

IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 18.11.2019

CRL.A. 45/2016

VINAY

..... Appellant

versus

STATE

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms Naomi Chandra, Advocate
(DHCLSC).

For the Respondent : Ms Amit Gupta, APP for State.

AND

CRL.A. 63/2016

RAHUL@CHIRMANTI

..... Appellant

versus

STATE

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms Suman Chauhan, Advocate
(DHCLSC).

For the Respondent : Ms Amit Gupta, APP for State.

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HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The appellants have filed the present appeals impugning a judgment dated 23.11.2015, whereby they have been convicted of the

offences under Sections 394/34 of the Indian Penal Code, 1860 (IPC). The appellant in Crl.A.63/2016 (Rahul @ Chirmanti) has also been convicted of an offence under Section 397 IPC.

2. The appellants have also impugned an order dated 30.11.2015, sentencing them to rigorous imprisonment for seven years and a fine of ₹10,000/- each for the offence under Section 394 IPC. And, in default of payment of fine, to simple imprisonment for a period of three months.

3. The impugned judgment was rendered in connection with a case arising from FIR no.397/2013 under Sections 394/397/34 of the IPC, registered with P.S. North West Delhi. The said FIR was registered at the instance of one Mr Sanika Munda. He had reported that on the intervening night of 05.09.2013 and 06.09.2013, at about 12 AM, he and his brother Rahul Soy (who deposed as PW-6) were caught by three robbers near a public toilet, M-Block, Shakur Pur at Road no.43, Near DDA Office, A-Block. He stated that he was carrying a bag containing ₹2,100/- in cash, some clothes and one LG mobile phone. The complainant stated that the three robbers (the three accused persons) were already stationed at the said spot and they caught him and Rahul Soy (PW-6). They snatched the bag from his possession and the wallet of Rahul Soy. He reported that one of the robbers (Rahul@Chirmanti) also stabbed PW-6 with a knife. After committing the robbery, all the accused fled from the spot. The wife of Rahul Soy (who deposed as PW-10) also reached the spot of the incident spot on

hearing the alarm. Subsequently, the injured was taken to the hospital for treatment.

4. On 09.09.2013, the accused Rahul was arrested in FIR No. 382/13 under Sections 389/411/34 IPC and pursuant to the interrogation, he disclosed his involvement in the offence. Subsequently, he led the police to his house from where one bloodstained knife was recovered (Ex. PW-4/C). As per the prosecution, the said knife was used during the incident. On the same day, the other accused – Vinay and Md. Sadiq – were also arrested by the police. Thereafter, a TIP (Test Identification Parade) was conducted, however, all the accused refused to participate in the TIP.

5. On 10.09.2013, the bag robbed from Sanika Munda was recovered from a park with the help of the accused, Md. Sadiq (Ex.PW-3/B). Moreover, the robbed purse of PW-6 was also recovered on the same day from the house of accused Vinay (Ex.PW-3/A).

6. Eleven witnesses were examined by the prosecution before the Trial Court. The complainant – Sanika Munda – was not examined. The Trial Court, after evaluating the evidence, found the appellants guilty of the offences for which they were charged. It held that the identification of the accused before the Court for the first time after the incident “could not be said to be without substance in the peculiar facts and circumstances of the present case.” The Court further rejected the contention of the defence that the recovery of the knife

made from the house of the accused was planted and could not be believed. The court held that the gap between the incident and the recovery of the knife was just about three days, which was not long enough to give rise to any reason to suspect such recovery. Moreover, the Court also observed that the purse of PW-6 was recovered from the house of accused Vinay and the fact that the same was identified by PW-6 during the trial, was enough to establish the case of the prosecution.

7. Resultantly, the Trial Court held accused Rahul @ Chirmanti guilty of the offences under Sections 394, 397/34 IPC, whereas accused Vinay was held guilty of the offences under Sections 394/34 IPC. The third accused, Mohd. Sadiq was declared a proclaimed offender.

8. The appellants have challenged the impugned judgment on the ground that the main eye witness – the complainant Sanika Munda – has not been examined. They contend that the story of the prosecution does not stand proved. It is further contended that no public witness has joined the investigation despite the fact that the alleged incident took place on a busy road. It is further contended that there are inconsistencies in the evidence of the police witnesses and the evidence available did not establish that they had committed any offence, beyond reasonable doubt. It is also contended on behalf of the appellants that testimony of PW-4 (SI Lokender) was not reliable and the police officials had planted the knife, bag and the wallet alleged to have been recovered.

9. It was also contended that Rahul @ Chirmanti could not be convicted of the offence under Section 397 IPC as the knife, although alleged to have been recovered, was not produced.

10. The learned Additional Public Prosecutor appearing for the State has countered the aforesaid submission and submitted that there was no material inconsistency in the testimony of witnesses and the evidence led clearly established that the appellants were guilty of the offences, for which they have been convicted. It is also submitted that it was not necessary to join the complainant as the eye witness, as there was sufficient credible evidence pointing to the guilt of the appellants in this case.

Evidence

11. Before proceeding further, it is relevant to briefly examine the evidence led by various witnesses.

12. Rahul Soy, the person who was stabbed during the incident of robbery, was examined as PW-6. He deposed that on 06.09.2013, at around 11.45 PM, he had gone to M Block to drop his friend – the complainant Sanika Munda – who was carrying a bag containing an amount of ₹2,100/- in cash, one LG mobile phone and some clothes. When they reached near road no.43, DDA Office, three boys (the accused) came from the side and restrained both PW-6 and the complainant. One of the said three boys tried to snatch the bag from the complainant and when PW-6 tried to object, one of the boys caught hold of him from his neck and the other boy stabbed him in his

abdomen with a knife. PW-6 stated that the person who caught hold of him from his neck was a “fatty built” person. While doing so, the person stabbing PW-6 also snatched his purse. PW-6 deposed that due to the stab injury, he became unconscious. Thereafter, after reclaiming consciousness, PW-6 and the complainant went to PW-6’s house. His family members called the Police and subsequently, PW-6 was taken to one Mahavir Hospital. He was medically examined there (MLC Ex. PW1/A) and his statement was recorded by the police. PW-6 also deposed that during the investigation, he handed over the receipt (Ex. PW-6/A) of the purchase of mobile phone to the police. During his examination-in-chief, on 19.01.2015, PW-6 identified Rahul @ Chirmanti as the person who had stabbed him in his abdomen. Further, PW-6 also identified the accused Mohd. Shafiq who had snatched the bag, containing money and other articles, from the complainant.

13. One Ms Sonmani, who is the wife of PW-6, was examined as PW-10. She deposed that on 06.09.2013, at about 12.15 AM, the complainant came to her house and stated that her husband (PW-6) has been injured due to the knife injury received at road no.41, A Block. She stated that consequently, she reached the aforesaid spot along with the complainant and there she found her husband who was injured and stained in blood. Thereafter, she informed the PCR which subsequently reached the spot at around 1.00-1.30 AM and took her husband to BMH Hospital. The IO recorded the statement of PW-10 at the hospital.

14. Dr Soma Roy, who is a casualty medical officer at Bhagwan Mahavir Hospital (BMH), Pitampura, was examined as PW-1. She deposed that on 06.09.2013, at about 1.30 AM, she examined PW-6 (MLC No. 3257). It was further deposed that PW-6 was brought to the hospital for medical examination by HC Subhash, as PW-6 had been physically assaulted. On examination, she found out that PW-6 had a stab wound on left side of his abdomen (supriolateral to umbilicus) measuring about 3x0.5 cm. Thereafter, PW-6 was immediately referred to SR surgery, where he was also examined by one Dr Nand Kishore.

15. HC Chet Lal, who was working as Duty Officer from 1.00 AM to 9.00 AM at PS Subhash Place on the night of incident, was examined as PW-2. He deposed that on 06.09.2013, at about 3.35 AM, he received a *rukka* from CT Anil Kumar and the said *rukka* was sent by SI Kali Charan. Consequently, he recorded an FIR under Sections 394/397/34 IPC. Thereafter, he handed over a copy of the said FIR and original *rukka* to Ct Sunil Kumar (PW-4) so be forwarded to SI Kali Charan for further investigation.

16. Ct Ashok Kumar was posted at PS Subhash Place on the night of incident. He was examined as PW-3 and he deposed that on 10.09.2013, he joined the investigation in aforesaid FIR with SI Kali Charan. He identified the accused Vinay in the court and further deposed that on the same day, the accused Vinay took them to his house, which was located at L-467, Shakurpur, JJ colony, Delhi. He took them to the roof of the house, where he had kept one purse under

the heap of bricks. He produced the said purse and confessed that it was the same purse which he had robbed on 06.09.2013 in the night. Thereafter, SI Kalicharan checked the purse wherein he found: (i) a passport photo of PW-6; (ii) a photocopy of his voter ID Card; (iii) one photo copy of his labour department; (iv) a visiting card of one Charanjeet; and (v) a press visiting card of one Pawan Putra Hanuman Placement Agency. The IO prepared a *pullanda* of the said documents. After sealing the same with the seal of “KC”, it was taken into possession (Memo Ex.PW-3/A). Thereafter, accused Vinay was brought back to the Police Station and placed in the lock up. The said case property was then deposited in the *malkhana*.

17. PW-3 further deposed that thereafter, accused Mohd. Shafiq who was also in the lock up, was interrogated by the IO. Shafiq took them to near E-Block Park, near Ring Road, where a booster pump was installed and some scrap (*kabad*) was lying. From the heap of scrap, accused Mohd. Shafiq took out one red and blue colored bag, which was snatched from the complainant at the spot near DDA office near toilet of E-block. The said bag was then checked by the IO, wherein he found one blue-coloured jeans, one old shirt, one vest, one chequed shirt, an orange and black coloured T-shirt and one small diary. The aforesaid clothes and items were kept back in the bag and the said bag was sealed in a *pullanda* (Memo Ex.PW-3/B). PW-3 had also identified accused Mohd. Shafiq in court.

18. Ct Sunil Kumar was posted on emergency duty at PS Subhash Nagar on the day on incident. He was examined as PW-4. He deposed

that on 06.09.2013, at about 1.30 AM at night, on receipt of DD no. 8B, he along with with SI Kalicharan reached the spot of the incident. In the meanwhile, they were informed that the injured person had been taken to BMH Hospital. Thereafter, both the aforesaid persons reached the concerned hospital, where SI Kalicharan collected MLC of Injured Rahul Soy. PW-4 deposed that the injured person was unfit for giving his statement. The complainant was also present in the hospital and his statement as the eyewitness was recorded. Thereafter, SI Kalicharan made a *rukka* for registration of the case and handed over the same to PW-4. The said *rukka* was then taken to the Police Station by PW-4 and the FIR was registered. Thereafter, PW-4 alongwith SI Kalicharan and the complainant reached the spot of the incident and at the instance of the complainant, a rough site plan was prepared. He deposed that efforts were made to find out the accused persons but no one was traced at that time. He stated that thereafter, on 09.09.2013, at about 12.00 PM, accused Rahul @ Chirmanti was taken out of the lock up and he was interrogated by the IO in the presence of PW-4. The accused made a disclosure about the whole occurrence of the incident and his statement was recorded (Ex.PW-4/A). Thereafter, the said accused took PW-4 and the SI to his house being jhuggi no. 56/50 at Sant Ravi Dass Camp, Shakurpur, Delhi, wherein he produced a knife which was taken out from the pocket of a pant. He deposed that the said knife was a *buttondar* knife and it was stained with blood. A sketch of the said knife was prepared (Ex.PW-4/B) and it was sealed and taken into possession (Memo Ex.PW-4/C). Thereafter, the said accused took them to DDA Park near L block, where the accused

Vinay was apprehended. He was arrested on the spot (Ex.PW4/E). Accused Rahul further took them police party at DDA Park, M Block where the accused Mohd. Shafiq was apprehended and arrested. The said accused was also arrested on the spot (Ex.PW4/F) and he was also subjected to personal search (Ex.PW4/G). Thereafter, all the accused persons pointed out at road no. 43 near DDA office near toilet. The IO prepared separate pointing out memos by each of the accused (Ex.PW-4/H of accused Rahul @ Chirmanti, Ex.PW-4/I of accused Vinay and Ex.PW-4/J of accused Mohd. Shafiq).

19. Ct. Mukesh Kumar was part of the investigation team and he was examined as PW-5. He deposed that on 09.09.2013, at about 12 AM at night, accused Rahul @ Chirmanti was interrogated in the Police Station and his disclosure statement was recorded (Ex.PW-4/A). Thereafter, the police also visited the *jhuggi* of the said accused at no.56/60 at Sant Ravi Dass Camp, Shakurpur, Delhi. PW-5 further deposed that after reaching at his *jhuggi*, accused Rahul produced a knife from the pocket of a pant. The said knife was a buttondar knife and was stained with blood. A sketch of the knife was prepared and thereafter it was sealed. He also deposed that thereafter, accused Rahul took them to DDA Park near L block, where accused Vinay was apprehended and arrested. Thereafter, the police along with the accused were taken to DDA Park M Block near State Bank D Block, where the accused Shafiq was apprehended and arrested.

20. HC Subhash was examined as PW-7. He deposed that he was on duty on PCR Van Commander 28 on the night of the incident. On

06.09.2013 at about 1.20 AM in night, he received information that one person has been attacked with knife in front of DDA office, Shakurpur. He deposed that he reached at the incident spot at about 1.24 AM, where they met the injured, who had a stab injury in his abdominal region. Thereafter, the accused was taken to BMH hospital.

21. HC Baldev Raj, who had also investigated the said incident, deposed as PW-8. He deposed that during the investigation, accused Rahul was arrested and recorded his disclosure statement. He further deposed that one more accused was arrested.

22. SI Kalicharan, who was posted at PS Subhash Place as Sub-Inspector, deposed as PW-9. He stated that on 06.09.2013 at about 12.30 AM, he along with Ct. Sunil Kumar reached the spot where he did not find anyone. They were informed that the injured had already been taken to the hospital. After reaching the hospital, they found Rahul Soy (PW-6) in unconscious condition. They also met the complainant in the hospital and his statement was recorded (Ex.PW-9/A). On the basis of the said statement, a *rukka* was prepared (Ex.PW9/B). Thereafter, they along with the complainant reached the spot of the incident and a site plan was prepared. Further, a bloodstained T-shirt (Ex.PW4/N) of injured Rahul Soy was also seized from the hospital. On 09.09.2013, PW-9 obtained the disclosure statement of accused Rahul @ Chirmanti from HC Suresh. The said accused was further interrogated by PW-9. Thereafter, they along with the accused went to his *jhuggi* where they recovered a knife from one

of the pants which was kept in the *jhuggi*. He deposed that the said accused confessed that he used the same knife in the alleged incident.

Reasons and Conclusion

23. The learned counsel appearing for the appellants submitted that one of the principal witnesses for the prosecution (Sanika Munda) was not examined by the prosecution. He submitted that Sanika Munda was with the injured at the time of the incident and was also a victim of the alleged crime. However, he was not examined. He also emphasized that the complaint was registered on the statement of Sanika Munda and in absence of his evidence, the conviction could not be sustained. He further stated that there was a serious doubt as to the recovery of the knife allegedly used in the crime. The recovery is stated to have been made at the instance of the accused Rahul @ Chirmanti (appellant in Criminal Appeal No. 63/2016). He submitted that the knife was stated to be lying in the pocket of one of the trousers, which is highly improbable and it is apparent that the same had been planted. He submitted that although the house from where the knife is alleged to have been recovered is in a crowded area, however, none of the members of the public had witnessed such recovery or had been examined by the prosecution.

24. He also submitted that it was the prosecution's case that knife recovered was a blood-stained knife and the forensic evidence matching the blood on the knife with that of the victim would have assisted the case of the prosecution. However, the knife was not produced and, therefore, the fact that a knife was used in the alleged

robbery, was not established. He submitted that the Trial Court had acquitted the appellants of the offence under Section 25 and 27 of the Arms Act, 1959 as the prosecution's case that the accused were carrying the said knife was not established. He submitted that in view of this finding, the appellant Rahul @ Chirmanti could not be convicted under Section 397 of the IPC. He submitted that one of the necessary ingredients of an offence under Section 397 of the IPC is a use of the deadly weapon and since the knife in question has not been produced, the conviction for an offence under Section 397 of the IPC could not be sustained. He also submitted that there were doubts as to the identification of the appellants as the persons who had allegedly committed the offence. He submitted that PW-6 had admitted that the appellants had been shown to the complainant (Sanika Munda) in the Police Station and, therefore, no purpose would have been served for conducting a TIP. Accordingly, the appellants had also declined to participate in such a TIP.

25. Undoubtedly, it would have been apposite for the prosecution to have examined Sanika Munda. His testimony would have been important since he was present at the incident. In fact, the allegation is that the accused had snatched his bag containing some clothes, mobile phone and cash of ₹21,000/-. However, this Court is unable to accept the contention that the conviction of the appellants cannot be sustained in absence of his testimony. In this case, the prosecution has led evidence – independent of the evidence that could have been provided by Sanika Munda – to establish the involvement of the appellants in the offence.

26. The testimony of PW-6 is unambiguous. He had deposed that one of the boys who was heavily built (fatty built), had caught hold of him from his neck and one other person had stabbed him in his abdomen with the knife and had snatched his mobile phone and his purse containing some visiting cards and documents. He had identified the accused Rahul @ Chirmanti as the person who had stabbed him and accused Vinay as the person heavily built person who had held him by his neck. PW-6 had also identified the accused Mohd. Shafiq who had snatched the Complainant's bag.

27. There is no doubt as to the injury received by PW-6. The MLC (Ex.PW1/A) clearly established that the injury was dangerous. It also indicates that the injury was caused by a sharp object ("stab wound"). Dr. Soma Roy had deposed as PW1 and testified that she had examined Rahul on 06.09.2013 at about 01:30 AM and she had observed a stab wound at the left side of his abdomen (supriolateral to umbilicus) measuring about 3 x 0.5 cm.

28. In absence of any evidence or circumstances, which would raise any doubts as to the testimony of PW-6 and the medical evidence; the same are sufficient to establish the involvement of the appellants in the alleged crime. This Court has examined the evidence in the present case and finds no reason to disbelieve the evidence of PW-6.

29. The fact that a knife used in the crime had not been produced, does not, in any manner, raise any doubt as to the testimony of PW-6 that he had been stabbed in his abdomen by a knife by Rahul @ Chirmanti. Undeniably, the production of the knife and forensic evidence establishing the blood on the knife as that of the victim (PW-

6) would have assisted the prosecution in establishing its case, but the fact that the knife had not been produced, cannot lead to the conclusion that the prosecution has not established its case beyond reasonable doubt. As is apparent from the impugned judgment, the knife had been sent to FSL and had not been received back.

30. The nature of the wound is established by PW-1. The MLC (Ex.PW1/A) establishes that a knife had been used to inflict the injury. PW6 identified Rahul @ Chirmanti as the person who had inflicted the dangerous injury.

31. Non-production of the knife at best can be treated as its non-recovery. It is now well settled that recovery of weapon is not essential for establishing that the weapon had been used in commission of the crime.

32. In ***Ashfaq v. State (Govt. of NCT of Delhi): (2004) 3 SCC 166***, the Supreme Court had explained that when an offence of robbery is committed by an offender being armed with a deadly weapon which is within the vision of the victim so as to be capable of creating a terror in his mind, the offender must be deemed to have used that deadly weapon in commission of the robbery.

The Court further observed as under:-

“8. Thus, what is essential to satisfy the word "uses" for the purposes of Section 397 IPC is the robbery being committed by an offender who was armed with a deadly weapon which was within the vision of the victim so as to be capable of creating a terror in the mind of the victim and not that it should be further shown to have been actually used for cutting, stabbing, shooting, as the case may be.”

33. There are a number of decisions rendered by this Court, where it has been held that the conviction under Section 397 of the IPC would not be sustainable if the weapon was not recovered. (See: **Charan Singh v. State: 1988 Crl.L.J. NOC 28 (Del)**; **Ghanshyam @ Bablu v. State: 2010 (1) JCC 240**; **Jitender @ Jitu v. State (NCT of Delhi): 2015 (2) JCC 1018**; **Dig Bahadur v. State: 2018 (1) JCC 9**; and **Rajender @ Raju v. State: Crl. A. 616/2003, Crl.A. 82/2004, decided on 19.05.2018**). However, the said decisions do not take note of an earlier decision of this court in **Salim v. State (Delhi Admn.): (1988) 14 DRJ 85**. In that case, this Court had not accepted the contention that since the knife had not been recovered, it could not be established that a deadly weapon had been used.

34. In **Seetal v. State (NCT of Delhi): (2014) 215 DLT 60**, a Coordinate Bench of this Court had examined the earlier decisions and had observed that there is a diversion of use between the decisions of this Court with regard to the question whether recovery of the weapon is necessary for sustaining a conviction under Section 397 of the IPC. The court had observed that there is a line of cases, which follows the decision of the Supreme Court in **Phool Kumar v. Delhi Administration: 1975 (1) SCC 797** where a knife is held to be a deadly weapon and once its use is established, it is not necessary to categorize the same and, therefore, non-recovery of the same does not frustrate the prosecution's case.

35. In **Ashfaq v. State (Govt. of NCT of Delhi) (supra)**, the Supreme Court had sustained the conviction under Section 397 of the

IPC notwithstanding that the weapon had not been recovered. After noticing the divergent views, the Court had observed as under:

“the fact that the knife was not recovered at all, or that the recovered weapon was not shown during the course of trial of the victim, would not matter as long as the eye witnesses to the crime are able to convincingly and consistently recount the fact that they were threatened by the sight of the accused wielding the knife into parting with their belongings.”

36. In a later decision in **Murlidhar v. State: Crl. A. 279/2002**, this court had noticed various views and following the decision in **Phool Kumar v. Delhi Administration** (*supra*) and **Ashfaq v. State (Govt. of NCT of Delhi)** (*supra*), held that recovery of weapon is not essential for sustaining a conviction under Section 397 of the IPC.

37. In the present case, there is little doubt that a knife was used in the offence. The contention that unless a knife is examined, it cannot be ascertained whether it is a deadly weapon or not, is also unmerited. The sketch of the knife (Ex.PW4/B) has been produced, which indicates its length was 24.11 cm and the length of the blade was 12.3 cm. Even if this is ignored, the fact that the knife has been used is established by the testimony of PW-6 and is sufficiently corroborated by the MLC (Ex.PW1/A).

38. In **Salim vs State (Delhi Admn):1988(14) DRJ 85**, this Court had, following the decision of the Supreme Court in **Phool Kumar vs Delhi Administration: AIR 1975 SC 905**, held that knife irrespective

of the size or description would qualify to be a deadly weapon for the purposes of Section 397 of the IPC.

39. It was contended on behalf of the appellants that there is inconsistency in the testimony of PW-6 and PW-10 (the wife of PW-6). PW-6 had testified that he had become unconscious due to the stab injury and after regaining consciousness, his brother (Sanika Munda) had gone to his house where his family members had made a call at 100 number. Thereafter, he was taken to Mahavir Hospital. His wife (deposed as PW-10) had stated that Sanika Munda had come to the house and stated that Rahul Soy had received a knife injury, accordingly, she had also reached the spot. She informed the PCR in this regard and PCR Van had come to the spot. She had stated that “*we took my husband Rahul Soy to BMH hospital*”. The inconsistency in the testimony is with regard to whether PW-6 had come back to his house. Considering that the PW6’s house is only 100 to 150 steps from the spot, it does not appear that there is any material inconsistency. Further a closer examination of the testimony of PW-10 does not indicate that PW-6 was not taken to his house. She had deposed that she had come to the spot and had found Rahul Soy in an injured condition and she had informed the PCR in this regard. She had deposed that “*we took my husband Rahul Soy to BMH hospital*”. ‘We’ in this case is her, the complainant as well as the officials in the PCR Van. She did not depose as to from which spot PW-6 was taken to the hospital. Her testimony is silent in this regard. Therefore, the contention that there is a material inconsistency between the testimony of PW-6 and PW-10 in this regard, is unmerited.

40. This Court also finds no merit in the appellant's contention that there is any doubt as to the identification of the appellants as the persons who are involved in commission of the offence. The contention that the appellants had been shown to the Complainant and PW-6 at the Police Station, is unsubstantiated. PW-6 had testified that his brother Sanika Munda (complainant) had seen the accused at the Police Station. However, he had denied the suggestion that he had seen them at the Police Station. Thus, there is no evidence to establish that the accused was shown to PW-6 at the Police Station. Secondly, even if it is accepted that PW-6 had identified the accused at the Police Station, it does not raise any significant doubt as to his testimony identifying Rahul @ Chirmanti as the person who had inflicted the stab wound and Vinay as the person who had held him by his neck, is untrustworthy. In addition to the above, the articles robbed by the accused were also recovered at the instance of the accused.

41. This Court finds no infirmity with the decision of the learned Trial Court. The Trial Court had rightly evaluated the evidence obtaining in this case. This Court had also examined the evidence obtaining in this case and concurs with the view of the Trial Court.

42. The appeals are, accordingly, dismissed.

VIBHU BAKHRU, J

NOVEMBER 18, 2019

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