2023 SCC OnLine SC 777**, the Hon'ble Supreme Court emphasized on the importance of preliminary examination of a child witness. It held that although oath cannot be administered to a child witness under 12-years of age yet, as per Section 118 of the Evidence Act, it is the duty of a Trial Judge to conduct a preliminary examination before recording the evidence of the child witness to ascertain if the child is able to understand the



2026:DHC:5596-DB



questions put to him and that he is able to give rational answers to the questions put to him. It held that the Trial Judge must record its opinion and satisfaction that the child witness understands the duty of speaking the truth and state why he is of the opinion that the child understands the duty of speaking the truth. It further held that the questions put to the child in the preliminary examination must also be recorded so that the appellate court can go into the correctness of the opinion of the Trial Court. The Hon'ble Court further held that corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence. A child witness of tender age is easily susceptible to tutoring. However, that by itself is no ground to reject the evidence of the child witness. The Court must make a careful scrutiny of the evidence of the child witness and apply its mind to the question whether there is possibility of a child witness being tutored.

30. Similarly, in ***Ratansinh Dalsukhbhai Nayak v. State of Gujarat*** reported in (2004) 1 SCC 64, the Hon'ble Supreme Court explained that although child witnesses are considered as dangerous witnesses as they are pliable and liable to be influenced easily, shaped and moulded, yet it is an accepted norm that if after careful scrutiny their testimony is found to inspire confidence and truthful, then there is no obstacle in accepting the evidence of such child witness.

31. Recently, this Court in the case of ***R. Santosh Kumar v. State (NCT of Delhi)*** 2026:DHC:5129-DB, based on the above exposition of law laid down by the Hon'ble Supreme Court, held that the evidence of a child witness stands on the same footing as any other



2026:DHC:5596-DB



witness as long as the child is found to be competent to testify. However, while assessing the testimony of the child witnesses, the Court has to find out as to whether such witness is reliable due to susceptibility of the children of falling prey to tutoring. While appreciating the testimony of the child witness, the Court has to assess whether the evidence of such witness is voluntary expression and not borne out of the influence of others and whether the testimony inspires confidence. The insistence of corroboration is only a measure of caution and prudence that the Court may exercise if felt necessary in the particular facts and circumstances of the case.

32. Coming back to the present case, upon appreciation of the evidence of the two child witnesses, we find that they cannot be regarded as reliable witnesses. Their testimonies are riddled with serious inconsistencies, contradictions and infirmities. They contradicted each other on material aspects. Even the other witnesses examined in support of prosecution case are also not trustworthy as their testimonies are also suffering from infirmities and thus making the prosecution version doubtful.

33. PW-1 Gudia and PW-2 Ladli claimed to have witnessed the murder of Jangli when, while playing with marbles, one marble went near the *jhuggi* of the deceased Jangli. When examined in Court, they were not administered oath as they were of tender age and did not understand the meaning and sanctity of oath. After preliminary questioning, the learned Trial Court observed that they understood the duty of speaking the truth. Their testimonies were recorded in question-answer form.



2026:DHC:5596-DB



34. The most glaring infirmity pertains to the very manner in which the incident is alleged to have been witnessed. According to PW-1, she saw the gruesome murder taking place from the window of the *jhuggi* of the deceased, while the door was closed. However, PW-2 Ladli stated in her cross-examination that there was no window in the *jhuggi* of Jangli and that they witnessed the occurrence through the partly open door. The Investigating Officer (PW-21) in cross-examination confirmed that there was only one door in the *jhuggi* and the *jhuggi* did not have any window. The site plan also does not show any window in *jhuggi* of the deceased. Thus the very vantage point from which the PW-1 claims to have seen the incident is non-existent. Moreover, it also appears improbable that any person committing the murder would keep the door or window open, thereby, enabling the outsiders to witness the crime.

35. PW-1 in her examination-in-chief stated that she had not seen as to whether Jangli was present inside the *jhuggi* or not, however, immediately thereafter when asked as to whether she saw anything at the *jhuggi* of Jangli, she stated that inside the *jhuggi* of Jangli, accused Budh Ram was there and he was cutting the throat of Jangli with a knife and one more person was also there who was holding the legs of Jangli. The statement made by the PW-1 is therefore, not consistent inasmuch as she gave two versions in the same statement regarding the presence of Jangli in the *jhuggi*. Moreover, PW-1 introduced the presence of a third person in her deposition before the Court, which is in contradiction to the testimony of PW-2 Ladli who did not depose about the presence of the third person at the time of incident.



2026:DHC:5596-DB



36. PW-2 in her examination-in-chief initially stated that Gudia had gone to fetch the marble, saw something and then informed her, thus suggesting that PW-2 was not an eye witness of the occurrence from the inception. Only upon query by the learned Trial Court, did PW-2 alter her narration by stating that Gudia called her after witnessing the incident and she also witnessed the incident when she went with Gudia (PW-1). Such vacillation on the very genesis of witnessing the crime casts serious doubt on whether PW-2 actually saw the incident at all.

37. PW-1 deposed that at the time of incident Budh Ram's wife was also present and she had gazed the mouth of Jangli while Budh Ram was cutting the throat of Jangli. This, however, was not stated by her in her statement to the police recorded under Section 161 Cr.P.C. on 11.03.1996. Even though she claimed that she gave such statement to the police, but when she was confronted with her previous statement Ex. PW1/DA, the said fact was not found recorded therein. Same is the situation with regard to the testimony of PW-2 Ladli, as she had also not stated in her statement under Section 161 Cr.P.C. (Ex.PW2/DA) dated 11.03.1996 that accused Kamlesh had gazed the mouth of Jangli. Thus, there are improvements in the testimonies of PW-1 and PW-2 from their statements recorded under Section 161 Cr.P.C. regarding role of accused Kamlesh.

38. PW-2 Ladli in her statement under Section 164 Cr.P.C. stated that Budh Ram had not only slit the throat but also cut the abdomen of Jangli with the knife. However, the post-mortem report (Ex. PW14/A) does not show any stab or cut injury on the abdomen of the deceased.



2026:DHC:5596-DB



The testimony of PW-2 is neither in consonance with the prosecution case nor supported by the medical evidence. This is not just a minor contradiction but a major infirmity in the evidence of PW-2.

39. PW-2 Ladli, in cross examination, stated that after the incident she narrated the occurrence first to the police, whereas, PW-4 Ameena, her mother, deposed that on 10.03.1996 morning, Ladli had informed about the incident of the death of Jangli, and on the same day, she narrated the incident to the police, but the police examined her daughter after two days as she had already sent her to Govind Puri, thus, rendering both versions irreconcilable.

40. Similar contradictions emerged in the testimonies of PW-1 and PW-5 Ruksana, as PW-1, in her examination in chief, deposed that after witnessing the incident, she did not tell her parents or anyone about it, but in cross examination, she stated that she informed the police about the incident on the same very day. On the contrary, the IO categorically deposed that on the day of incident he had not come across any eye witness and according to him, the alleged eye witnesses of the incident met him for the first time between 10.00 – 11.00 am on 11.03.1996. However, PW-5 Ruksana, her mother, deposed that Gudia and Ladli told her the same day at about 4.00 pm that Budh Ram had killed Jangli. These contradictory versions on such fundamental aspects seriously undermines the credibility and truthfulness of the alleged child witnesses and cast a grave doubt on whether they had actually witnessed the incident.

41. What is even more disturbing is that PW-2, who was aged about six years, when specifically asked by the Court as to whether she felt



2026:DHC:5596-DB



scared on witnessing such a gruesome murder, bluntly stated that she was not frightened at all. Such conduct appears wholly unnatural and contrary to ordinary human behaviour, as children of such tender age would ordinarily be traumatised, terrified or at least emotionally disturbed upon witnessing such a brutal incident, thereby, making the testimony of PW-2 highly doubtful and unsafe to rely upon without any independent corroboration.

42. The medical evidence on record further creates a doubt in the prosecution case inasmuch as, as per the post-mortem report, Ex. PW14/A, the time since death was 48 hours and thus calculating, the death took place around 10AM on 09.03.1996. In stark contrast, as per the testimonies of the child witnesses, the incident happened in the afternoon time. The inconsistency between the medical evidence and the ocular testimonies of the child witnesses renders the prosecution timeline doubtful and seriously undermines the reliability of their testimonies.

43. A careful scrutiny of the prosecution evidence further reveals that there is yet another significant circumstance creating doubt in the prosecution case. Even though, the Investigating Officer deposed that on the day of incident, he had not come across any eye witness, and according to him, the alleged eye witnesses of the incident met him on 11th March, 1996. However, PW-10 Constable Rohtash Yadav, who accompanied SI Manoj Kumar (PW-19) at the spot, stated in cross examination that in his presence, IO had recorded the statements of the witnesses, including the witnesses of occurrence. As if, that was not enough, in cross examination, PW-1 Gudia stated that the police



2026:DHC:5596-DB



had caught Budh Ram as also the person who had caught the legs of Jangli. Be that as it may, the statements of PW-1 and PW-2 were recorded under Section 161 Cr. PC on 11th March, 1996, whereupon, the Investigating Officer came to know of the names of the two accused persons. However, they were arrested on 26th March, 1996. No plausible explanation for such a delay has been furnished by the prosecution. Admittedly, it is not the case of the prosecution that accused were absconding. The learned Trial Court rightly drew the inference that two child witnesses were tutored to name the accused persons for the first time on 23rd March, 1996 in their statements under Section 164 Cr. PC, and only thereafter they were arrested. The delay in arrest assumes greater significance because the statements of eye witnesses were not recorded promptly at the spot, thereby casting serious doubt on the reliability of the prosecution version.

44. The alleged weapon of offence i.e., knives were not recovered from the possession of respondents nor pursuant to any disclosure statement made by them, rather as per the prosecution's own case, the knives were found lying near the body of the deceased at the place of occurrence itself. Consequently, such recovery cannot be treated as an incriminating circumstance attributable to the respondent Kamlesh so as to connect her with the commission of the offence. It is equally noteworthy that prosecution has failed to produce any serological or scientific evidence much less any DNA analysis, establishing any biological link between the respondent Kamlesh and the blood found on the weapon or the deceased. In the absence of any such forensic corroboration connecting the respondent with the crime scene, the



2026:DHC:5596-DB



prosecution case rests solely on delayed and doubtful oral testimonies unsupported by scientific evidence. These glaring omissions and unexplained circumstances cumulatively strike at the root of the prosecution case and create a serious dent in the chain of circumstances sought to be established against the respondents.

45. The learned Trial Court while acquitting the accused observed that the child witnesses cannot be said to be reliable witnesses. Their evidence is full of serious infirmities. Both of them contradicted each other on material aspects. The learned Trial Court was also of the view that the other evidence produced by the prosecution is also full of infirmities and not only that the other evidence instead of corroborating PW-1 and PW-2 contradicts them on material points. The relevant paragraphs of the judgment of the learned Trial Court are reproduced as under:

“28. PW1 Gudiya and PW2 Ladli claim to have witnessed the murder of Jangli when one marble with which they were playing went near the jhuggi of the deceased Jangli. Gudiya at one place in her chief examination stated that Jangli’s jhuggi was closed and also that she had not seen whether Jangli was inside his jhuggi or not. Immediately after this answer given by Gudiya she was put a question as to whether she saw anything at the jhuggi of Jangli and then she stated that inside the jhuggi of Jangli accused Budh Ram was there and he was cutting the throat of Jangli with a knife and one more person was also there who was holding the legs of Jangli. Having said earlier that the jhuggi was closed and she had not seen if Jangli was inside his jhuggi or not this later answer of the witness casts doubt on her truthfulness. She is not consistent and that



2026:DHC:5596-DB



is evident also from the fact that she had first stated that the jhuggi of Jangli was closed and later on she said that the window of his jhuggi was open and she had seen the incident through the window. Gudiya's statement that she had seen the murder through the window also gets falsified from the statements of the other eye witness PW2 Ladli as well as that of the Investigating Officer (PW21) both of whom had deposed that Jangli's jhuggi had no window. In the site plan Ex. PW21/C prepared by the IO also no window in the jhuggi of Jangli has been shown. Gudiya also stated in her chief examination that after witnessing the incident she and Ladli went to their respective jhuggis. However, in her cross-examination Gudiya stated that after seeing the incident she and Ladli went for tuition after telling her (Gudiya's) mother whereas Ladli gave another version in her cross-examination. She stated that after Gudiya had picked up the marble which had gone near the jhuggi of Jangli they had played for half an hour thereafter and then both of them had gone to sleep and had woken up in the evening. She does not say that after the incident she and Gudiya had gone for tuition. Gudiya's mother (PW5) also did not say that Gudiya had gone for tuition after telling her on 9.3.96. PW1 had also stated in her chief examination that she had not told about the incident of murder of Jangli to anybody including her parents. But in cross-examination she stated that on the day of the incident the police had come in the evening and she had narrated the incident to the police and in the chief examination Gudiya's mother Ruksana (PW5) also stated that on the day of the incident itself at about 4 PM Gudiya and Ladli had come to her jhuggi and both of them had told her that Budh Ram had killed Jangli. These contradictory versions of material witnesses on material aspects make the prosecution case doubtful and particularly the claim of Gudiya and Ladli being the witnesses to the occurrence. That's not all. There are



2026:DHC:5596-DB



many more infirmities in the prosecution case which cast doubts and doubts in the mind of this court regarding the veracity of testimony of PWs 1, 2, 4, 5 and 21 (IO).

29. PW1 Gudiya had also deposed that at the time of the incident Budh Ram's wife was also present and she had gagged the mouth of Jangli while Budh Ram was cutting the throat of Jangli. This fact was however not stated by her to the police on 11.3.96 when her statement (Ex. PW1/DA) was allegedly recorded. Although she claimed to have so stated to the police but when her statement u/s 161 Cr.P.C. was confronted to her this fact was not found to be recorded therein. Thus, this statement of Gudiya made in court about the involvement of accused Smt. Kamlesh is clearly an afterthought and this fact also casts doubt on the veracity of her evidence. Similarly PW2 Ladli's statement in court about the role of accused Kamlesh in the commission of the crime cannot be believed to be true as she had also not stated in her statement u/s 161 Cr.P.C. recorded on 11.3.96 that accused Kamlesh had gagged the mouth of Jangli. She was also confronted with her statement Ex. PW2/DA wherein this fact was not found to be recorded. Ladli in fact also stated in her cross-examination that she had stated to the police that Budh Ram's wife had caught hold of Jangli's legs and also that in her statement u/s 164 Cr.P.C. she had stated that Budh Ram had cut the throat and abdomen of Jangli. It is thus clear that this witness has given contradictory statements. Her claim that Budh Ram had cut Jangli's abdomen also gets falsified from the post mortem report wherein no injury on the abdomen of the deceased was shown to have been noticed by the Autopsy Surgeon. Ladli's evidence becomes unreliable also from the fact that she stated in her cross-examination that in her statement u/s 164 Cr.P.C. she had stated that Rudh Ram's sali (sister-in-law) had gagged the mouth of Jangli. She also stated



2026:DHC:5596-DB



that sali and wife are different persons and that the sali of Rudh Ram was not present in Court which shows that Rudh Ram's wife had not gagged the mouth of Jangli. As noted already, PW1 Gudiya had deposed that besides Rudh Ram there was one more person present in the jhuggi of Jangli at the time of the incident and that person had caught hold of Jangli's legs whereas Ladli has stated that there was one woman (Sali of Rudh Ram) present at the time of the incident. These different and contradictory versions of Gudiya and Ladli make their claim of being the eye witnesses very much doubtful.

30. PW Gudiya has deposed that she had not told about the incident to anybody including her parents. However, her mother has deposed that both Gudiya and Ladli had told her about the incident at about 4 PM on the day of the incident. On this point also the evidence is contradictory.

31. Gudiya also stated in her cross-examination that on the day of the incident itself she had narrated the incident to the police in the evening when police had come. However, as noticed already, the Investigating Officer had categorically deposed that on the day of the incident he had not come across any eye witness. Thus there are contradictory versions of these witnesses on this vital aspect. These discrepant statements of material witnesses make the prosecution case highly doubtful.

32. There is another reason also to hold that Gudiya and Ladli had not named the two accused as the killers of Jangli and it is that if they had actually named them either on 9.3.96, as claimed by them, or on 11.3.96, as claimed by the Investigating Officer, the two accused would have been arrested immediately as there was no earthly reason for the IO to have not arrested the accused even after having come to know that they were the culprits. It is not the case of the prosecution that the accused were absconding at any stage. All this shows that



2026:DHC:5596-DB



the two child witnesses were tutored to name the accused persons for the first time on 23.3.96 in their statements under Section 164 Cr.P.C.

33. The claim of PWs 1 and 2 of their having seen the murder of Jangli appears to be doubtful also from their most unnatural conduct after seeing the crime. None of them cried nor any of the two shouted to draw the attention of the other children playing around that place and the ladies, who were gossiping (as was stated by Gudiya in her cross-examination), to what had happened to Jangli. Gudiya says she and Ladli after witnessing the murder went for tuition. Ladli says both of them kept on playing for half an hour and then both went to sleep in the house of Gudiya. I am of the view that whether PWs 1 and 2 kept on playing or went for tuition after seeing the murder their conduct was inconsistent with natural human conduct. It is difficult to believe that two girls of tender years would be brave enough to digest all that they saw and take the things so coolly. Ladli says she did not get frightened seeing the murder. It is highly improbable for a girl of about six years. When Ruksana saw Jangli lying in a pool of blood she became unconscious but Ladli says she was not frightened when she was actually witnessing Jangli being killed. It is not believable. Gudiya although said that she was frightened but she also did not raise any alarm and went for tuition. This unnatural conduct of Gudiya and Ladli makes their testimony highly doubtful.”

46. The principles governing appeals against acquittal mandates that when two views are possible, the one favourable to the accused must prevail. The Hon’ble Supreme Court in **Samsul Haque v. State of Assam**, (2019) 18 SCC 161 held that in an appeal against judgment of acquittal, where two views are possible, the judgment should not be



2026:DHC:5596-DB



set aside, even if view formed by the appellate court may be a more probable one. Interference with order of acquittal can only be justified when it is based on a perverse view.

47. Upon an overall consideration of the evidence and the impugned judgment, we find no infirmity in the reasoning or conclusions arrived at by the learned Trial Court.

48. The acquittal is founded on a plausible and well-reasoned view of the evidence. The prosecution has failed to establish the guilt of the respondent Kamlesh beyond reasonable doubt. The benefit of doubt extended by the learned Trial Court is both justified and in accordance with settled legal principles. Interference by this Court in this case is, therefore, not warranted.

CONCLUSION:

49. In view of the aforesaid discussion, we are unable to hold that the prosecution succeeded in proving the guilt of respondent no. 2 Kamlesh beyond reasonable doubt. The testimonies of the child witnesses, which forms the backbone of the prosecution case, do not inspire the confidence necessary to overturn an order of acquittal. We thus find no infirmity or perversity in the judgment passed by the learned Trial Court.

50. Accordingly, the appeal filed by the State is dismissed, and the impugned judgment of acquittal is hereby affirmed.

51. However, the bail bond submitted by the Respondent Kamlesh, shall remain valid for another period of six months from today in terms of Section 481 BNSS, 2023 [erstwhile Section 437-A Cr. PC].



2026:DHC:5596-DB



52. A copy of this judgment be communicated to the learned Trial Court and the concerned Jail Superintendent for information and compliance.

RAVINDER DUDEJA, J.

NAVIN CHAWLA, J.

JULY 14, 2026/na