

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (DB) No.47 of 2020

Arising Out of PS. Case No.-69 Year-2017 Thana- BARHIYA District- Lakhisarai

RANJIT KUMAR @ LANGRA S/o Raj Kumar Singh R/o village- Jaitpur,
P.S.- Barhiya, District- Lakhisarai

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Thakur, Advocate
Mr. Ritwik Thakur, Advocate
For the Respondent/s : Ms. Shashi Bala Verma, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA)

Date : 17-09-2025

The present appeal has been preferred under Section 374(2) of the Code of Criminal Procedure, 1973 (here-in-after referred to as “the Cr.P.C.”) against the judgment of conviction and order of sentence dated 18.12.2019 and 20.12.2019 respectively, passed in Sessions Trial No. 172 of 2017 (arising out of Barahiya P.S. Case No. 69 of 2017), by the Court of learned Additional District and Sessions Judge-2nd, Lakhisarai (here-in-after referred to as learned trial Judge). By the said judgment dated 18.12.2019, the learned trial Judge has convicted the appellant under Sections 302/34, 341/34 and 307/34 of the Indian Penal Code (here-in-after referred to as “IPC”) and he has been sentenced to undergo rigorous imprisonment for life under Section 302/34 of the IPC with fine of Rs.20,000/- and in default of payment of the same, the appellant has been further directed to undergo simple



imprisonment for six months. The appellant has also been sentenced to undergo simple imprisonment for 10 years under Section 307/34 of the IPC with fine of Rs.10,000/- and in default of payment of the same, he has been further directed to undergo simple imprisonment for 3 months. The appellant has also been sentenced to undergo simple imprisonment for one month under Section 341/34 of the IPC. All the sentences have been directed to run concurrently.

2. The short facts of the case, as per the *fardbeyan* of Ranju Devi (P.W.3) recorded on 11.04.2017 at 10:00 p.m. at Glocal Hospital, Begusarai is that on 11.04.2017 at around 1:00 p.m., while her two sons, namely Satyam Kumar, aged about 14 years and Shivam Kumar, aged about 12 years were in the house, co-villager Ranjit Kumar @ Langra, the appellant herein, came to her house and asked them to come along with him as he was offering a party of drinking Maaza, whereupon her two minor sons Satyam Kumar and Shivam Kumar went along with him and did not return home for a long time. It is further alleged that, thereafter she went in search of her children when she was informed by her neighbour Rohit Kumar that Ranjit Kumar @ Langra (appellant) had taken her sons towards Tirasi Bagicha where she found her elder son Shivam Kumar lying in an



injured conditions under the Mango tree, with several injuries on his neck and on his head and her second son Satyam Kumar was also being pushed and his neck was being cut. She has further stated that there were six persons present at the place of occurrence out of whom she identified Ranjit Kumar @ Langra (appellant), Saurabh Kumar @ Gonga, Krishna Kumar and Dipak Kumar and there were two unknown persons whom she could not identify. She has further stated that all the accused persons together, were mercilessly assaulting her children with bricks and by piercing knife causing serious injuries to them. She started screaming upon witnessing the occurrence, whereafter the villagers came at the place of occurrence and both the children were taken to the referral hospital Barahiya for treatment from where they were referred to the Glocal Hospital, Begusarai, where, during course of treatment the younger son, namely Shivam Kumar, aged about 12 years, had died while the elder son Satyam Kumar was undergoing treatment. The reason behind the occurrence as stated by the informant is that the appellant wanted to marry her minor daughter Neha @ Duja Kumari, aged about 15 years and since they used to protest the same and he had failed to marry her daughter, he committed the murder of her both sons out of the said grudge. She has further



stated that in case she had not reached Tirasi Bagicha on time they would have killed her both sons and would have also got the dead bodies to disappear. It has next been alleged by the informant that the appellant had decided to kill her two children so that he could keep the informant and others under fear in order to get married to the daughter of the informant.

3. On the basis of the aforesaid *fardbeyan*, a formal F.I.R. bearing Barahiya P.S. Case No. 69 of 2017 was registered for offences under Sections 302, 307, 341, 324 and 326 read with Section 34 of Indian Penal Code on 11.04.2017 at 11:45 p.m. against four named accused persons, including the present appellant, and two unknown persons.

4. After investigation, charge-sheet was submitted on 30.06.2017 against the appellant under Sections 302, 307, 341, 323 and 326 read with Section 34 of the I.P.C. and the second charge-sheet was submitted against the rest of the accused persons on 28.09.2017 under the same sections. Upon submission of the charge-sheet, cognizance was taken by the Court concerned on 14.07.2017 against all the accused persons under the same sections, whereafter, the case was committed to the Court of Sessions on 30.08.2017 and was numbered as Sessions Trial No. 172/2017. Charges were framed by the



learned trial Court on 20.02.2018 under Sections 302, 307, 323 and 341 read with Section 34 of the I.P.C. against the appellant to which he pleaded not guilty and claimed to be tried.

5. During the course of trial, the prosecution in order to substantiate its case, examined ten witnesses in its favour, out of whom P.W.2, Satyam Kumar (brother of the deceased), P.W.3, Ranju Devi (mother of the deceased) and P.W.7, Neha Kumari @ Duja Kumari (sister of the deceased) claimed to be the eye-witnesses of the occurrence. P.W.1, Akaldeo Singh @ Akhileshwar Singh, the father of the deceased, is a hearsay witness, P.W.8, Rajesh Kumar, a co-villager, has been declared hostile, while P.W.9, Sanjeev Kumar and P.W.10, Shyam Sundar Kumar are the two independent witnesses who have not supported the occurrence but have not been declared hostile. P.W.6, Harishankar Kashyap, is the Investigating Officer of the Case, while P.W.4, Dr. Surender Kumar is the doctor who had examined the injuries of the deceased and that of P.W.2, Satyam Kumar. P.W.5, Dr. Divakar Singh is the Medical Officer who had conducted the post-mortem examination of the dead body of the deceased.

6. Mr. Ritwik Thakur, the learned counsel appearing on behalf of appellant has submitted that the



prosecution case suffers from several infirmities which are serious in nature and sufficient to set aside the conviction of the appellant. At the outset, he emphasizes on the fact that the earliest version of the case as narrated by the injured witness P.W.2, who according to his own evidence, had given a statement not only at the place of occurrence but also at the hospital along with his signature, has been deliberately suppressed by the prosecution, hence the real fact of the case has not been brought forward and rather a concocted version has been introduced by way of the present F.I.R. Learned counsel for the appellant has, in this context, relied upon a judgment rendered by the Hon'ble Supreme Court in the case of ***Mohan Lal Vs. State of Rajasthan***, reported in ***1999 (9) SCC 209***, wherein it has been held that suppression by the prosecution of the earliest version is also a material infirmity. He has further relied upon the case of ***State of Madhya Pradesh Vs. Ratan Singh & Ors.*** reported in ***2020(12) SCC 630*** to further lay stress on the fact that a willful suppression of the actual F.I.R casts grave doubts on the credibility of the prosecution version. Paragraph no. 9 of the said judgment is being quoted hereunder:-

“9. Thus, not only was there a delay in filing of the FIR (which remained unexplained) which was taken as the basis of the investigation



in this case, but also there was a wilful suppression of the actual first information received by the police. These factors together cast grave doubts on the credibility of the prosecution version, and lead us to the conclusion that there has been an attempt to build up a different case for the prosecution and bring in as many persons as accused as possible.”

7. It has also been argued that the entire manner of occurrence indicating the role of the appellant who is a differently abled person, unable to even stand on his feet, is totally unbelievable and improbable and does not inspire confidence. He has also raised a serious doubt on the evidence of P.W.3 (mother of the deceased) and P.W. 7 (sister of the deceased), on their claim of being eye-witnesses to the occurrence. It has further been argued that P.W.3, who is the informant of this case, has made a departure from her statement made in the F.I.R during the course of her evidence by stating that she had become unconscious. Her claim has further been assailed on the basis of the fact that even P.W.2 Satyam Kumar, the son of the deceased, has stated in his evidence that his mother was in a meeting while the appellant had come to his house to call them. Further, the evidence of P.W.3 as an eye-witness also becomes doubtful in view of the evidence of P.W.7,



Neha Kumari @ Duja Kumari (sister of the deceased) as according to her evidence, when her brothers were called by the appellant, her mother had gone for a meeting while her father was at home. P.W.7, although in her examination-in-chief claims to be an eyewitness to the occurrence, however she has stated categorically in her cross-examination that she had gone to the place of occurrence along with her mother and after having received the information with regard to the incident, she had first gone to the Middle school which is at a distance of half kilometer, to give such information to her mother and only thereafter, together they had come to the place of occurrence which had taken almost 25 minutes and by the time they had reached, the occurrence had already taken place. It is thus submitted that neither P.W.3 nor P.W.7 is actually an eyewitness to the incident and they had rather reached the place of occurrence later, after the incident had already taken place.

8. Learned counsel for the appellant further submits that so far as P.W.8, P.W.9 and P.W.10 are concerned, while P.W.8 has been declared hostile by the prosecution, P.W.9 and P.W.10, although examined as independent witnesses, have not supported the case of the prosecution. It has also been pointed out that P.W.6 who is the Investigating Officer of the present



case has also not collected any objective evidence from the place of occurrence although he has stated that he found blood at the place of occurrence during his inspection. It has also been argued that although police had reached immediately at the place of occurrence, no incriminating articles have been recovered from the place of occurrence. No motive for committing the offence in question is forthcoming as the relation of the appellant with the informant and her family was rather very amicable. It has also been stated that the motive which has been introduced by the prosecution through the F.I.R. with regard to desire of the appellant to get married to P.W.7, Neha Kumari @ Duja Kumari (sister of the deceased) also does not get substantiated from the evidence of P.W.7 herself who has not made any such statement and has rather stated in her cross-examination that she had never been with the appellant and he had never kidnapped her for the purposes of marriage although she knew him from the past 4-5 years and also used to go to his shop and this is precisely the reason why the sons of the deceased had gone along with the appellant, even as per the prosecution story, without any hesitation.

9. Learned counsel for the appellant has also contended that the evidence of P.W.2 Satyam Kumar, being a



child witness also needs to be scrutinized with great care and caution. He has invited the attention of this Court to paragraph no. 23 of the evidence of P.W.2 by stating that the story of appellant having started committing the offence with his brother and then committed the act with him after 20-25 minutes, does not seem to be a believable proposition. Thus, looking into the evidence of P.W.2 in its entirety, the same does not inspire confidence. In this context, learned counsel for the appellant has referred to certain judgments passed by the Hon'ble Supreme Court laying down principles for considering the competence of a child witness and as to whether in absence of some preliminary questions being put by the learned Court with regard to his capability of understanding questions and giving referral answers, credence can be given to the testimony of such child witness. A three Judges Bench of the Hon'ble Apex Court in the case of ***Bhagwan Singh & Ors. Vs. State of Madhya Pradesh***, reported in ***2003(3) SCC 21***, has taken into consideration the question of competence of a child witness and has held that it would be hazardous to rely on the sole testimony of the child witness in case the same has not been made immediately after the occurrence, giving scope of possibility of tutoring him. Paragraph nos. 19 and 22 of the said judgment are being quoted



hereunder:-

“19. The law recognises the child as a competent witness but a child particularly at such a tender age of six years, who is unable to form a proper opinion about the nature of the incident because of immaturity of understanding, is not considered by the court to be a witness whose sole testimony can be relied upon without other corroborative evidence. The evidence of a child is required to be evaluated carefully because he is an easy prey to tutoring. Therefore, always the court looks for adequate corroboration from other evidence to his testimony.

22. It is hazardous to rely on the sole testimony of the child witness as it is not available immediately after the occurrence of the incident and before there were any possibility of coaching and tutoring him. (See paras 14-15 of State of Assam v. Mafizuddin Ahmed [(1983) 2 SCC 14 : 1983 SCC (Cri) 325] .) In that case evidence of a child witness was appreciated and held unreliable thus: (SCC p. 20)

“14. The other direct evidence is the deposition of PW 7, the son of the deceased, a lad of 7 years. The High Court has observed in its judgment:

‘... the evidence of a child witness is always dangerous unless it is available immediately after the occurrence and before there were



any possibility of coaching and tutoring.’

15. A bare perusal of the deposition of PW 7 convinces us that he was vacillating throughout and has deposed as he was asked to depose either by his nana or by his own uncle. It is true that we cannot expect much consistency in the deposition of this witness who was only a lad of 7 years. But from the tenor of his deposition it is evident that he was not a free agent and has been tutored at all stages by someone or the other.”

10. The learned counsel for the appellant has further relied on a judgment rendered by the Hon’ble Apex Court in the case of ***Digamber Vaishnav & Anr. Vs. State of Chhattisgarh***, reported in ***2019 (4) SCC 522***, paragraph nos. 21 and 22 whereof are being quoted hereunder:-

“21. The case of the prosecution is mainly dependent on the testimony of Chandni, the child witness, who was examined as PW 8. Section 118 of the Evidence Act governs competence of the persons to testify which also includes a child witness. Evidence of the child witness and its credibility could depend upon the facts and circumstances of each case. There is no rule of practice that in every case the evidence of a child witness has to be corroborated by other evidence before a conviction



can be allowed to stand but as a prudence, the court always finds it desirable to seek corroboration to such evidence from other reliable evidence placed on record. Only precaution which the court has to bear in mind while assessing the evidence of a child witness is that witness must be a reliable one.

22. This Court has consistently held that evidence of a child witness must be evaluated carefully as the child may be swayed by what others tell him and he is an easy prey to tutoring. Therefore, the evidence of a child witness must find adequate corroboration before it can be relied upon. It is more a rule of practical wisdom than law."

11. Reliance has next been placed upon the judgment rendered by the Hon'ble Apex Court in the case of ***K. Venkateswar of State of Andhra Pradesh***, reported in **2012(8) SCC 73**, wherein it has been laid down that a careful evaluation of the evidence of a child witness is to be emphasized besides looking for corroboration of evidence of a child witness for the purposes of coming to the conclusion that child is not tutored and his evidence has a ring of truth. A recent judgment rendered by the Hon'ble Supreme Court in the case of ***Pradeep Vs. State of Haryana***, reported **2023 (19) SCC 221** has also been referred to, paragraph nos. 12 whereof is being reproduced here-in-below:-



“12. It is a well-settled principle 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 a child witness. The court must make careful scrutiny of the evidence of a child witness. The court must apply its mind to the question whether there is a possibility of the child witness being tutored. Therefore, scrutiny of the evidence of a child witness is required to be made by the court with care and caution.

12. The learned counsel has also laid stress on the fact that it is an admitted position that the appellant suffers from disability and the disability certificate of the appellant has also been exhibited by the defense as Exhibit-A, which shows that the appellant is 85% disabled. Under such conditions, the entire prosecution story does not seem probable at all as there could be no such free movement at his end in order to commit the aforesaid offence and also conceal himself from the police after their arrival at the scene of occurrence. Lastly, it has been submitted that there has been a constant suggestion to the witnesses of the prosecution that the sons of the informant used to play game of cricket with other children, hence there could be a possibility of them being assaulted upon in the course of any



other dispute with some other children.

13. Learned counsel for the appellant has further invited the attention of this Court to the fact that the other three accused persons (out of whom two were declared juvenile) have already been acquitted of the charges levelled against them by the Courts concerned, mainly upon the consideration that the prosecution witnesses failed to identify the said accused persons.

14. With the aforesaid arguments, the learned counsel for the appellant has tried to drive home the point that in case the other accused persons have already stood acquitted, in such a situation the present appellant could not have singularly, especially, being 85% disabled, carried out the offence of slitting the throat of one boy and causing injury to the other.

15. Per contra, Ms. Shashi Bala Verma, learned APP for the State has submitted that the facts and circumstances of this case do not warrant interference by this Court against the impugned judgment as there is direct and specific allegation against the appellant of having caused the death of the deceased Shivam Kumar and also causing serious injuries to Satyam Kumar who is P.W.2. It has also been submitted that the prosecution mainly rests its case only on evidence of P.W.2, who is an injured witness and the position of law is settled that the



testimony of an injured witness is kept at a higher pedestal and more sanctity is attached to the same. It is not expected that he would not speak the truth and in the present case, she submits that the injury suffered by P.W.2 is quite a grave one, hence it is not expected that he would spare the real perpetrators of the crime in order to implicate someone else. It has further been submitted that the injured witness Satyam Kumar (P.W.2) cannot be said to be un-trustworthy only by virtue of the fact of him being a minor. Some minor discrepancies may have occurred in his deposition but the same does not go to the root of the prosecution case, hence his evidence does not suffer from any major infirmity. Learned APP for the State has also argued that so far as tutoring of the said witness is concerned, his condition was so serious that there was no opportunity as such when he could have been tutored to say certain facts. With regard to place of occurrence, it has been submitted that the same stands established as all the witnesses have consistently stated that occurrence had taken place at Terasi Bagicha and more importantly both the injured boys, namely Satyam and Shivam were also found at the same *bagicha* from where they were taken to the hospital for treatment. So far as manner of occurrence is concerned, the evidence of P.W.2, Satyam Kumar,



the injured witness has been referred, to submit that he has very candidly explained the entire sequence of events and the same does not appear to be unnatural or impossible. It has also been submitted that the defense has also put several questions to him but he, even being a child of tender age, has stood such cross-examination.

16. With regard to motive imputed to the appellant, learned APP for the State has submitted that the fact relating to the appellant being desirous of marrying the sister of the deceased which was being objected to by the parents of the deceased, finds place in the F.I.R itself as also in the evidence of P.W.1 and P.W.3, who are both the father and mother of the deceased and the present occurrence has been committed only upon the same being refused by the parents. Learned APP for the State has also submitted that the medical evidence in the form of post-mortem report and the deposition of the doctor (P.W.5) also corroborates the oral allegations of death being caused by a knife which is a sharp cutting weapon. It is further submitted that so far as the other prosecution witnesses are concerned, they do not seem to be eye-witnesses of the case but the injured witness P.W.2 is himself a competent witness and conviction of the appellant is sustainable only upon the sole testimony of the



said injured witness P.W.2.

17. Lastly, it has also been submitted by the learned APP for the State that the police may have committed some lapses in investigation but the same are not very serious and would not go to the advantage of the appellant. Thus, in view of all such grounds it has been submitted that no interference is required with the impugned judgment of conviction and order of sentence.

18. Besides hearing the parties, we have minutely perused the evidence, both oral and documentary. Before proceeding further, it is necessary to cursorily discuss the evidence.

19. P.W.1, Akaldeo Singh @ Akhileshwar Singh, is the father of the deceased as also a hearsay witness who was informed by one Ram Deo Singh that his sons, namely Satyam and Shivam have been cut and thrown in an occurrence which has taken place at Terasi Bagicha. Upon such information, the witness went first to the police station and then to the hospital where he got to know that his son Shivam Kumar had already died and he also saw the dead body of Shivam with his throat slit. While naming the appellant, Deepak and *Gonga* @ Saurabh being perpetrators of the crime, this witness has also stated that



the reason for the present occurrence is his refusal to the desire of the appellant of getting married to his daughter i.e. the sister of the deceased (P.W.7). This witness admits in his cross-examination that he is not an eye-witness to the occurrence and his statement is based upon hearsay evidence. It is also admitted that the appellant was on visiting terms to his house but has further stated that the appellant had allured her daughter and taken her away to Sabaura village and had brought her back only after 1-2 days.

20. P.W.2, i.e. the brother of the deceased Satyam Kumar, who has also been injured in the said occurrence, has been examined by the prosecution. This witness has stated that the appellant along with Gonga @ Saurabh had come to his house and asked them to accompany them for having Maaza drink, whereafter he and his brother Shivam had gone to Terasi Bagicha along with them. The appellant, according to him, had gone by his handicapped rickshaw while they had gone on foot. He has further stated that only few other persons were present at the Bagicha from before, out of whom he had identified one Deepak @ Chandan of Laxmipur. He then states that when he was sitting in the Bagicha, the appellant by pressing his mouth started cutting his throat by a knife while Gonga and Deepak



were cutting the neck of his brother. The accused persons were intending to throw both of them into the well but upon intervention by the villagers, who came to the scene of occurrence upon alarm being raised by this witness, the accused persons fled away while the appellant concealed himself behind the well. The police, upon arrival at the place of occurrence questioned him with regard to his brother, to which this witness responded by stating that he has been concealed somewhere at the place of occurrence, whereafter the police also recovered his brother. Thereafter, both the brothers were taken to Barhaiya hospital and from there to Glocal Hospital, Begusarai and while he was treated at Glocal Hospital, his brother Shivam had died on way to the hospital. He has further stated that his neck was slit from both the front and from the back, whereafter it was noticed that a long cut mark was found on both sides. It has further been stated by this witness that police had taken his statement and he had stated all these facts before the police. He has identified the appellant in the Court to be the person who cut the neck of both the brothers. In cross-examination, this witness has stated that when the appellant had come to his house to call him, his sister was watching television while her mother had gone for a meeting and without informing any of the family



members, they had left with the appellant. In paragraph no.19, this witness has stated that he had seen a knife with the appellant in the *bagicha* while he was at a distance of 10 feet from him. The other accused persons also had knife, blade and scissors in their hands. In paragraph no. 23, this witness has stated that the occurrence was first started with his brother and only after lapse of 20-25 minutes, the occurrence took place with him too. It is further stated that when his brother was being caught, he could not raise any alarm as his mouth was pressed by the accused persons. He further states that while he was standing at a distance of 10 feet from the appellant, he had called P.W.2 towards him. There was blood in the hands of the appellant and the blood had also sprinkled on his body and also at the place of occurrence. In paragraph nos. 29 and 31, P.W.2 has stated that the appellant sits and drags himself with the aid of his hand and in paragraph no. 30, it has been stated that he was cutting P.W.2 while being seated on the ground. It is further stated that the appellant had held him by his left hand and was using his right hand to slit his throat. He had also stated that the appellant does not fall even when he raises both his hands. P.W.2 has specifically stated in paragraph no. 35 of his deposition that his statement was taken by the police on the very day of occurrence,



whereafter he was taken to the hospital and the police had also got his signatures. It has further been stated that he remained in the hospital for about one month and there also, the police enquired from him. P.W.2 has further stated that other accused persons were also aiding the appellant in cutting him. It has next been stated that he used to buy articles from the shop of the appellant and there had never been any cruel behavior towards him by the appellant. This witness met his parents for the first time in the *bagicha* itself after the occurrence where his sister P.W.7 had also arrived. It has further been stated that his sister was never married with the appellant but also states that the appellant had taken his sister along with him, however his family did not owe any money to the appellant. It has also been stated that while one accused was from outside all other accused persons hailed from his village, however, he never used to play with them and it is not a fact that he ever had any dispute in any game with other children owing to which those children have committed the occurrence with him. This witness has denied the defense suggestion that the appellant used to indulge in extracting some money from his parents.

21. The informant Ranju Devi has been examined as P.W. 3 and she happens to be the mother of the deceased and



the injured P.W.2. This witness states in her examination-in-chief that while she was at her home, the appellant and Deepak @ Chandan had come to her house and invited her sons Satyam and Shivam to have 'Maaza' on the inauguration of his shop, whereafter both children had gone alongwith the appellant. It is further stated that when she went in search of her children after some time, one Rohit informed her that her children have been taken towards 'Terasi Bagicha' and upon reaching the said *Bagicha*, she found her son Shivam lying in an injured condition with blood all over while the appellant and Deepak were slitting the neck of other son Satyam, whereafter she screamed loudly, leading to other villagers having arrived at the place of occurrence. The accused Deepak @ Chandan and other 2-3 persons fled away while the appellant had concealed himself behind the bushes. The police arrived at the scene of occurrence upon information given by the villagers and the injured were taken to the Barahiya Referral Hospital from where they were referred to Patna but she brought her children at Glocal Hospital, Begusarai and her son Shivam had died in the hospital. This witness has further stated that the appellant was nursing the desire to marry her daughter Neha Kumari @ Duja Kumari (P.W.7) which had been refused by them. P.W.3 has



further stated that her statement was recorded by the police of Barhiya Thana at Glocal Hospital, Begusarai and upon the same being read over to her, she appended her signature, which has been marked as Exhibit-1 in this case. She had identified the appellant in the Court. In her cross-examination, this witness has stated that her daughter Neha @ Duja Kumari subsequently got married at Bharampur after two months and the appellant had given threatening that if the marriage of Neha @ Duja Kumari was not performed with him, he would kill both her sons and even presently, the appellant is threatening her to compromise the case. She further states that prior to the occurrence her daughter Neha @ Duja Kumari had never disclosed about any marriage or threatening and further, this witness had informed the police about the fact that the appellant used to threaten her daughter Neha @ Duja Kumari and had also given the mobile phone. In her further cross-examination, she has asserted that at the time when the appellant had come to call she was in her house along with her daughter and her two sons and her both sons had informed her that they were going along with the appellant. She has denied the fact that her daughter had ever got married with the appellant or had ever stayed with him. She has also denied the fact that the appellant had ever made any such



proposal for marriage. It has also been stated that upon seeing her children in an injured condition, she had become unconscious but when she had reached the place of occurrence she had seen around ten persons in the *Bagicha*, out of whom, Deepak @ Chandan was fleeing away while the appellant concealed himself in the bushes, however, she did not identify other persons. It has also been stated by her that she had seen a knife at the scene of occurrence and the same was picked up by the police. It has been further stated that her statement was recorded on the third day of her coming back from the hospital which was after a month. It would further appear from her evidence that she had found both her children lying in injured condition at the *Bagicha* at a distance of 10 feet and the accused persons had fled away and it was her son who had informed her about the accused persons. She has further stated that her daughter Neha Kumari @ Duja Kumari had also gone along with her to the *Bagicha* in search of her two children.

22. P.W.4 is Dr. Surender Kumar, the Medical Officer who had examined the injuries of both Satyam Kumar and Shivam Kumar. Upon examining the body of Satyam Kumar, he had found the following injuries.

I. Sharp cut on neck (front), 7"x1"x 1.5" blood oozing from wound.



II. Swelling on right eye and neck.

III. Generalised bodyache.

23. Further, the doctor had examined Shivam Kumar on the same day and had found following injuries on his body:-

I. Sharp cut in left side neck 5"x1"x1" blood oozing.

II. Sharp cut in back of head left side 3"x1"x1.5" blood oozing.

III. Sharp cut on right side of face 4"x2"x1" blood oozing.

IV. Generalised bodyache.

24. Finding the patient in a serious condition, P.W.4 had referred them to the Patna Medical College Hospital, Patna for further treatment and the injury has been stated to be caused by sharp edged weapon while opinion with regard to nature of injury was reserved in anticipation of X-ray report and CT-Scan etc. He has identified his signature on both the injury reports which have been marked as Exhibit-2 and Exhibit-2/1 respectively. In the cross-examination, this witness has stated that there was a fracture of scalp bone and the CT-Scan report which was produced before him was from some Private Hospital, Begusarai. He has stated that he cannot say which particular weapon was used for causing the injuries and has further stated that such injuries would not be possible by using a shaving blade and it may be possible by using knife. It has



further been stated that the injury no.2 on the body of Shivam Kumar may be possible by knife or sword etc. The doctor has admitted that he did not mention whether the patient was conscious or unconscious although he has stated that he was serious.

25. Dr. Diwakar Singh, the Medical Officer who has been examined as P.W.5 had conducted the autopsy on Shivam Kumar on 12.04.2017 at 1:35 p.m. and found the following external injuries;

I. Stitched wound clean margin of 5" in length occipital region.

II. Stitched wound clean margin of 4" in length over left lateral aspect of neck extending upon to lower jaw.

III. Stitched wound clean margin 5.5" in length over left lateral aspect of forehead extending up to lower side of left face.

IV. Stitched wound clean margin of 3" in length over right side of face.

V. Sharp cutting wound of size 3"x3/4"x1/2" of back right side of neck.

VI. stitched wound clean margin of 2" to length over right lower forehead.

26. On internal examination, the Doctor had found a hematoma in right occipital and parietal region of the scalp and a fracture of right parietal and occipital bone of scalp. In the opinion of doctor, the death was due to haemorrhagic and neurogenic shock produced by the above mentioned injuries caused by sharp cutting weapon. He has identified his signature



over the post-mortem report which has been marked as Exhibit-3.

27. In the cross examination, P.W.5 has stated that as per his findings, the death was within 18-24 hours and this opinion is based on the fact that rigor mortis was present on the dead body. The Investigating Officer, Mr. Hari Shankar Kashyap has been examined as P.W.6 and he has stated that before taking charge of the investigation, he had gone to the Glocal hospital, Begusarai and recorded the fardbyen of the informant Ranju Devi (the mother of the deceased) and thereafter, he had recorded the further statement wherein she fully supported the F.I.R. This witness had also recorded the statement of the husband of the informant Akaldeo Singh @ Akhileshwar Singh and Rohit Kumar. He has further stated that he made an attempt to record the statement of the injured Satyam Kumar but he was not in a position to give his statement. In paragraph no.6 of his deposition P.W.6 has narrated about the inspection of the place of occurrence which is a Mango Orchard of one Nunu Babu which is known as Terasi Bagicha and it is in this orchard, under the mango tree, that both the children Satyam and Shivam were injured by slitting of throat. He has further stated that he found blood under the tree at the place of occurrence in huge quantity. This witness had also recorded the statements of Sanjeev Kumar



(P.W.9), Rajesh Kumar (P.W.8) and Shyam Sundar (P.W.10) who supported the occurrence. After coming back from the place of occurrence he got to know that accused Ranjeet Kumar @ Langra, the appellant herein, has been arrested and upon inquiry from him, he recorded his confessional statement. It is further stated that after the injured Satyam Kumar (P.W.2) came home upon getting himself treated, his statement was also recorded by the Investigating Officer who narrated the entire story of assault upon him and his brother Shivam. The Investigating Officer had submitted charge-sheets on 30.06.2017 and 28.09.2017 against Ranjeet Kumar @ Langra and other accused, namely, Saurabh @ Gonga, Deepak @ Chandan and Krishan @ Krishna, finding the case true against others also and said charge-sheets have been marked as Exhibit-4 and Exhibit-4/1. This witness has also identified the signature of informant Ranju Devi and that of the witness on the *fardbyen* which has been marked as Exhibit-5 and the formal F.I.R drawn by the then Officer In-Charge-cum-Inspector of Police, Neeraj Kumar has been marked as Exhibit-6. Further, this witness has identified Ranjeet Kumar in the Court, however it is stated that he cannot identify accused Deepak @ Chandan. The witness has admitted during cross-examination that he had gone to the place of occurrence once



and had recorded the further statement of the informant on 12.04.2017 at Begusarai Hospital itself. He did not collect the blood stained earth from the place of occurrence. He has further admitted that he has not made any sketch map of the place of occurrence in the case diary and he had also not conducted any scientific investigation. He had arrested Ranjeet Kumar @ Langra (appellant) at the police station itself as he had been brought initially to the police station. He also stated that *Langra* uses a wheel chair for his movement, however he did not seize the said wheel chair. This witness has further denied the suggestion about the factum of informant's daughter's marriage and her daughter being detained by *Langra*, having been disclosed by the informant or her husband. He has further stated that during the course of investigation, the witnesses have supported the factum of the appellant cutting the neck of both the brothers. During the course of investigation, he did not gather any knowledge about the mobile phone of the appellant, however it came to his knowledge that there were amicable relations between the appellant and the family of the informant. It has also been stated that prior to this occurrence, the informant had never complained before the police with regard to her daughter Neha Kumari @ Duja Kumari being kept by the



appellant. This witness has stated that he only got information that an injured person has died but he neither prepared the inquest report nor he had sent the dead body for post-mortem. In paragraph no. 41 of his deposition, the Investigating Officer has stated that he did not find any arms or any other articles at the place of occurrence nor did he recover any arms from the house of the appellant. He has further stated that some blood marks could be seen on the body of the appellant and he was slightly injured and was sent to the hospital. However, the Investigating Officer neither seized his clothes nor did he seize the blood stained clothes of the injured Satyam and deceased Shivam. He has further stated that the police had reached at the place of occurrence immediately, whereafter while the injured were brought to the hospital by the police, the accused *Langra* was brought to the police station and he was also assaulted by the villagers.

28. P.W.7, Neha Kumari @ Duja Kumari is the sister of the deceased who also claims to be an eye-witness. She has stated that on 11.04.2017, Ranjeet Kumar @ Langra had come to call his brother while she was at home and her brothers Satyam and Shivam, both went along with him. It has further been stated that when her brother did not come back, she went in



search of them towards Terasi Bagicha and upon reaching there, she found that Ranjeet Kumar @ Langra, the appellant herein was cutting the neck of Satyam, while the neck of Shivam was already slit and four persons were present at the place of occurrence from before. She has further stated that her mother (P.W.3) and her cousin brother Rohit had also gone to the orchard and her injured brothers were brought to the hospital from where they were referred to Patna but instead they took them to Begusarai and during treatment at Begusarai Hospital, Shivam died. In paragraph no.6 of her deposition, she had stated that she did not see as to which part was actually injured by the knife. She has stated that police had come to Terasi Bagicha and also at the hospital and the statement of her mother was recorded at Begusarai Hospital by the police, whereupon she had also appended her signature, which has been marked as Exhibit-1/1. She also claims to identify Ranjeet Kumar @ Langra, present in the Court. In her cross-examination, this witness has stated that she was in a different room from the room of her brothers, at the time when the appellant had come to call and she got to know after 20-25 minutes that her brothers had gone along with the appellant upon him calling his brothers. In her further cross-examination, this witness has accepted that



she had got married two months after the occurrence and has denied the fact that she had ever stayed with the accused *Langra* and has stated that he had never kidnapped her with the intention of marriage. However, she has admitted that she knew the appellant from past 4-5 years and she used to go to his shop. In paragraph no.7 of her deposition, this witness has stated that at the time when *Langra* had called her brothers Satyam and Shivam, her mother was in a meeting while her father was at home. She further states that she had gone to the place of occurrence along with her mother after informing her by going to Middle School which was at a distance of ½ k.m. from her house. The distance between Middle School to the place of occurrence is about 1 k.m. and it had taken about 25 minutes to reach the place of occurrence. In paragraph no. 21, she has specifically stated that when they reached, the occurrence had already taken place. She has further stated that the police had reached the place of occurrence before them and her brother had been taken to the hospital. She has also stated that when she arrived at the place of occurrence she saw blood oozing out from the body of Satyam while the blood had clotted on the body of Shivam. In paragraph no. 25 she states that she stayed in the hospital for a month and she was interrogated in the hospital



itself by the police. This witness has stated in paragraph no.28 of her evidence that she did not see any weapons in the *bagicha* and her family did not have any animosity with the appellant Langra. She has also stated that her brothers used to play cricket with their friends and at times some dispute used to take place during the course of the game. She has however stated that there was no suspicion on *Langra* before the occurrence happened. She has admitted in paragraph no.33 of her evidence that she cannot state the boundaries of the place of occurrence as she had never been there and she did not see as to where her brother was caught and where the blood had fallen. On Court's question, she had replied that the statement given by her earlier to the effect that she had seen Ranjeet Kumar @ *Langra* cutting the neck of Satyam is correct and what she has stated now about not seeing where her brothers were cut and where the blood had fallen, is not correct. She has further stated in paragraph no.35 that she had given the statement as she was told to give.

29. P.W.8, Rajesh Kumar has been declared hostile and moreover, nothing has emerged even from his cross-examination, hence, the same does not need any discussion.

30. P.W.9, Sanjeev Kumar and P.W.10, Shyam Sundar Kumar have been examined on behalf of the



prosecution, who appear to be hearsay witnesses. They have identified the accused Ranjeet Kumar @ Langra and Deepak Kumar as their villagers and have further stated that they have not seen them being involved in any occurrence. They have also stated that Ranjeet Kumar @ Langra is handicapped by both his legs and he cannot walk or move. They have further stated that the police did not arrest him from the place of occurrence. While admitting that they are not eye-witness to the occurrence, they claimed that they had only heard that some child has been murdered but they did not know the name of the children. They have re-asserted in their cross-examination that they are not eye-witnesses to the occurrence and they do not know who had committed the occurrence.

31. After closing the prosecution evidence, the learned trial Court recorded the statement of the appellant Ranjeet Kumar @ Langra under Section 313 Cr.P.C. on 14.06.2019 for enabling him to personally explain the circumstances appearing in the evidence against him, however he has not given any explanation and has only denied the allegations and has stated that he is innocent.

32. The learned trial Court upon appreciation, analysis and scrutiny of the evidence adduced at the trial has



found the aforesaid appellant guilty of the offences and has sentenced him to imprisonment and fine, as noted above, by its impugned judgment and order.

Analysis and Consideration

33. We have perused the impugned judgment of the learned trial Court, the entire materials on record and have given our thoughtful consideration to the rival submissions made by the learned counsel for the appellant as well as the learned APP for the State.

34. The contents of the F.I.R have already been dealt with in detail and a perusal of the same, in nut shell, would indicate that two brothers, namely Satyam Kumar (P.W.2) and Shivam Kumar (deceased) were called from their house by the appellant Ranjeet Kumar @ Langra for having some cold drink party and when they did not return home, it has been stated by the informant Ranju Devi (P.W.3) that upon being informed by one Rohit Kumar, her neighbour about the children having been taken towards Terasi Bagicha by the appellant, she went to the *bagicha* to find her son Shivam lying with several injuries on his neck and head while her other son Satyam Kumar (P.W.2) was being pushed on the ground and his neck was being slit. The informant has claimed to have seen six persons including the



appellant to be present at the place of occurrence who were involved in causing injuries to both her children.

35. On going through the discussions made here-in-above in the preceding paragraphs it would appear that out of ten witnesses examined on behalf of prosecution in its favour, P.W.2, Satyam Kumar is the star witness of the case as he is an injured witness while P.W.3, Ranju Devi (the mother of the deceased) and P.W.7, Neha @ Duja Kumari (the sister of the deceased) have tried to portray and project themselves as eye-witnesses but have thoroughly failed in their pursuit. P.W.1 is the father of the deceased who does not claim to be an eye-witness. P.W.4 and P.W.5 are the doctors who have examined the injuries and have also conducted the post-mortem examination on the dead body of the deceased, while P.W.6 is the Investigating Officer of this case. P.W.8 is a hostile witness and P.W.9 and P.W.10 are two independent witnesses who have though been examined but they have neither supported the case of the prosecution nor have been declared hostile. Thus, three non-official witnesses who need consideration are P.W.2, the injured victim; P.W.3 (mother of the deceased) and P.W.7 (sister of the deceased).

36. We would like to first deliberate on the issue of



credibility of P.W.3 and P.W.7, who claim themselves to be eye-witnesses to the occurrence. As far as the evidence of P.W.3 is concerned, she has made certain very vital improvements in the prosecution story during course of trial by stating the details of the assault on both her children and has given specific statement that she saw that the appellant and Deepak had pushed her son Satyam and was slitting his throat and upon her raising alarm, the villagers had arrived. Her statement that she lost her consciousness at the place of occurrence is also an introduction in addition to her statement that when she reached the place of occurrence she found ten persons, out of which Deepak was seen running while the appellant Ranjeet Kumar @ Langra had concealed himself behind the bushes. In her evidence, though P.W.3 has stated that she was present at home when the appellant had come to call her sons, however the same stands negated by the evidence of both P.W.2, Satyam Kumar and P.W.7, the sister of the deceased, according to whom, she was not present at the house but had rather gone for a meeting from where she was called later on. This witness also does not seem to be deposing truthfully when she states that her statement was recorded after a month when she came to her house from the hospital, as according to the Investigating Officer, her further



statement was taken in the hospital itself on 12.04.2017 which is just a day after the occurrence.

37. So far as the other witness, i.e. P.W.7 is concerned, she has also tried to give an eye-witness account of the occurrence by stating that she had seen the appellant slitting the throat of Satyam but from her cross-examination it becomes abundantly clear that she had gone to the place of occurrence along with her mother by first going to her school to inform her and by the time they had reached, the occurrence had already got over. This fact has been admitted by the witness in paragraph no. 21 of her evidence. It would also appear from her evidence that she has made some vacillating statements which are neither here nor there, hence are not of much consequence and also goes further to discredit her testimony.

38. From a conjoint reading of the deposition of both the witnesses, i.e P.W.3 and P.W.7 it would transpire that their evidence is replete with inconsistencies and the statements are rather self-contradicting, hence are not worthy of reliance. As a matter of fact, none of them are actual eye-witness of the case and their evidence further pales into insignificance in view of the fact that although P.W.2 had already given a statement before the police which he had duly signed, as admitted by him



in paragraph nos. 9 and 35 of his deposition, the same was not considered as the basis for the lodging of First Information Report and the same was drawn upon a subsequent and belated *fardbyan* of P.W.3 i.e. the mother of the deceased. This supports us to the very first argument advanced on behalf of the defense which is suppression of the initial version of the occurrence as the initial statement of P.W.2, duly signed by him never saw the light of the day. However, it is the evidence of this witness alone upon which the entire prosecution case rests, as after considering the evidence on record, as discussed herein above, we have no hesitation in reaching to a safe and inevitable conclusion that P.W.3 and P.W.7 are not eye-witnesses to the occurrence.

39. The moot question which falls for consideration here would be whether the conviction of the appellant can be sustained on the solitary testimony of P.W.2, who besides being an injured eye-witness, is admittedly a child witness too, hence appreciation of his evidence calls for a deeper scrutiny which has to be done with utmost care and caution coupled with the fact as to whether there are other attending circumstances which lend support to his testimony.

40. To begin with, taking note of the fact that this



witness P.W.2 is admittedly “a child witness” aged about 12 years at the time of occurrence and 13 years at the time of his examination, the least that was expected of the learned trial Court to do was to satisfy itself about the capacity of the child witness to understand the question put to him and give rational answers to such questions and further understand the serious nature of implications which his statements would have on the entire case. The learned trial Court completely failed in its duty to ask preliminary questions in order to test the understanding of P.W.2. The Hon’ble Apex Court has time and again highlighted the significance of such preliminary questions. In the case of ***Pradeep Vs. State of Haryana (Supra)***, although some questions were asked, but the same were regarded to be very sketchy in nature and the same was deprecated. Paragraph no.13 of the aforementioned judgment is being quoted hereunder:-

“13. Before recording evidence of a minor, it is the duty of a Judicial Officer to ask preliminary questions to him with a view to ascertain whether the minor can understand the questions put to him and is in a position to give rational answers. The Judge must be satisfied that the minor is able to understand the questions and respond to them and understands the importance of speaking the truth. Therefore, the role of the Judge who records the evidence



is very crucial. He has to make a proper preliminary examination of the minor by putting appropriate questions to ascertain whether the minor is capable of understanding the questions put to him and is able to give rational answers. It is advisable to record the preliminary questions and answers so that the appellate court can go into the correctness of the opinion of the trial court.”

41. It may be noted that in the case in hand, not a single preliminary question was asked from the child witness, P.W.2, hence the situation here, is even worse as no objective satisfaction has been recorded by the learned trial Court, so as to enable this Court to go into the correctness of the opinion of the trial Court. The requirement of law as envisaged under Section 118 of the Evidence Act, 1872 would also be relevant to be referred to in this context, hence the same is quoted here-in-below for ready reference:-

“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 those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.”



42. It is thus apparent that the learned trial Court has failed in its bounden legal duty which was extremely crucial for the best adjudication of the case. The Court has shown complete non-adherence to the prudent rule of caution indicating thereby that the Court was totally oblivious of the settled view that a child witness of a tender age is easily susceptible to tutoring, hence exploring the existence or absence of such possibility was an essential pre-requisite.

43. Hence, in the background of complete absence of any preliminary exercise being done by the learned trial Court to assess the understanding capability of the said child witness, we need to proceed to scrutinize his evidence and analyse the same in the context as to whether any independent corroboration to such testimony is forthcoming. It appears from the evidence on record that the statements given by P.W.2, Satyam Kumar are not consistent inasmuch as while in his examination-in-chief, he has stated that the appellant was slitting his neck whereas the other accused Gonga and Deepak were cutting the neck of his brother but in his cross-examination he has stated that the occurrence had started with his brother which continued for a period of 20-25 minutes while the other accused persons had pressed his mouth and it is only thereafter, that the occurrence



had started with him. It further appears from his evidence that he had met his parents and his sister at the orchard itself but as a matter of fact the evidence of his father P.W.1 would show that he had never gone to the orchard rather he had straightway gone to the police station. P.W.2 has also made a reference to the fact that both the appellant and accused Gonga had come to his house to call them for having some cold drinks but from the evidence of other witnesses, especially the informant P.W.3 and the sister of the deceased P.W.7, it would appear that it was only the appellant who had gone to the house. This witness has made a specific reference to a handicapped rikshaw which the appellant had used for going towards the orchard but the said rikshaw finds no mention anywhere in the evidence of any other witness and or even in the evidence of the Investigating Officer. This witness has also referred to a well to be in existence at the place of occurrence but no such well has been found by the Investigating Officer during the course of inspection. The disclosure made by this witness P.W.2 that his neck was cut from both sides i.e. from the front as also from the back, also does not stand supported from the evidence of the doctor P.W.4, who has found only one sharp cut on the neck at the front from where blood was oozing out. Further, there is no explanation



with regard to injuries suffered by the deceased on forehead and the finding of hematoma in occipital region and fracture of right parietal region. This fact also indicates that the medical evidence is also not completely corroborating his ocular testimony. The evidence of P.W.2 has not received any strength from the evidence of the Investigating Officer as he has not recovered any objective evidence from the place of occurrence in order to be in tune with the statements made by the injured Satyam kumar, P.W.2.

44. From a detailed discussion of the evidence of P.W.2, as has been made in the preceding paragraphs, the only inference which can be drawn is that the evidence of P.W.2 suffers from inherent inconsistencies, incoherent narrations with regard to the manner of occurrence which is bordering on making his evidence imaginative and unbelievable at places and furthermore, his deposition being a product of tutoring, cannot completely be ruled out. Now adverting to the manner of occurrence as disclosed by the victim Satyam Kumar (P.W.2), it appears that his narration does not inspire confidence as there are inherent inconsistencies in the same and moreover, he has stated that the entire occurrence continued for more than 20-25 minutes. Thus, in such circumstances, it does not seem very



credible that such an act would have gone unnoticed by persons residing in the locality or being in the vicinity of the area, moreso since the occurrence had taken place in broad day light. It does not seem to be plausible that the appellant had engaged in the overt act, as alleged, in view of the fact that the appellant admittedly suffers from 85% disability and in proof thereof, the disability certificate has also been exhibited by the defense. Further, P.W. 8, P.W.9 and P.W.10 have also clearly stated that both of the legs of the appellant do not work and he suffers from a serious disability. In the background of such disability, the allegations of overt act levelled against the appellant apart from him being able to flee away and conceal himself behind the bushes etc., does not at all seem to be plausible and acceptable. The evidence has to be seen as a whole and not in piece meal and we cannot go ahead while believing some part of the story whereas doubting the rest, according to convenience. If the evidence is considered in its entirety, the same would lead us to a judicious decision of treating this witness to be untrustworthy and one whose testimony suffers from various infirmities, hence not worthy of placing any reliance.

45. It has been emphatically argued by the learned APP for the State that P.W.2, Satyam Kumar is an injured



witness, thus his testimony giving an eye-witness account of the occurrence, is worth reliance. There is no quarrel on the proposition that the evidence of an injured witness is kept on a high pedestal having greater evidentiary value and the same cannot be brushed aside lightly or rejected unless strong and compelling reasons exist for the same.

46. As far as the present case is concerned, P.W.2 has not only to be considered as an injured witness but he is also to be treated as a child witness, who incidentally happens to be the solitary eye-witness of the incident. It remains a fact that evidence has to be weighed and not counted, which is the mandate of Section 134 of the Indian Evidence Act, 1872 and the only determination that has to be made is whether it is cogent, credible and trustworthy. In the present set of facts of the case, the appreciation of the evidence has to be done on the touchstone of this legal exposition. Thus, a conviction can no doubt be based on testimony of solitary eye-witness, if his evidence is of sterling quality and of unimpeachable character, but in a case where the solitary witness is a child witness, the rule of caution assumes greater significance in testing the evidence of such witness on the touchstone of reliability. In the present case, the evidence of P.W.2, a child witness requires to



be evaluated very cautiously in the background of the fact that his statement was not a prompt one, hence suffers from the vice of being an easy prey to tutoring as his statement, before the police was subsequently recorded after one month of the occurrence when he had come back home which is evident from paragraph no.11 of the deposition of the Investigating Officer, P.W.6.

47. The question of the weight to be attached to the evidence of P.W.2 is also to be viewed from the angle that while P.W.2, the victim has stated about his statement being recorded by the police on the date of occurrence with his signature being appended thereupon, as is apparent from paragraph no.35 of his deposition, which was not treated as the first information report, the evidence of the Investigating Officer reveals that the statement of P.W.2 was first recorded after one month of the occurrence. The two positions cannot be reconciled. The statement of P.W.2, which is thus being considered is the one which was recorded after a month at his house after coming back from hospital, which is after a substantial delay and this delay becomes a vital consideration for doubting the testimony of P.W.2 Satyam Kumar, as it becomes vulnerable to be attached as a tutored version. Further, no independent corroboration has



been provided to the testimony of P.W.2 by any independent quarters in the form of other prosecution witnesses and neither the evidence of P.W.3 and P.W.7 nor the evidence of P.Ws. 8, 9 and 10 who are the independent witnesses, have lent any support or corroboration to the evidence of P.W.2. Thus, in absence of any adequate corroboration, it is totally unsafe to place reliance on the evidence of such a witness. In the words of Hon'ble Supreme Court as stated in the case of ***Bhagwant Singh Vs. State of Madhya Pradesh (Supra)***, it is hazardous to rely on the sole testimony of a child witness who was not immediately available after the occurrence and before there was any possibility of coaching and tutoring him.

48. In the case at hand, although the witness (P.W.2) was available, however his statement was either not taken at all with promptitude or his statement which according to P.W.2 himself was taken and duly signed by him, was deliberately and intentionally withheld. The failure of the trial Court in asking some preliminary questions to judge his level of understanding and rationality further weakens the sanctity of the evidence of P.W.2 Satyam Kumar, rendering it unworthy of being made the sole basis of conviction of the appellant.

49. As far as the issue of motive is concerned, no



doubt in a case of direct evidence, motive does not play a very significant role but once a motive has been introduced the conscience of the Court has to be satisfied and especially, in a case of weak nature of ocular evidence, not even supported by circumstances, motive does assume great significance. In the present case, the motive has been introduced in the form of the appellant's desire to marry the daughter of the informant/sister of the deceased, being shattered by refusal from the parents i.e. the informant P.W.3 and her husband P.W.1, however the same does not stand proved in view of the evidence of daughter of the informant P.W.7 as she herself in paragraph nos. 14 and 29 to 32 of her deposition has stated that she has never stayed with the appellant and the appellant had never kidnapped her with the intention of marriage. She has also denied the existence of any animosity between the appellant and her family and has rather specifically stated in paragraph no. 32 of her evidence that prior to the occurrence there was no suspicion raised against appellant. P.W.2, Satyam Kumar has also stated in paragraph no.43 of his evidence that the appellant had never meted out any cruel treatment towards him.

50. In such background, we find force in the contention advanced by the learned counsel for the appellant



that there was no motive for committing such a ghastly crime and prosecution has failed to prove the motive which it had introduced.

51. We find that in the present case, besides the victim P.W.2, who is a child witness, the other two witnesses i.e. P.W.3 and P.W.7 are both related and interested witnesses and despite the categorical statement made by P.W.2 that a number of villagers had assembled at the place of occurrence on alarm raised by him, no independent witness has been examined barring the three witnesses P.Ws. 8, 9 and 10 who have not supported the case of the prosecution. Besides the fact that the independent witnesses have not supported the case of prosecution, it also remains a fact that some very material witnesses who could have shed some light on the real facts of the case have not been examined by the prosecution, one such witness being Rohit Kumar who is said to have seen the two brothers going along with the appellant and it was he who had allegedly informed the informant P.W.3 about the occurrence. Further, it has been stated that the appellant was brought to the police station from the place of occurrence where he was taken into custody, thus the police officer who had initially reached the place of occurrence and who had brought the appellant to the



police station would have been a very vital witness, who could have defined the place of arrest of the appellant in absence of an arrest memo being in existence. The said Officer would also be the most competent witness who could have stated candidly whether any weapon like knife or blade or any other material evidence was seen at the place of occurrence. The place of occurrence also remains a suspect in this case as, besides the oral testimony, the Investigating Officer has failed to collect any objective evidence worth the name from the place of occurrence in order to establish the same. He has no doubt stated that he had found blood at the place of occurrence but he has neither seized the blood stained earth nor the blood stained clothes of the appellant or the deceased as against specific statement that the blood had sprinkled on the cloth of the appellant as well.

52. The above mentioned factors would constitute some very serious investigational lapses which cannot be ignored. We are conscious of the fact that defects in the investigation in itself would not form the basis to reject the prosecution evidence but in a case where the evidence put forth by the prosecution is already of a weak nature, the investigational lapses become a vital consideration for establishing the guilt of the accused as also establishing the



place of occurrence and the manner of occurrence.

53. In the case of *Putai Vs. State of U.P.* reported in **2025 SCC Online SC 1827**, a three judge Bench of the Hon'ble Supreme Court have noted the adverse impact of the investigational irregularities on the case of the prosecution in paragraph no. 72 to 74 of the said judgment which are quoted here-in-below:-

“72. Furthermore, had there been any substance in the aforesaid allegation, then the Investigating Officers would have definitely made an extensive search of the house of the accused-appellants to search for incriminating evidence. Evidently, no such effort was made by the Investigating Officers, which again establishes that the theory put forth in the evidence of Smt. Chandravati (PW-2) is an exaggeration and nothing beyond that. The failure of the Investigating Officers to search the house of the accused-appellants is another circumstance which adds to our suspicion regarding the credibility of the Investigating Officer's actions, more particularly, in respect of the alleged recoveries.

73. We feel that the present case is yet another classic example of lackluster and shabby investigation and so also laconic trial procedure which has led to the failure of a case involving brutal rape and murder of an innocent girl child.



74. The Investigating Officers did not care to examine anyone from the neighbouring fields where the dead body of the child victim was found. The incident took place in the beginning of September, 2012 and the time of the incident was between 07:00 PM to 08:00 PM. In the beginning of the month of September, darkness would fall somewhere around 07:00 PM only. Thus, had the accused-appellants indulged in such a ghastly act with the child victim, then their act would not have gone unnoticed by the persons residing in the locality. However, not a single person from the neighbourhood was examined by the Investigating Officers which creates a doubt on the bonafides of their actions.”

54. Looking at the entire facts and circumstances of the case as indicated above, we find that the case of the prosecution has not been supported by the legal requirements of proof and although the look of the present case is disturbing and unnerving but it is difficult to sustain the conviction of the appellant on account of dearth of legal evidence and in a situation where the prosecution has not been able to prove its case beyond all reasonable doubts.

55. At this juncture, reference is made to the case of ***Randip Singh @ Rana & Anr. Vs. State of Haryana & Ors.*** reported in ***2024 SCC Online SC 3383*** where the three judges



Bench of the Hon'ble Supreme Court have taken into consideration the fact that in absence of legal evidence against an accused, one cannot tread on the path of awarding a moral conviction, notwithstanding that the offence is brutal and gruesome in nature revolting the human conscience. Paragraph no. 17 of the judgment is quoted hereunder:-

“17. It is true that this is a case of a brutal murder. The brutality of the offence does not dispense with the legal requirement of proof beyond a reasonable doubt. In this case, there is no legal evidence to prove the involvement of the accused. The Courts can convict an accused only if his guilt is proved beyond a reasonable doubt on the basis of legally admissible evidence. There cannot be a moral conviction. We are tempted to quote what this Court observed in paragraph 24 of its decision in the case of Subhash Chand v. State of Rajasthan. It reads as follows:

“24. Thus, none of the pieces of

*evidence relied on as incriminating, by the trial court and the High Court, can be treated as incriminating pieces of circumstantial evidence against the accused. **Though the offence is***



gruesome and revolts the human conscience but an accused can be convicted only on legal evidence and if only a chain of circumstantial evidence has been so forged as to rule out the possibility of any other reasonable hypothesis excepting the guilt of the accused. In *Shankarlal Gyarasilal Dixit case* [(1981) 2 SCC 35 : 1981 SCC (Cri) 315 : AIR 1981 SC 765] this Court cautioned — “human nature is too willing, when faced with brutal crimes, to spin stories out of strong suspicions” (SCC p. 44, para 33). This Court has held time and again that between may be true and must be true there is a long distance to travel which must be covered by clear, cogent and unimpeachable evidence by the prosecution before an accused is condemned a convict.”

56. This Court is also tempted to quote paragraph no. 49 of the judgment rendered by the Hon’ble Supreme Court in the case of *Renuka Prasad Vs. The State Represented by Assistant Superintendent of Police*, reported in *2025 SCC Online SC 1074*, wherein the Hon’ble Apex Court has laid down that even in brutal or gruesome cases, the conviction cannot be based upon the assumption or presumption in absence of legal evidence and they have considered entering into a purely moral conviction to be a total anathema to criminal jurisprudence. Paragraph no. 49 of the said judgment is quoted hereunder:-

“49. We cannot but say that the High Court has egregiously erred



in convicting the accused on the evidence led and has jumped into presumptions and assumptions based on the story scripted by the prosecution without any legal evidence being available. Truth is always a chimera and the illusion surrounding it can only be removed by valid evidence led, either direct or indirect, and in the event of it being circumstantial, providing a chain of circumstances with connecting links leading to the conclusion of the guilt of the accused and only the guilt of the accused, without leaving any reasonable doubt for any hypothesis of innocence. We can only accede to and share the consternation of the Division Bench of the High Court, which borders on desperation, due to the futility of the entire exercise. That is an occupational hazard, every judge should learn to live with, which cannot be a motivation to tread the path of righteousness and convict those accused somehow, even when there is a total absence of legal evidence; to enter into a purely moral conviction, total anathema to criminal jurisprudence. With a heavy



heart for the unsolved crime, but with absolutely no misgivings on the issue of lack of evidence, against the accused arrayed, we acquit the accused reversing the judgment of the High Court and restoring that of the Trial Court.”

57. In the background of such serious investigational lapses and irregularities which go to the core of the case coupled with the fact that solitary witness upon whose evidence the entire prosecution rests, suffers from several infirmities and major discrepancies, thus such evidence makes the very foundation of the case shaky and unstable.

58. The duty of the Court in a criminal case, is to ensure that a conviction or acquittal is based upon the presence or absence of legal evidence and before an accused is condemned as a convict, the Court has to come to a definite finding pointing towards the guilt of the accused and this conclusion has to be reached only by way of clear, cogent and unimpeachable evidence produced by the prosecution, meaning thereby in plain and simple words that, the prosecution has to establish its case beyond all reasonable doubts.

59. We are thus, unable to accept the evidence of Satyam Kumar, P.W.2, being the solitary eye-witness as also a



child witness whose level of understanding and rationality has not been tested and the possibility of him being tutored has also not been ruled out, in order to uphold the conviction of the appellant. The testimony of other related witnesses P.Ws., 1, 3 and 7 as also independent witnesses 8, 9 and 10 do not lend the required support to the evidence of P.W.2 in order to prove the charge against the appellant beyond all reasonable doubts.

60. In such circumstance of existence of several loop holes, serious lacunae and glaring infirmities in the prosecution case, which cannot be overlooked, we reach the inevitable conclusion that the appellant is entitled to the benefit of doubt.

61. Thus, considering the totality of the facts of the case as indicated here-in-above and taking into account an overall perspective of the entire case, we find that the prosecution has failed to prove the charges against the appellant beyond all reasonable doubts. Hence, by way of extending benefit of doubt, the appellant deserves to be acquitted of the charges.

62. Accordingly, the finding of conviction recorded by the learned trial Court, in our opinion, is not sustainable and requires interference. Therefore, the judgment of conviction and order of sentence dated 18.12.2019 and 20.12.2019, passed by



the Court of learned Additional District and Sessions Judge-2nd, Lakhisarai in Sessions Trial No. 172 of 2017 (arising out of Barahiya P.S. Case No. 69 of 2017) are hereby set aside. The appellant is acquitted of the charges levelled against him.

63. The appellant, namely, Ranjit Kumar @ Langra, who is in custody, is directed to be released from jail forthwith, unless required in any other case.

64. Accordingly, the appeal stands allowed.

(Mohit Kumar Shah, J)

(Soni Shrivastava, J)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	NA
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