

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.100 of 2009

Arising Out of PS.Case No. -146 Year- 2002 Thana –Shahkund (Sajour) District- BHAGALPUR

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Chhabu Singh son Late Mahabir Singh, resident of Village-Rahulnagar, PS,
Shahkund, Distt-Bhagalpur. Appellant/s

Versus

State of Bihar Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Mohan
Mr. Praveen Kumar, Advocates.

For the Respondent/s : Mr. Parmeshwar Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 09-10-2018

Appellant, Chhabu Singh has been found guilty for an offence punishable under Section 307 IPC and sentenced to undergo RI for 7 years as well as to pay fine of Rs. 5,000/- in default thereof, to undergo RI for one year, additionally, under Section 27 of the Arms Act and sentenced to undergo RI for 3 years as well as to pay fine of Rs. 5,000/- in default thereof, to undergo RI for one year, additionally, with a further direction to run the sentences concurrently vide judgment of conviction dated 29.01.2009 and order of sentence dated 04.02.2009 passed by Additional Sessions Judge-Fast Track Court No.1, Bhagalpur in Sessions Trial No. 1433/2005.

2. Gajadhar Singh (PW-4) while was admitted in an injured condition in an emergency ward, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur, gave his Fard-e-beyan on 14.11.2002 disclosing therein that he has got dispute with appellant, Chhabu Singh



relating to 9 Katthas of land lying by the side of his Basa. Chhabu Singh had also instituted a case since before. He had purchased the aforesaid 9 Katthas of land. Chhabu and his brother forcibly want to grab his land in the background of the fact that Chhabu is over the land as a *Bataidar*. Even after he purchased, he has not withdrawn himself and for that, the dispute happens to be there. In the aforesaid background, Chhabu and his brother at an earlier occasion had threatened him of dire consequences. Even one day prior to the occurrence, Chhabu had threatened him. In the night of 5/6-11-2002, while he was sleeping at his Basa, his son, Shatrughan was inside the room of the Basa, at about 1:00 AM, Chhabu Singh, Bhudeo Singh, Laxman Singh, Channo Singh, Rajesh Singh, Anil Singh, Jainti Tanti, Mangal Tanti, Subodh Singh and Siyalal Singh came at his Basa and began to assault him with fists and slaps while he was asleep. He woke up but, they all have pounced upon him, as a result of which, he remained over his bed. Lantern was burning and in the light thereof, he had identified them. Also identified them by voice. During course of assault, Laxman Singh ordered to kill whereupon, Chhabu Singh took out pistol and shot at his right side of chest, as a result of which, he became severely injured. He shouted in order to save himself whereupon, his son, Shatrughan and Sukhdeo Singh son of Dukha Singh along with others rushed, seeing whom, the accused persons fled away.

3. After having been transmitted at the end of Barari PS,



Shahkund (Sajour) PS Case No. 146/2002 was registered, followed with an investigation as well as submission of charge-sheet, facilitating the trial, during midst thereof, one accused, namely, Jainti Tanti died whereupon proceeding was dropped against him. By the judgment impugned, the other co-accused were acquitted while appellant has been convicted in a manner as indicated hereinabove, subject matter of the instant appeal.

4. Defence case as is evident from the mode of cross-examination as well as statement recorded under Section 313 CrPC is that of complete denial. It has further been suggested that the prosecution party are themselves veteran criminals having in possession of illegal fire-arms and in the aforesaid background it happens to be either self inflicted injury or injury caused on account of group rivalry at some different place in different manner and in the background of land dispute, they have been falsely implicated. To substantiate the same, relevant documents have been made exhibit of the record.

5. In order to substantiate its case, prosecution had examined altogether six PWs who are PW-1, Mahesh Sah, PW-2, Sudhir Pd. Singh, PW-3, Shatrughan Singh, PW-4, Gajadhar Singh, PW-5, Dr. Mirtunjay Kumar and PW-6, Abdulla Khan, as well as had also exhibited Ext-1, Injury report, Ext-1/1, correction slip, Ext-2, signature of PW-6 over written report, Ext-2/1, forwarding, Ext-3, Formal FIR, Ext-4, Charge-sheet, Ext-5, Case diary.



6. Defence had also exhibited Ext-A, Sanha, Ext-B, FIR of Shahkund PS Case No. 191/2002, Ext-C, seizure list Ext-D, Charge-sheet, Ext-E, FIR of Sajour PS Case No. 105/2002.

7. It has been submitted at the end of appellant that it happens to be basic principle of criminal jurisprudence that prosecution has to substantiate its case beyond all reasonable doubts. From the conduct of the prosecution as well as from perusal of the evidence, it is apparent that this case suffers from inherent lacunae which the prosecution has tried to patch up and that being so, the prosecution version could not be accepted. In order to justify such plea, it has been submitted that the occurrence has been shown in between night of 5/6.11.2002. *Fard-e-beyan* has been recorded on 14.11.2002. Doctor is PW-5. In the *Fard-e-beyan* there happens to be specific discloser that after sustaining injury, informant became unconscious and after regaining his sense he had given his *Fard-e-beyan*. PW-5, the doctor had not corroborated the version of injured/informant, PW-5 as, he had not stated that at the time of examination of the victim, he had found the injured to unconscious. That being so, there happens to be inordinate delay in institution of this case and further, the same should be viewed in the background of admitted animosity amongst the parties since before.

8. It has further been submitted that who was the injured is another circumstance. There happens to be no material on the record to suggest that police had issued injury report relating to the injured/informant,



PW-4. When the evidence of doctor is gone through, it is apparent from the injury report, Ext-1 that it was with regard to Shatrughan and not of Gajadhar. If the evidence of Investigating Officer PW-6 is properly scrutinized, it is manifest that he had taken steps for correction of the name and for that, he requested the doctor whereupon, PW-5, the doctor had issued Ext-1/1, correcting the name. The doctor had not stated that the correction is based upon bed head ticket nor on the basis of entry having in the injury register.

9. Learned counsel for the appellant fairly submits that during course of cross-examination PW-6 as well as PW-7 would have been properly cross-examined on that very score wherein defense failed but, it was obligatory on the part of the prosecution to substantiate its case beyond all reasonable doubt and so, the doubt would have been removed at the end of the Investigating Officer by stating on what basis, he had requested PW-5, the doctor to correct the name when no injury report was issued by him relating to PW-4, informant nor he had visited the Medical College to see who was the injured. It has also been submitted that the aforesaid event has got bearing over the fate of the instant case in the background of the fact that prosecution has shown place of occurrence to be Basa where the Investigating Officer, PW-6 had visited but, during course of inspection neither had found blood over the bed nor over the cot, nay over the floor. So, the occurrence having been committed at that very place also became



doubtful.

10. It has further been submitted that none of the independent witness has been examined in this case. PW-1 who is an outsider, has been tendered. PW-2 is full brother of the informant. PW-3 is the son of informant, PW-4 is informant himself. In the aforesaid background, the prosecution case is found doubtful as there happens to be uncertainty over presence of the eye witness apart from being own family member being inimical and that being so, the learned lower court should have acquitted the appellant. That being so, the judgment impugned is fit to be set aside.

11. On the other hand, learned APP controverting the submissions having been made on the behalf of appellant, submitted that whatever not been cross-examined at the end of the appellant could not be considered to be a ground for interference in the judgment impugned. Appellant availed an opportunity at an appropriate stage of trial to test the veracity of the truthfulness of the witnesses wherein he failed and that being so, at the present stage, he could not challenge the finding of the learned lower court on that very score. Conduct of the Investigating Officer happens to be fair wherein, he deposed. He happens to be fair in stating that he had taken steps for correction of the name of the injured but as he was not at all cross-examined as to what was basis therefor or on what material he had prayed for correction. In absence thereof, it could not be construed



that there was some sort of error with regard to status of the injured and the same has been corrected in the background of the fact that injured was admitted at Jawahar Lal Nehru Medical College and Hospital, Bhagalpur, where he was treated and in likewise manner, his Fard-e-beyan was recorded while he was admitted at the hospital. In the aforesaid background, the controversy having been raised at the end of the appellant, has got no ground to subsist. From the evidence of PW-4, the injured inconsonance with the evidence of doctor PW-5, it is crystal clear that injured had sustained fire arm injury which was shot at from close range and for that, appellant has been properly identified to be author, whereupon rightly been convicted and sentenced. Accordingly, judgment impugned needs no interference.

12. PW-5 had examined the injured and found the following:-

(1) Lacerated wound with charred margin over the pectoral region of Rt. Side of chest. Sucking wound 2"x ½" x depth not probed. Nature of Injury. Grievous and caused by fire arm injury. Time:- with 12 hours.

13. It is evident from Ext-1/1 as well as from the deposition of PW-5 that he issued corrigendum with regard to name of the injured. From Ext-1, it is evident that it was relating to Shatrughan son of Gajadhar Singh and by way of corrigendum, it has been Gajadhar son of Dukha Singh. From cross-examination of PW-5, it is apparent that he has



not been cross-examined on that very score and so the aforesaid controversial issue remained unchallenged at the end of appellant. Though, PW-5 had not spoken a word in this context that means to say, the basis for correction but from the evidence of PW-6, Investigating Officer, it is evident from Para-3 of his examination-in-chief, that after receipt of injury report, he found it with regard to son of Gajadhar Singh whereupon, he requested the doctor to correct and then, the mistake has been corrected by way of corrigendum relating to name of the injured (Ext 1/1) but he failed to disclose where it was oral or documentary as no document has been exhibited. Again this PW has also not been cross-examined at the end of defence, that means to say, the basis over which he had asked for correction of the name is not on the record. That being so, the controversy having been raised at the end of the appellant, in case PW-5 and PW-6 would have been cross-examined, might have been a good ground but, as stated above, the issued remained barren.

14. PW-1, irrespective of the fact that Evidence Act does not permit as well as by series of judicial pronouncements, the Hon'ble Apex Court deprecated such mode of action, has been tendered. PW-2 is the brother of the injured, PW-4. During his examination-in-chief, he had that on the alleged date and time of occurrence, he was at his house. Shatrughan came to his house and said that Chhabu has shot at his father. He came to the house of Gajadhar Singh and had seen blood oozing out from the right



side of chest of Gajadhar from a fire arm wound. Gajadhar disclosed him that while he was sleeping at his Basa lying at village- Rahulnagar, Chhabu Singh shot at him. Son of Gajadhar was also present at the Basa. He along with Shatrughan immediately rushed to police station where O/C of Sajour PS directed them to move immediately to the hospital for treatment of the injured. Gajadhar was treated at the hospital, identified the accused. Then had stated that this occurrence has been committed in the background of land dispute. Chhabu had grabbed land of Gajadhar. During cross-examination at para-2, he had stated that he had not seen the occurrence nor he had heard sound of firing. In para-3, he had stated that Gajadhar is his full brother. He has deposed as per instruction of Gajadhar. At para-5, he has stated that Shatrughan frequently visits jail. In para-6, he had stated that his statement was recorded by the police on the next date of occurrence. At para-8, there happens to be contradiction. At para-9, he had stated that he is not knowing whether Chhabu Singh had instituted a case against sons of Gajadhar. Then had denied the suggestion that he has deposed falsely at the instance of Gajadhar Singh.

15. PW-3 is one of the sons of the injured/informant. He had deposed to the effect that injured, Gajadhar Singh is his father. Occurrence took place on 05.11.2002 at about 1:00 AM at his Basa lying at Rahulnagar. He was sleeping inside the room at the Basa while his father was sleeping over cot at verandah of the Basa. All of a sudden 10 persons came at his



Basa and began to assault his father. They were armed with pistol, lathi, farsa. Then had said that Chhabu Singh shot at his father. Just after receiving fire arm injury, his father became unconscious. Accused persons fled away. He took his father to his house. He along with his uncle Sukhdeo had gone to police station. Police came. His father had sustained fire arm injury over left side of the chest. He took his father to hospital. Then it has been disclosed that on account of land dispute with Chhabu Singh, this occurrence has been committed. His father regained sense after 5 or 7 days. He has made statement before the police. Identified the accused. During cross-examination, at para-2, he had stated that his statement was recorded by the police on 14.11.2002 at the hospital itself. Then there happens to be contradiction. He had further stated that he is not knowing whether Chhabu Singh had instituted any case against his father or not. He had further stated that he resides at Delhi since 1989 where he is a driver. In para-3, he had further admitted the accused to be his co-villager while the occurrence had taken place in the villager-Rahulnagar. Rahulnagar and Bhattichak, his native villages are at a distance of ½ kilometer. Accused, Chhabu Singh has got Basa at Rahulnagar. Bathan of the accused has been purchased by his brother from Nityanand Singh in the year 2000. At that very time, Nityanand Singh was in possession over the land. Chhabu Singh has got illegal possession over the land adjacent to his Bathan. In para-4, he had stated that he had arrived from Delhi on the date of occurrence itself but he



is unable to substantiate the same. In para-5, there happens to be cross-examination with regard to physical feature of the Basa. In para-6, he had admitted that he had not handed over lantern to the police. In para-7, he had stated that at the time when accused persons came, he was sleeping. None other was present save and except him as well as his father at Basa. In para-8, he had stated that he woke up on an alarm. He had not tried to save his father during course of assault. His father woke up when attempt was made to kill him. His father was sleeping over cot having bet over it. In para-9, he had stated that he took his father to hospital in an unconscious condition. His father regained sense after six days. In para-10, he had stated that his father was under mosquito net. The whole occurrence was committed while his father was on cot. The police had not seized the blood stained bed as well as mosquito net. Then had denied the suggestion that in the background of land dispute, this false case has been instituted.

16. PW-4. is the injured. He had deposed that on the alleged date and time of occurrence, he was sleeping over a cot at his Basa lying at Rahulnagar. Ten persons came near him, dragged him from the cot and then began to assault. Chhabu Singh shot at him causing injury over right side of chest, upper part. Shown the same and the court observed presence of scar mark. Then had named the other accused persons. Shatrughan was also at the Basa. Then had stated that on account of land dispute, he was shot at. Land dispute is going on with Chhabu Singh. After sustaining injury, he



became unconscious. Police recorded his statement at hospital as well as at police station. Identified the accused who are co-villagers. He had put his LTI over his Fard-e-beyan. During cross-examination, at para-3, he has stated that on the following day of Diwali, he was shot at. He was examined by the doctor on the following morning. At the time of examination, he was unconscious, so he cannot say other details. In para-4, he had stated that he had made statement with regard to the occurrence and then there happens to be contradiction with regard to Fard-e-beyan. In para-5, he had stated that at the time of occurrence he was lying over the cot. He was already awaken since before. Then again there happens to be contradiction on that very score. In para-6, he had stated that he had seen the accused persons from a distance of 15 feet. Seeing them, he got up but, he could not escape therefrom as accused persons cordoned him and then dragged him from the cot and then assaulted him. He had further stated that accused persons had not assaulted him while he was lying. He had further stated that at the time of assault, he lied down from belly side whereupon could not see who assaulted how many times. In para-8, he had stated that after firing accused persons fled away. He had sustained single fire arm injury. At para-9, he had further stated that before sustaining fire arm injury, he sat. Copious blood bled from the injury. He became unconscious after ten minutes. Again said that immediately thereafter, he became unconscious so he is unable to say with regard to subsequent event. Again disclosed that he regained sense



after three days. Police came three days thereafter and recorded his Fard-e-beyan. He talked with his son as well as his daughter before recording of the Fard-e-beyan. In para-10, he had stated that he has got land dispute with the accused. He had further stated that since before two years accused had forcibly grabbed his land. He had further admitted that they had quarreled with accused persons and for that, the accused had instituted a case whereunder he had gone to jail. His two sons are also accused in that case. In para-12, he had stated that Chhabu Singh shot at him while he was sitting. In para-13, he had stated that for the first time, he had deposed before the court that the accused after dragging from the cot had assaulted him. Then had denied the suggestion that no such kind of occurrence had ever taken place.

17. PW-6 is the I.O. Firstly, he had exhibited the relevant documents, Fard-e-beyan, formal FIR, forwarding. Then had stated that he took up investigation of this case on 15.11.2002 and proceeded therewith. He had gone to Basa of informant lying at village-Rahulnagar and then had detailed the same. He had found one cot kept at the verandah having bed over the same. Then had shown boundary of the Basa. He had further stated that he conducted raid to apprehend the accused but was unsuccessful. He recorded further statement of the injured/informant. He received injury report. As injury report was in wrong name, on account thereof, he made requisition to the doctor for correction of the same and accordingly,



corrected. He recorded statement of the witnesses and then concluding the same, submitted charge-sheet. Exhibited the case diary, charge-sheet. During cross-examination, he had stated at para-5 that Fard-e-beyan, was not recorded by him. He had further stated that none had produced blood stained bed sheet, pillow, mosquito net before him. He had not found blood stain over the cot. He had further stated that he recorded statement of Shatrughan before inspection of the place of occurrence. He had not tried to verify the boundary of the P.O. His attention has been drawn towards Fard-e-beyan,(not legally permissible as he was not maker of the Fard-e-beyan). He had not seized lantern during course of investigation. He had not found empty cartridge nor sign of firing. He had recorded statement of witnesses whom he had also shown in the charge-sheet. During course of investigation he had found pendency of Sajour PS Case No. 105/2002 since before. He had also stated that presence of Amarapur PS case No. 191/2002 under the Arms Act registered against sons of Gajadhar Singh. Then had denied the suggestion that he submitted charge-sheet in collusion with the prosecution party.

18. The defence had exhibited certified copy of series of documents without calling for the original as well as getting it exhibited by way of examining DW. The documents are to be exhibited in accordance with law unless and until, the same happens to be a public document. Mere issuance of certified copy of a document would not suggest it to be a public



document. Another option is also available as provided under Section 294 CrPC whereunder, document could be exhibited over an admission.

19. Be that as it may, as these documents have also been exhibited, on account thereof, save and except enlightening the learned lower court to be cautious in future to adhere in while admitting documents, nothing could be taken on that very score. Ext-A is the C.C. of Sanha No. 3530/2001, Ext-B is the C.C. of Amarpur PS Case No. 191/2002, Ext-C is the seizure list of Amarpur PS Case No. 191/2002, Ext-D is the C.C of charge-sheet (public document) Of Amarpur PS Case No. 191/2002, Ext-E is the C.C. of Shahkund PS Case No. 105/2002.

20. After analyzing the materials available on the record, it is apparent that animosity amongst the parties are admitted one. Enmity is a double edged sword. It may be a motive for commission for an occurrence, simultaneously, it may be a motive of false implication.

21. In order to search out the truth, there should be proper analytical approach over the facts and circumstances of the case. Times without number, it has been held by the Hon'ble Apex Court that the evidence of an injured as got primacy and unless and until there happens to be cogent reason to discard his testimony, the same is to be accepted. In *Chandrasekar and another vs. State of Tamil Nadu reported in 2017(4) P.L.J.R. 220 (SC)*, it has been held:-

“10. Criminal jurisprudence attaches great weightage to the evidence of a person injured in the same



*occurrence as it presumes that he was speaking the truth unless shown otherwise. Though the law is well settled and precedents abound, reference may usefully be made to **Brahm Swaroop v. State of U.P., (2011) 6 SCC 288** observing as follows: “28. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with an in-built guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone.”*

22. From the objective finding of the Investigating Officer relating to the place of occurrence, it is evident that he had not found another bed kept inside a room of Basa save and except one cot having over verandah. Presence of Shatrughan PW-3 at Basa has become very much doubtful, more particularly, when PW-3 had himself stated that he came from Delhi on the date of occurrence itself, without any supporting documents as well as having his absence over Fard-e-beyan as an attesting witness. The same has to be seen through another circumstance. Informant had categorically stated that his village lies at a distance of ½ Kilometre from Rahulnagar. PW-2, his brother has stated that at the time of occurrence, he was at his house where Shatrughan (PW-3) came and disclosed that his father has been shot at. The Fard-e-beyan speaks that while informant was being assaulted, his son, Shatrughan and brother Sudhir arrived. So, if Sudhir and Shatrughan came jointly at the Basa, then certainly they were not at Basa. That means to say, even accepting the version of the informant, he was



alone at the Bathan.

23. Now coming to the evidence of respective PWs, from the evidence of PW-2, it is evident that he along with Shatrughan (PW 3) had gone to the PS where O/C had directed them to lift the injured to hospital and they did so. PW-3, Shatrughan had stated that he and his uncle had gone to PS, informed and then police came and then they took the injured to the hospital. There happens to be no cross-examination at the end of the accused, whether they have given Fard-e-beyan or not. However, PW-2, at para-6, had stated that his statement was recorded on the following day of the occurrence. That means to say, his statement was recorded prior to the Fard-e-beyan of informant. That means to say, his statement would have been treated as Fard-e-beyan on account of divulging cognizable offence. PW-6, the Investigating Officer has not been tested on that score.

24. There happens to be no cross-examination at the end of appellant to the informant but, from the evidence of PW-2, it is evident that when he came to the house of PW-3, he found the injured conscious who, on query had disclosed that Chhabu Singh had shot at him. Neither PW-3 nor PW-4 had disclosed how they came from his Basa to his house covering ½ Kilometre. According to PW-3, he had not disclosed, during course of examination-in-chief, as to how he had take away the injured to his house, although he further disclosed that he took his father to his house and during cross-examination at para-9, he had stated that he took his father to hospital



in a conscious condition. He regained sense after six days. PW-4, injured/informant had stated that soon after sustaining injury, he became unconscious. During his cross-examination at para-9, he had stated that he became unconscious ten minutes after sustaining fire arm injury. Again corrected, he became unconscious soon after sustaining gun shot injury. He had not spoken a word whether he was lifted to his house while was conscious and he had talked with PW-2, his brother on that very score.

25. From his evidence, more particularly, at para-4 of his cross-examination, he had stated that his statement was not recorded at the hospital. His statement was recorded at the police station.

26. Be that as it may, as the relevant portion of his Fard-e-beyan has been confronted to him, on account thereof, it could not be said that his Fard-e-beyan was not recorded at the hospital. Moreover, para-9 of the cross-examination also discloses that he regained sense after three days and police came five days thereafter and during midst thereof, he had conversation with his sons as well as daughter coupled with the fact that no effort was ever taken at the end of other members of the prosecution party with regard to institution of the case irrespective of the fact that PW-3 had categorically stated that police had come and then thereafter, injured was taken to hospital, statement of PW-2 that he along with PW-3 had gone to the police station where the O/C had said to carry the injured firstly, is found completely watered down as, nothing has been cross-examined to



PW-6, Investigating Officer on that very score. However, from the evidence of PW-4, injured, it is evident that defence had not challenged the fire arm injury over the person of informant nor the place of occurrence.

27. In **Gian Chand & others v. State of Haryana** reported in **2013(4) PLJR 7 (SC)** it has been held:-

11. The effect of not cross-examining a witness on a particular fact/circumstance has been dealt with and explained by this Court in **Laxmibai (Dead) Thr. L.Rs. & Anr. v. Bhagwanthuva (Dead) Thr. L.Rs. & Ors.**, AIR 2013 SC 1204 observing as under:

“31. Furthermore, there cannot be any dispute with respect to the settled legal proposition, that if a party wishes to raise any doubt as regards the correctness of the statement of a witness, the said witness must be given an opportunity to explain his statement by drawing his attention to that part of it, which has been objected to by the other party, as being untrue. Without this, it is not possible to impeach his credibility. Such a law has been advanced in view of the statutory provisions enshrined in Section 138 of the Evidence Act, 1872, which enable the opposite party to cross-examine a witness as regards information tendered in evidence by him during his initial examination in chief, and the scope of this provision stands enlarged by Section 146 of the Evidence Act, which permits a witness to be questioned, inter-alia, in order to test his veracity. Thereafter, the unchallenged part of his evidence is to be relied upon, for the reason that it is impossible for the witness to explain or elaborate upon any doubts as regards the same, in the absence of questions put to him with respect to the circumstances which indicate that the version of events provided by him, is not fit to be believed, and the witness himself, is unworthy of credit. Thus, if a party intends to impeach a witness, he must provide adequate opportunity to the witness in the witness box, to give a full and proper explanation. The same is essential to ensure fair play and fairness in dealing with witnesses.”



28. From the evidence on record, it is crystal clear that though there happens to be some sort of infirmities, but as PW-4, injured, had not been cross-examined challenging his version over place of occurrence as well as manner of occurrence, on account thereof, there happens to be no cogent ground to discard his testimony. Furthermore, Section 134 of the Evidence Act did not require number of witness to substantiate fact rather it happens to be truthfulness, credibility of the evidence even being sole to substantiate, more so, when the witness is injured one. That being so, instant appeal sans merit and is dismissed.

29. Appellant is on bail, his bail bond is hereby cancelled directing him to surrender before the learned lower court to serve out the remaining sentence within a fortnight failing, which the learned lower court will proceed against him in accordance with law.

(Aditya Kumar Trivedi, J)

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AFR/NAFR	AFR
CAV DATE	N/A
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