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

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Judgment delivered on: 27.09.2017

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Crl. A. 1237/2013

HARJEET SINGH @ RAJU

..... Appellant

Through: Mr. Harsh Prabhakar and Mr. Anirudh
Tanwar, Advocates.

versus

STATE OF DELHI

..... Respondent

Through: Ms. Rajni Gupta, APP for State with
Insp. Anil Sharma, P.S. K.N. Katju Marg (Distt.
Rohini, Delhi)

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J

1. The appeal under Section 374(2) of the Code of Criminal Procedure (Cr.P.C.) is against the impugned conviction and sentence dated 16th & 28th May, 2013 respectively, in Sessions Case No. 84/2011 in FIR No. 253/2011 convicting the appellant for offences under Section 302/324 of the IPC. The trial court sentenced the appellant with life imprisonment for offence punishable under Section 302 IPC and also fine of Rs. 10,000/-, in default of payment of fine, he is to further undergo SI for six months. The appellant was further sentenced to rigorous imprisonment for two years and fine of Rs.2000/- for offence u/s. 324 IPC, in default of payment of fine, he is to

undergo a further simple imprisonment for three months. Both the sentences are to run concurrently.

2. The facts relevant for the adjudication of the present appeal are that on 08.06.2011 at about 9.26 pm, an information was received by the police through a phone call about an intense quarrel (*zabardast jhagda*). ASI Gurjant Singh (PW7), alongwith Ct. Hridesh (PW15) and Inspector Yashpal (PW28), the IO, reached the spot of trouble, where they were informed that one injured person Ms. Jaswinder Kaur (PW24 - Jaswinder) and her mother (deceased) Ms. Harbhajan Kaur had been taken to the hospital. A Daily Diary (DD) entry No. 31A was made. The case of the prosecution is that PW24 was residing separately from her husband at House No. G5/381, Sector-16, Rohini, along with her mother (the deceased) and her brothers Gurmeet Singh @ Kainchi (PW3) and Gurbachan Singh @ Ruda Singh (PW25), who is disabled. The appellant lived at house No. G6-128, Second Floor, Sector-16, Rohini with his wife Ms. Rajender Kaur @ Rajni, the other daughter of the deceased. He suspected the character of Jaswinder. He also suspected that his wife was being lured into prostitution by her mother, hence he was inimical towards the deceased and her children and the appellant and his wife would quarrel about the same frequently. On 08.06.2011, at about 9.00 p.m. the deceased was preparing dinner, PW24 was in the balcony, her brother PW3 was in the bedroom and her other brother PW25 was on the sofa eating some food, at their residence. There was on a knock on the door; Jaswinder opened it and saw the appellant standing there with a meat cutter knife; he abused her and entered the house; slapped her and cut her left hand with a blow of the knife; when she raised an alarm, he again attacked her with the knife twice on her back. Upon

hearing the noise, the deceased came to the spot, at which point appellant stabbed her in the stomach, whilst saying that he would finish her. Gurmeet Singh (PW3) came to the spot and tried to catch hold of the appellant, but the latter escaped. The neighbours arrived at the house, someone made a telephone call to the local police while the mother was taken to the hospital by Jaswinder and Gurmeet. On her arrival at the hospital, Harbhajan was declared brought dead. Jaswinder was medically examined. Her statement was recorded and her green coloured suit shirt was seized by the police which she later identified in court.

3. PW1 (Ct. Harish), the photographer, took 20 photographs Ex.PW1/A-1 to Ex.PW1/A-20 and also proved their negatives (Ex.PW1/B-1 to Ex.PW1/B-20. PW2) Ct. Madan Singh took a blood sample of PW24 and her brother, seized the same vide memo Ex.PW2/A and proved the copy of application Ex.PW2/B. PW3, the son of the deceased, identified the accused Harjeet and the green colored kurta as Ex.P2. PW4 (SI Prem Singh) was incharge of Crime Team Control Room. PW5 (Ct. Pape Gawda) deposed that on 09.06.2011 he delivered the FIR to the Metropolitan Magistrate, Joint CP, DCP and other higher officers concerned. PW6 (Dr. Florence Almeida) examined Harbhajan Kaur and prepared MLC No. 4528/11 Ex.PWG/A. She examined Jaswinder Kaur vide MLC No.4527/11 Ex.PW6/B. PW7 (ASI Gurjant Singh) was handed over one-sealed carton containing clothes of the deceased Ex.PW7/A by Ct. Dinesh. PW8 (Ct. Shakeel Ahmad) received a statement of Jaswinder Kaur and rukka from Inspector Yashpal Singh for registration of FIR. PW9 (Dr. Vijay Dhankar) gave his opinion of the injuries of Jaswinder Kaur and proved his report as Ex.PW9/A. The postmortem report Ex.PW12/A was prepared by J.V. Kiran

and he gave a subsequent opinion of the knife as Ex.PW12/B. PW10 (W/Ct. Savita) recorded DD No.26B as Ex.PW10/A. PW11 (Ct. Aaskaran) proved Ex.PW11/A, Ex.PW11/B and Ex.PW11/D. He seized blood stained T-shirt and seized it vide memo Ex.PW11/D. The green colored kurta/ladies suit of PW24 was seized vide memo EX.PW3/A. The accused was interrogated by the IO, his disclosure statement was recorded as Ex.PW11/E and he also proved Ex.PW11/F. PW12 (Dr. J.V. Kiran) proved his PM report as Ex.PW12/A and his subsequent opinion as Ex.PW12/B. PW13 (HC Mahesh Kumar) recorded the PGR Form No.1 Ex.PW13/A. PW14 (Dr. Kuldeep Singh) prepared the MLC No.5025/11, which is proved as Ex.PW14/A. PW15 (Ct. Hardesh Kumar) seized the body of the deceased as Ex.PW15/B. PW16 (Ct. Dinesh Kumar) proved Ex.PW7/A. PW17 (SI Manohar Lal) proved the scaled site plan as EX.PW17/A. PW18 (Ct. Virender) deposited eleven sealed *pullandas* in the FSL, Rohini. PW19 (HC Surender Pal) recorded the DD No.31A as EX.PW19/A, he also proved Ex.PW19/D, EX.PW19/B and Ex.PW19/C. PW21 (Murki Lai) deposed the same facts as PW11. PW22 (O.K. Mishra) proved Ex.PW22/A. PW23 (HC Shiv Ram) proved the entry in Register No. 19 Ex.PW23/A, the entry in Register No.21 as Ex.PW23/B, and Ex.PW11/A. He arrested the appellant vide memo Ex.PW25/A; personal search was taken vide memo Ex.PW25/B; disclosure statement was recorded vide Ex.PW11/E; and the sketch of the knife was recorded as Ex.PW11/B. PW26 (HO Sukh Ram Pal) was the PCR Incharge. PW27 (Ct. Ram Prasad) deposed the same facts regarding the arrival and arrest of the appellant. PW28 (Inspector Yashpal) was the IO in the case and he proved Ex.PW24/A, Ex.PW28/A, Ex.PW7/A, Ex.PW11/A, Ex.PW25/A,

Ex.PW11/A, Ex.PW11/D, Ex.PW11/E, Ex.PW3/A, Ex.PW28/C, Ex.PW28/C1, EX.PW28/C4 and Ex.PW28/C.

4. Assailing the conviction, learned counsel for the appellant challenges the impugned judgment on the grounds (i) that the testimonies of PW3, PW24 and PW25 are riddled with inconsistencies and no reliance can be placed on them as they are interested witnesses; (ii) that the police records are doctored, falsified and improved upon; (iii) that no print or blood was recovered from the murder weapon; (iv) that the name of the assailant did not emerge at the earliest opportunity; (v) and lastly that the appellant was being framed by PW24 and her family. He submits that the prosecution case has not been proved beyond reasonable doubt, and hence the appellant should not be convicted for offences punishable under Sections 302 or 324 IPC.

5. The first ground of challenge is that there are glaring inconsistencies in the testimonies of PW24, PW25 and PW3, fatal to the prosecution case. Apropos the testimony of PW24, the learned counsel for the appellant challenges the deposition on the grounds that:

(i) she had initially stated that the appellant slapped her and struck her with a knife on her left hand and then twice on her back. However, in her cross-examination, she stated that the appellant slapped her, because of which she fell down and when she got up, the appellant stabbed her on her back first and then on her hand. He submits that PW24 stated in her cross-examination that neither did she mention the sequence of injuries to the police, nor was the same clarified by them;

- (ii) she had stated that someone had called the police regarding a murder on her behest, however the PCR form and the DD entry find no mention of a murder but only of a quarrel;
- (iii) PW24 named various people as the initial informant at different stages, whereas the PCR form reveals that the first information is provided by a caller who complained about an alleged quarrel which had taken place;
- (iv) PW24 had also stated that there was lot of blood on the stairs on the ground floor, but strangely the IO (PW28) neither noticed nor recorded any blood on the stairs;
- (vi) although PW24 had stated that the appellant had stabbed her twice on the back, PW9 recorded that there was only one scar mark on the lower portion of the back of abdomen measuring 3.5 x 1 cm (Ex. PW(9/A));
- (v) PW24 had stated that there were two cuts in her shirt which was handed over to the police, however on examination it was found that the shirt had numerous holes apropos the occurrence of which she feigned ignorance.
- (vii) that the PCR form initially stated the weapon of offence to be a *Kripan*, but PW24 later deposed that it was a meat cutter knife.

6. The counsel for the appellant submits that the police records regarding (iv), (v) and (vi) prove that PW24 suffered only one injury on her back, and that her ocular evidence is clearly in congruence with the medical evidence. He submits that PW24 did not mention the appellant as having caused injury to her and killing her mother at the hospital, and the same is note-worthy since the appellant was known to her and such fact would have found mention in the natural course of events. He states that not only is the testimony of PW24 capricious apropos the sequence of events, it is also

severely inconsistent with the evidence on record, rendering her an unreliable witness.

7. The counsel for the appellant points at the following discrepancies in the testimony of Gurmeet (PW3):

(i) that he had stated that there was a lot of blood on the stairs whereas this was not noticed by the IO PW28;

(ii) that he initially stated that his statement had been recorded on the night of the incident, however later resiled from the same stating that it was recorded on the next day;

(iii) that he further deposed that the police had arrived half an hour after the incident, however he also stated that he immediately took his mother and sisters to the hospital after the stabbing and stayed with them;

(iv) that he alleged that the appellant used to beat his wife but later admitted that he had never intimated the police regarding the same.

8. The counsel for the appellant asserts the following as discrepancies in the testimony of Jaswinder (PW24):

(i) that he did not corroborate the sequence of injuries sustained by PW24;

(ii) that he had stated that there was blood on the stairs of the house, however the police records find no mention of the same;

(iii) that he alleged that the appellant had bolted the door of the house after escaping, however the same was not corroborated by any other witness.

9. The learned counsel for the appellant submits that the testimony of PW3 is not supported by the evidence on record and that these inconsistencies detract from the cogency of his testimony. Furthermore, the counsel states that PW3 had deposed apropos the appellant's impression that his mother-in-law encouraged “dhanda” i.e. prostitution by his wife, but

later retracted the same. The counsel argues that the above contradictions establish PW3's anger and *mens rea* towards the appellant, and his statement has to be read as an endeavour to create incriminating circumstances against the latter. The learned counsel for the appellant submits that the cross-examination of PW24 and PW25 contradicted each other apropos whether or not they had a meat-cutter knife in the house; that PW3, PW24 and PW25 contradicted to each other about the exhortation made by the appellant before allegedly stabbing the deceased; and that PW19 and PW28 contradicted the testimony of PW25 regarding whether he had seen the accused in the police station. He argues that these omissions and discrepancies go to the root of the matter and usher in incongruities, discrediting the case of the prosecution. He relied upon following judgments in support of this contention:

(i) ***Ram Narain Singh vs State of Punjab (1975) 4 SCC 497***, wherein the Supreme Court held:-

"14. Where the evidence of the witnesses for the prosecution is totally inconsistent with the medical evidence or the evidence of the ballistic expert, this is a most fundamental defect in the prosecution case and unless reasonably explained it is sufficient to discredit the entire case. In **Mohinder Singh v. The State AIR 1953** this Court observed in similar circumstances as follows:

In a case where death is due to injuries or wounds caused by a lethal weapon, it has always been considered to be the duty of the prosecution to prove by expert evidence that it was likely or at least possible for the injuries to have been caused with the weapon with which and in the manner in which they are alleged to have been caused. It is elementary that where the prosecution has a definite

or positive case, it is doubtful whether the injuries which are attributed to the appellant were caused by a gun or by a rifle."

(ii) *State of U.P. vs Ram Bahadur Singh & Ors (2004) 9 SCC 310* wherein the Court observed:-

"4. In the appeal preferred by the accused persons, the High Court found that there were serious infirmities in the prosecution case. It is found that oral evidence given by the eye witnesses was inconsistent with the medical evidence given by PW-3. As per the oral evidence, the accused Bhanu Pratap Singh was standing at a distance of 18 to 20 feet away from the deceased Onkar Nath Singh when he fired. Oral evidence to the effect that tattooing and searching was present on (SIC) adjoining skin, that could have been caused only if the (SIC) had been done from a distance of four feet. Reason given by the High Court cannot be said to be perverse or unreasonable. It may also be noted that the accused Bhanu Pratap Singh had sustained serious injuries on his body. He was examined by Dr. PW-1 A.P. Mahanti. One injury was incised wound on the top of the head in intraparietal region scalp deep and there were other lacerated injuries. The prosecution could not give any rational explanation as to how the accused Bhanu Pratap Singh sustained these injuries. Moreover, according to prosecution there were two gunshot injuries at the instance of the Bhanu Pratap Singh and both of them hit on the deceased whereas the injuries on the body of the deceased could only show that Onkar Nath Singh received only one gun shot. All these are not satisfactorily explained by the prosecution. It naturally creates suspicious and under these circumstances we feel that the High Court has taken a plausible view. This is not a fit case where this Court in exercise of its jurisdiction under Article 136 cannot interfere with such findings. These two appeals fail and are dismissed."

10. Ms. Rajni Gupta, learned APP, refutes the aforesaid contention. Apropos PW24, she states that the MLC records that CPR was given to the deceased for about 20 minutes however the doctors were unsuccessful in reviving her. She states that the primary objective was to save their mother and details regarding the assailant's identity were secondary. These are minor details which would not otherwise challenge the testimony of PW24 who herself was physically injured. She submits that PW24 had stated that she was standing behind the accused and had seen him stab her mother in the stomach, and that she did not try to apprehend the accused as she herself was injured. Lastly, regarding the injuries sustained by PW24, counsel states that the MLC of PW24 was prepared by PW9 nine weeks after the date of the incident, i.e. on 19.08.2011. Apropos PW3 and PW25, the counsel for state submits that these inconsistencies are not fatal to the case. Lastly, she states that the statement of PW3 overhearing the appellant say “Aaj tera Kaam Tamam Kar Denge” to the deceased was never challenged in the cross-examination by the appellant and that the facts of the case clearly point to the appellant's intention to kill his mother-in-law.

11. The Trial Court in the impugned judgement relied upon the judgement of this Court in *Noor Salam vs State (Govt. of NCT of Delhi)* **CRL.A.694/2010** decided on 29.01.2013 which held that the evidence of an injured witness could not be disbelieved without assigning any reason. The court further noted that indeed no suggestion was ever put to PW24 or her two brothers PW3 and PW25 to the effect that she had quarrelled with her mother which led to her stabbing the latter. The defence did not suggest any motive as to why PW24 would stab her mother; however, PW24, PW3 and PW25 all testified to a probable motive of the appellant.

12. The Court further notes that as far as one blow of the knife sustained by PW24 was proven, the other may not have been as sharp so as to have left a scar, or noticeably a mark, on her body. The fact that PW24 was injured on the left hand and one portion of her back, does not take away the credibility of her testimony. The trial court noted that the MLC (Ex. PW6/B) had recorded that PW24 received clean incised wound measuring approx. 10 cm x 1.5 cm with tailing downwards on the left arm just above the elbow and clean incised stab injury measuring approx. 4cm x 1 cm on her back. This corroborates with her testimony that she was hit on her hand and back by the appellant. PW6 had further opined that these injuries were not self-inflicted, and indeed no suggestion had been put forth to the same effect. Therefore, the Court finds the testimony of PW24 to be consistent, trustworthy and sufficient to convict the accused without any corroboration. The testimonies of PW3, PW24, and PW25 are consistent to the extent of what transpired on the night of the incident, and are corroborated by the police records and this court finds no reason to doubt the credibility of the same. The Court would note that in view of the testimony of PW3, PW24 and PW25, the first two of whom were eye witnesses, it is established that the appellant had stabbed the deceased who succumbed to the fatal injury; this is corroborated by the medical evidence.

13. The law on appreciation of discrepancies in the testimonies of eye witnesses has been discussed by the Supreme Court in ***Gangabhavani vs. Rayapati Venkat Reddy and Ors. (2013) 15 SCC 298:-***

"9. In *State of U.P. v. Naresh (2011) 4 SCC 324*, this Court after considering a large number of its earlier

judgments held:

In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. Where the omissions amount to a contradiction, creating a serious doubt about the truthfulness of the witness and other witnesses also make material improvement while deposing in the court, such evidence cannot be safe to rely upon. However, minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case, should not be made a ground on which the evidence can be rejected in its entirety. The court has to form its opinion about the credibility of the witness and record a finding as to whether his deposition inspires confidence.

Exaggerations per se do not render the evidence brittle. But it can be one of the factors to test credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility.

Therefore, mere marginal variations in the statements of a witness cannot be dubbed as improvements as the same may be elaborations of the statement made by the witness earlier. The omissions which amount to contradictions in material particulars i.e. go to the root of the case/materially affect the trial or core of the prosecution's case, render the testimony of the witness liable to be discredited.

A similar view has been reiterated by this Court in *Tehsildar Singh and Anr. v. State of U.P.* AIR 1959 SC 1012; *Pudhu Raja and Anr. v. State, Rep. by Inspector of Police* JT 2012 (9) SC 252; and *Lal Bahadur v. State (NCT of Delhi)* (2013) 4 SCC 557).

10. Thus, it is evident that in case there are minor

contradictions in the depositions of the witnesses the same are bound to be ignored as the same cannot be dubbed as improvements and it is likely to be so as the statement in the court is recorded after an inordinate delay. In case the contradictions are so material that the same go to the root of the case, materially affect the trial or core of the prosecution case, the court has to form its opinion about the credibility of the witnesses and find out as to whether their depositions inspire confidence."

14. In a criminal trial, the Court is to ascertain the truth from the material before it. The burden of proof is on the prosecution to establish its case beyond reasonable doubt. During the course of any investigation, minor discrepancies are inevitable, especially in cases of eyewitnesses. This may be due to normal errors in observation, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence, on account of difference in perception due to the perspective of the incident depending upon the physical location of the eye-witness, loss of memory and other variable factors. However, only where the omissions and contradictions in the testimonies create a serious doubt about the truthfulness of one witness and other witnesses, and there are material improvements while deposing in the Court, can such evidence be disregarded.

15. The second ground of challenge by the appellant is that the police records are doctored, falsified and improved upon, and thus no reliance can be placed on them. The following aspects are referred and illustrated as instances of substantive anomaly:

(i) there is a doubt regarding whether the PCR team or the jurisdictional police reached the scene of crime first;

- (ii) the PCR form reveals that the team reached the spot of occurrence by 12.23 a.m. on 09.06.2011 and PW25 (son of the deceased) is stated to have been present at the spot of occurrence; however, the statement of PW28 states that no public person or eye witness was found at the spot of occurrence;
- (iii) the members of the mobile crime team and PW1 who examined the scene of crime and took photographs, both mention a different time at which the crime scene was examined;
- (iv) PW3 contradicted the statement of the IO regarding the latter's reaching the police station at 1.30 a.m. and seeing the accused there;
- (v) while a *Kripan* is mentioned as the weapon of offence in the PCR form, however ultimately a knife (Ex.PW-II/C) is stated to be recovered from the person of the appellant who allegedly surrendered before the police on the night of the incident;
- (vi) the IO's statement mentioned that the *rukka* was sent at 11.50 p.m. and that he reached the spot with the crime team, however the crime team report states that it had already inspected the spot at 11.30 p.m.;
- (vii) the site plan does not support the testimony of PW24 regarding the spot where the appellant allegedly inflicted the injuries on PW24 and the deceased; hence the veracity of the site plan becomes doubtful.
- (viii) no blood was found either on the clothes of the accused or on the weapon of the offence;
- (ix) according to PW19, the appellant handed over the knife to him, whereas the seizure memo recorded that PW28 had seized the blood stained knife in the presence of PW11 and PW25. Therefore, the recovery of the weapon of offence itself is in doubt.

16. The counsel for the appellant contends that the complaint and *rukka* were manipulated, fabricated and *ante timed*, which the impugned judgment failed to appreciate. He further contends that the police recovered the appellant's mobile phone from him, and had the Call Detail Records (CDR) been sought, it would have proven his location at the time of the incident. However, no such records were produced. He argues that the impugned judgment failed to appreciate this vital lacuna in the case of the prosecution. The learned counsel submits that the prosecution had stated that the appellant had surrendered before the police station along with the weapon of offence. However, if at all the appellant had a plan to surrender, then he would not have run away from the scene of the crime; strangely, there was no testimony of any public witness to the crime or of the appellant running away from the place, etc., although a number of persons are stated to have been gathered at the spot. According to the counsel, all these factors point to the innocence of the appellant.

17. The learned counsel for the State submits that apropos the call made to the police at PCR No. 100, PW3 had stated that the person who resided across his house made the call, however he did not know the name of the person. Similarly, PW24 also stated that the call was made by some person whereafter the police arrived at the spot, by which time the appellant had run away. In the circumstances, the caller may not have seen the assailant, hence no name was given to the police. The Trial Court found this explanation to be proper, regarding name of the assailant not being given to the PCR. This Court too finds no reason to differ with the said conclusion of the Trial Court.

18. Addressing the doubt cast on the police records and their authenticity, and the testimonies of the investigating team, the counsel for state submits that all exhibits have been corroborated and proved. She submits that the statement of PW5, to the extent that on 09.06.2011 at about 1 a.m. he on instructions of Mr. Surender Pal, HC, took three envelopes containing FIR to the concerned Metropolitan Magistrate, Joint C.P. (Northern Range) and DCP (Outer District), and delivered the same to the residence of each person, was never doubted. This was supported by the evidence of PW10 and PW19. The latter had deposed that PW25, on seeing the accused in the police station at about 2-2.30 p.m., cried out loudly: “*isine meri Mummy Harbhajan Kaur aur meri Behan Jaswinder Kaur ko chure se maara hai aur ghayal kiya hai ur yeh mera Jija lagta hai*”. PW19 denied that the DD entry made after entry no. 3A regarding the incident was made after 6.00 p.m. or that the FIR was *ante timed* or *ante dated*. He had further deposed that after finishing his duty at about 1.00 a.m. he had handed over the charge to HC Ramesh and went near the duty officer’s room where Ct. Ram Prashad also was standing, he saw the appellant entering the police station premises carrying a *chura* in his right hand with blood stains on it. PW19 stated that the appellant told him that he had injured his mother-in-law and sister-in-law with knife and had come to surrender himself. The learned counsel has also relied upon ***Promode Dey vs. State of West Bengal, (2012)4 SCC 559*** to contend that even in the absence of FSL report regarding the blood on the weapon of offence, conviction was upheld on the ground that there was other corroborative evidence such as the recovery of the blood stained *daa* upon disclosure statement. The Court was of the view that if the guilt of the

appellant was established beyond reasonable doubt through other evidence, the non-collection of the forensic report would not weaken the case. The counsel further submitted that the intention to kill can also be ascertained from the force and depth of the fatal stab/ injury caused by the knife; that the appellant had a clear motive for the crime which he committed and the single blow leading to the death of the deceased is sufficient in the circumstances to cause conviction; the stab wound measured 7.3x3x17 cm deep; that surely no other conclusion can be arrived at except that the appellant had clear intention to kill his mother-in-law. Reliance was made upon the judgment of the Supreme Court in ***Pattipati Venkaiah vs State of Andhra Pradesh (1985) 4 SCC 80***, which reads as under:

“..... 16. Another argument advanced before us was that although PWs 1 and 2 were supposed to be eye-witnesses, they never cared to disclose the name of the assailant to the doctor when the body of the deceased was taken to the hospital. This argument is only stated to be rejected. A doctor is not at all concerned as to who committed the offence or whether the person brought to him is a criminal or an ordinary person, his primary effort is to save the life of the person brought to him and inform the police in medico legal cases. In this state of confusion, PWs 1 and 2 may not have chosen to give details of the murder to the Doctor. It is well settled that Doctors before whom dead bodies are produced or injured persons are brought, either themselves take the dying declaration or hold the post-mortem immediately and if they start examining the informants they are likely to become witnesses of the occurrence which is not permissible....”

19. Although the appellant had claimed that Jaswinder PW24 had stabbed her mother, he has neither proved this nor offered any motive why she would do so. Indeed, the testimony of Jaswinder remains un-shattered by

the appellant. The minor inconsistencies in the injuries sustained by PW24 does not take away the credence of her testimony or render it unreliable. Furthermore, the prosecution established probable motive of the appellant with the help of the testimonies of PW24, PW3 and PW25.

20. What emerges from the preceding discussion is that although other evidence corroborated the guilt of the appellant, the testimonies of PW3, PW24 and PW25 were sufficient to convict the appellant. In his statement under Section 313 of the Cr.P.C. the appellant had taken a defence that they wanted to snatch his property, however, no question was put to them in their cross-examination. The appellant failed to offer an alibi or alternative explanation to the events that took place on the night of the incident, and did not lead any witness in his support. The Court finds the testimonies of PW3, PW24 and PW25 cogent, consistent, reliable and trustworthy and this evidence was sufficient to convict the accused.

21. In view of the above, the Court finds no reason to interfere with the impugned judgment and order which is based upon cogent, reasoning upon appreciation of the evidence on record. In these circumstances, the appeal being without any merit is, dismissed.

NAJMI WAZIRI, J.

SIDDHARTH MRIDUL, J.

SEPTEMBER 27, 2017^{kk}