

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1045 of 2023

In
CRIMINAL APPEAL (SJ) No.3016 of 2023

Arising Out of PS. Case No.-195 Year-2012 Thana- CHAPRA MUFFASIL District- Saran

Babujan S/O Late Ali Jan R/O Village- Bangara, P.S- Chapra Muffasil, Distt.- Saran At Chapra

... .. Appellant

Versus

1. The State of Bihar
2. Quraisa Bibi W/O Noor Hasan R/O Village- Bangara, P.S- Chapra Muffasil, Distt.- Saran At Chapra.
3. Mir Hasan S/O Khushru Miyan R/O Village- Bangara, P.S- Chapra Muffasil, Distt.- Saran At Chapra.
4. Sabina Khatoon D/O Mir Hasan R/O Village- Bangara, P.S- Chapra Muffasil, Distt.- Saran At Chapra.
5. Saddam Hussain S/O Mir Hasan R/O Village- Bangara, P.S- Chapra Muffasil, Distt.- Saran At Chapra.
6. Sogra Bibi W/O Asgar Miyan R/O Village- Bangara, P.S- Chapra Muffasil, Distt.- Saran At Chapra.
7. Zarina Bibi D/O Asgar Miyan R/O Village- Bangara, P.S- Chapra Muffasil, Distt.- Saran At Chapra.
8. Kalam Hussain S/O Asgar Miyan R/O Village- Bangara, P.S- Chapra Muffasil, Distt.- Saran At Chapra.

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Narendra Kumar, Advocate Mr. Prakash Ranjan Sinha, Advocate Mr. Akash Ambuj, Advocate
For the Respondent/s	:	Mr. Zeyaul Hoda, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

and

HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 21-08-2025

Heard learned counsel for the appellant and learned

Additional Public Prosecutor for the State.



2. This appeal has been preferred by the informant for setting aside the judgment and order of acquittal dated 26.04.2023 (hereinafter referred to as the 'impugned judgment') whereby and whereunder the learned First Additional Sessions Judge, Saran at Chapra (hereinafter referred to as the 'learned Trial Court') has been pleased to acquit respondent nos. 2 to 8 of the charges under Sections 147, 148, 149, 325, 341, 307 and 448 of the Indian Penal Code (in short 'IPC') and charges against respondent no. 3 under Sections 376 and 511 of the IPC in connection with Sessions Trial No. 43 of 2014, arising out of Chapra Mufassil P.S. Case No. 195 of 2012.

Prosecution Case

3. The prosecution case is based on the fardbeyan of Babu Jan, who has been examined as P.W. 4 in the present case. In his fardbeyan he has stated that on 28.08.2012 at 11:00 P.M., while he was sleeping he heard the sound of crying of his sister ('X'). When he reached there he saw that Mir Hasan and Asgar Miyan had slammed down her sister on the floor and they were trying to outrage her modesty and her clothes were torn at so many places. The informant removed them, then they began to assault him and in the same transaction accused Kalam Hussain, Saddam Hussain, Jafar Hussain, Abdullah, Khushru Miyan also assaulted him with



Lathi, Danda, Rod and Fist. Mir Hasan assaulted the informant with iron rod in which his right hand was fractured and Asgar Miyan and Kalam Hussain strangulated him as a result of which he started bleeding from his mouth. It is further stated that Sogra Bibi, Quraisa Bibi, Zarina Bibi, Rubina Khatoon and Chanda Khatoon have assaulted the sister of the informant badly by which she became unconscious and after raising alarm his mother namely Nasiba Khatoon and neighbour of the informant namely Rasulan Bibi and Jaitun Khatoon reached there thereafter all the accused persons fled away from there. It is stated that land dispute is the reason for this occurrence.

4. On the basis of the written report of the informant Chapra Mufassil P.S. Case No. 195 of 2012 dated 28.08.2012 was registered for the offences under Sections 147, 148, 149, 341, 448, 376, 511, 323, 325, 307 IPC.

5. After investigation, the Investigating Officer (the I.O.) submitted Chargesheet No. 282 of 2012 dated 13.11.2012 against Asgar Miyan and Khushru Miyan keeping investigation pending against others but found the case not true against Zafar Hussain and Chanda Khatoon. Accordingly, vide order dated 20.03.2013 learned Magistrate took cognizance of the offences under Sections 147, 148, 149, 341, 448, 376/511, 323, 325, 307/34 IPC. After



completion of investigation, supplementary Chargesheet No. 141 of 2013 dated 30.06.2013 under Sections 147, 148, 149, 341, 448, 376, 511, 323, 325 and 307 of the IPC was submitted against Kalam Hussain, Saddam Hussain, Sogra Bibi, Quraisa Bibi, Zarina Bibi, Rubnia Khatoon, Mir Hasan and Abdulla. Accused Zafar Hussain and Chanda Khatoon were not sent up for Trial. Accordingly, learned Magistrate took cognizance of the offences under Sections 147, 148, 149, 341, 448, 376, 511, 323, 325, 307 IPC.

6. After securing the attendance of all the accused, the case was committed to the Court of Sessions vide order dated 13.12.2013 where Sessions Trial No. 43 of 2014 was registered.

7. The charges were read over and explained to the accused persons in Hindi to which they denied and claimed to be tried. Thereafter, the charges were framed against all the accused persons vide order dated 02.01.2018 under Sections 147, 148, 341/149, 325/149, 448/149, 302/149 of the IPC.

8. In course of Trial, the prosecution examined as many as ten witnesses and exhibited several documents in support of its case. The list of witnesses and the documents exhibited on behalf of the prosecution are as under:-

List of Prosecution Witnesses



PW- 1	Rasulan Bibi
PW- 2	Nasiba Khatoon
PW- 3	Hasina Khatoon
PW- 4	Babu Jaan
PW- 5	Dr. Ravi Shankar Singh
PW- 6	Phool Mohammad
PW- 7	Shiv Nandan Rai
PW- 8	Dharmnat Sah
PW- 9	Gautam Sah
PW- 10	Sujit Das

List of Exhibits

Exhibit 1	Xerox copy of injury report of P.W. 4
Exhibit 1/A	Xerox copy of injury report of P.W. 3
Exhibit 2	Substituted copy of Fardbeyan
Exhibit 3	Endorsement made on Exhibit 2
Exhibit 4	Certified copy of formal FIR
Exhibit 5	Xerox copy of discharge certificate

9. On completion of the prosecution evidence, the statement of the accused persons were recorded under Section 313 Cr.P.C. in which all of them claimed to be falsely implicated and pleaded innocence.

Findings of the learned Trial Court

10. Learned Trial Court after analyzing the evidences available on the record found that the investigation proceeded in this case on the basis of *fardbeyan* of P.W. 4 that he and his sister were injured on the date of occurrence but the same was not



corroborated that these injuries were caused by the accused persons.

11. Further learned Trial Court found that no documentary evidence has been brought on record to corroborate the charges against the accused persons. Learned Trial Court found several inconsistencies in the evidences of P.W. 3 as well as P.W. 4 which made the learned Trial Court to disbelieve the prosecution case. Accordingly, learned Trial Court acquitted the accused persons of the charges.

Submission of the Appellant

12. Mr. Narendra Kumar, learned counsel for the appellant has assailed the impugned judgment of acquittal on various grounds.

13. It is submitted that in this case, P.W. 3 is the sister of P.W. 4. P.W. 4 is the informant of this case, who had received serious and grievous injury and in the injured condition, he got recorded his fardbeyan to the Sub-Inspector of Police Sujit Das.

14. Learned counsel for the appellant submits that in the Trial Court, Rasulan Bibi (P.W.1) has deposed as an eye witness of the occurrence and she has fully supported the prosecution case. It is submitted that Nasiba Khatoon (P.W. 2) is the mother of P.Ws. 3 and 4, who were sleeping in the same house at the time of



occurrence and on hearing *halla*, she had gone to the courtyard of the house where the accused persons were assaulting Babu Jaan (P.W. 4).

15. It is submitted that in this case, the Doctor (P.W. 5) has proved the injury reports of Babu Jaan (Ext. 1) and the injury report of Hasina Khatoon (Ext. 1/A). P.W. 5 had found; (I) diffuse swelling of right arm and, (II) clinically fracture shaft of his right humerus on the body of the informant (P.W. 4). The injury no. 2 was grievous in nature caused by hard and blunt substance. So far as the injury found on the body of P.W. 3 is concerned, P.W. 5 had found one abrasion of 1” over left lower limb which was simple in nature and caused by blunt substance.

16. It is submitted that even as the independent witnesses in the case were declared hostile, but the evidences of P.Ws. 1, 2, 3, 4 and 5 prove the prosecution case beyond all reasonable doubts. In his submissions, the learned Trial Court has completely erred in recording a finding that P.W. 1 and P.W. 2 are not trustworthy witnesses and that they do not prove the case of the prosecution.

17. Learned counsel for the appellant submits that the Trial Court has pointed out certain contradictions in the evidences of P.W. 3 and P.W. 4, which have been relied upon to take a view



that the manner of occurrence as stated by these prosecution witnesses, who are totally related and inimical witnesses had not been corroborated by the medical evidence. The Trial Court is not correct in taking a view that the prosecution has failed to prove that the injuries were caused to P.W. 3 and P.W. 4 by the accused persons (respondent no. 2 to 8).

18. Learned counsel for the appellant has relied upon the judgment of the Hon'ble Supreme Court in the case of **Edakkandi Dineshan v. State of Kerala** reported in **(2025) 3 SCC 273** that *maxim falsus in uno, falsus in omnibus* has not been followed in India.

19. It is his submission that the Court can always find out the grains from the chaffs and only because one witness cannot be relied upon fully, it does not mean that he cannot be relied upon to prove a particular fact.

20. Learned counsel for the appellant has also relied upon a judgment of learned coordinate Bench of this Court reported in the case of **Rakesh Singh versus State of Bihar** reported in **2025 (4) BLJ 594** to submit that while considering the said case the learned coordinate Bench was pleased to observe in paragraph -26 of its judgment that minor omissions or variations or



infirmities in the evidence are never considered to be fatal and the same cannot be a ground for rejection of evidence in its entirety.

21. On the aforementioned grounds, prayer has been made to notice the accused – respondent no. 2 to 8 and thereafter, allow the appeal.

Submissions on behalf of the State

22. At this stage, itself, learned APP for the State has opposed the appeal. It is submitted that the learned Trial Court has rightly appreciated the entire evidences available on record. No infirmity, much less any perversity, may be found in the judgment of the learned Trial Court so as to interfere with the same in appeal.

23. Learned APP relies upon the judgment of the Hon'ble Supreme Court in case of **H.D. Sundara and Others Vs. State of Karnataka** reported in **(2023) 9 SCC 581**. It has again been reiterated by the Hon'ble Supreme Court in the case of **Babu Sahebagoada Rudragoudar and Ors. Vs. State of Karnataka** reported in **(2024) 8 SCC 149**.

24. It is submitted that in an appeal against acquittal, the Appellate Court may disturb the finding of the Trial Court and interfere with the same only when an irresistible conclusion is



reached that the accused is guilty of commission of the offence charged and is liable to be punished for the same.

25. Based on the aforesaid principles in the matter of an appeal against acquittal, learned APP has taken this Court through the fardbeyan (Ext. 2) recorded by S.I. Sujit Das of Chapra Muffasil Police Station on 28.08.2012 at 05:30 A.M. in the Sadar Hospital, Chapra. In his fardbeyan, the informant (P.W. 4) has stated that while he was sleeping in his room at about 11:00 O'Clock in the night, he heard the cries of his sister in the courtyard of the house, he came to the courtyard where he found that his neighbours, namely, Mir Hasan, Asgar Mian, Kalam Hussain, Saddam Hussain, Zafar Hussain, Abdullah and Khusru Mian all had entered into his house, Mir Hasan and Asgar Mian had slammed down his sister on the floor and they had torn her clothes from several places and they were attempting to commit rape on her. When he removed them then both of them and other accused persons started assaulting him by lathi, danda, hands and fists blow. He alleged that Mir Hasan assaulted on his right hand by a Khanti causing fracture, Asgar Mian and Kalam Hussain pressed his neck as a result of which he started bleeding from his mouth and then he named Sogra Bibi, Quraisha Bibi, Zarina Bibi, Rubina Khatoon and Chanda Khatoon, who allegedly entered into



his house and badly assaulted his sister as a result whereof his sister got unconscious. The informant has then stated that when his mother Nasima Khatoon and neighbour Rasulan Bibi, Jaitan Khatoon and other villagers came on hearing the cries then all the accused persons fled away. The reason behind the occurrence is a land dispute.

26. Learned APP submits that from the fardbeyan, itself, it would appear that Nasima Khatoon and Rasulan Bibi, who are P.W. 1 and P.W. 2, in this case came only after the occurrence on hearing the sound of shouts and according to the informant when they came then all the accused persons fled away.

27. It is submitted that in course of Trial, the informant (P.W. 4) has stated in paragraph-6 of his deposition that he had reached the place of occurrence first, his mother had reached five minutes after that. It is submitted that Rasulan Bibi (P.W. 1) has a long drawn enmity with the family of the accused persons. In this regard, the evidence of P.W. 2, P.W. 3 and P.W. 4 would prove that both the families have got land dispute. Rasulan Bibi (P.W. 1) is the Mousi of (P.W. 4). P.W. 4 has admitted in paragraph '12' of his deposition that in the cases filed by him and his family members Rasulan Bibi, Noor Hasan and others are witnesses whereas in the



cases filed by them, P.W. 4 and his family members are the witnesses.

28. P.W. 4 has also stated in paragraph-9 of his deposition that Noor Hasan is the husband of Rasulan Bibi, Noor Hasan has also lodged cases, but how many cases he has lodged is not known to this witness. In paragraph-9, he denied his knowledge that he and his family members are witnesses in those cases but immediately in paragraph -12 of his deposition he has admitted that he and his family members are witnesses in the case lodged by Noor Hasan.

29. Learned APP further submits that in the fardbeyan P.W. 4 has stated that he heard the sound of cries of his sister in the courtyard, where two accused namely Asgar Mian and Mir Hasan were trying to commit rape on her, he removed them thereafter both of them started assaulting him and the other accused persons named with the fardbeyan assaulted him by Lathi, Danda, Hands and Fists blows. However, the manner of occurrence as alleged by the informant (P.W. 4) does not find corroboration from the injury reports (Ext. 1 and 1/A respectively).

30. Regarding the assault on his sister the informant has stated about at least five female members of the family who had assaulted her badly as a result whereof she became unconscious



but the Doctor (P.W. 5) had found one abrasion of 1” over left lower limb which was simple in nature.

31. P.W. 3 has stated in paragraph -15 of her deposition that neither she nor her brother had gone unconscious. She has stated that she had no injury, though she had suffered internal assault.

32. She has stated in paragraph-5 that she had given information regarding the occurrence to the police station in the night, itself, whereafter police came and they were taken to Sadar Hospital. The Investigating Officer (P.W. 9) has, in fact, stated in paragraph -22 of his deposition that on the direction of the Police Station he had gone to the Hospital to record the statement. He has stated that the Officer-in-Charge had given him direction not in writing but after recording the Sanha.

33. It is submitted that a conjoint reading of paragraph -5 of P.W. 3 and paragraph – 22 of P.W. 9 would show that the occurrence was first reported to the Police Station in the night itself, whereafter Sanha was recorded, police had come and taken away the injured but this Sanha has not been produced. Thus, the first version of the prosecution case has been suppressed.

34. It is also evident that the police officer who came on telephonic information in the night was someone else and not P.W.



9 because it is the specific statement of P.W. 9 that he had gone to the Hospital for recording the statement. The statement has been recorded on the next day in the morning at 05:30 A.M. It would create doubt over the prosecution story.

35. Learned APP further submits that the informant P.W. 4 is said to have been treated in the Patna Medical College Hospital (P.M.C.H.), Patna but the Doctor from P.M.C.H., Patna has not been examined.

36. The findings of the Trial Court have been placed before this Court to submit that the learned Trial Court has recorded that P.W. 2 is a hearsay witness on the point of attempt to rape of P.W. 3 and also as regards brutal assault or attempt of murder of her son. She reached the place of occurrence after five minutes, therefore the learned Trial Court has correctly recorded that the entire incident of raising of alarm by P.W. 3 at courtyard, when she was likely to be raped, brutal assault of P.W. 4 which caused fracture of his right arm and the consequent bleeding from his mouth and brutal assault of P.W. 3 and P.W. 4 by all the accused persons took place within five minutes as all the accused persons ran away from the place of incident as soon as P.W. 2 and other witnesses reached there. It is submitted that no perversity may be found in this finding of the learned Trial Court.



37. Learned APP has further submitted that the admission of P.W. 4 in his cross-examination that Jaitun Khatoon daughter of P.W. 1 and Jaitun Khatoon had also filed one case in which he himself, P.W. 2 and P.W. 3 are witnesses and that in number of cases filed by the husband of P.W. 1 he and his family members are witnesses clearly demonstrate the litigating nature of informant and his family members as well as the kind of relationship between the informant and the witnesses of this case. P.W. 4 denied the suggestion that P.W. 1 is his aunt and he also denied any land dispute between the family of both the parties but this is in complete contradiction to the statements made by P.W. 3 in her cross-examination, where she has stated that P.W. 1 is her sister-in-law as well as aunt also and she has also stated in paragraph-21 of her cross-examination that there is a land dispute between both the parties.

38. It is lastly submitted that in this case the prosecution witnesses, who were in the nature of independent witnesses, namely P.W. 6, P.W. 7, P.W. 8 and P.W. 9 have not supported the prosecution case. The prosecution cross-examined them. P.W. 7/Shiv Nandan Rai was when cross-examined has stated that the informant has filed false litigation, there is land dispute between both the parties, P.W. 4, P.W. 3, P.W. 1, P.W. 2 Noor Hasan and



Jaitun Bibi have filed large number of false litigations against the accused persons.

39. It is submitted that no doubt the testimony of related and interested witnesses may not be discarded outrightly, but it is settled proposition of law that the testimonies of a related, interested and inimical witness must be examined with all circumspection and care.

40. In this case learned Trial Court has rightly held that the prosecution has not been able to prove by any corroborative evidence that the injuries as contained in Ext.1 and 1/A were caused by the accused persons of this case. The material exhibits have also not been brought on record to corroborate the charges.

41. It is thus submitted that the appeal against acquittal is not fit to be entertained and is liable to be dismissed.

Consideration

42. We have heard learned counsel for the appellant and learned APP for the State as also perused the Trial Court records.

43. It is evident from the fardbeyan of the informant (P.W. 4) that it was recorded by P.W. 9 on 28.08.2012 at 05:30 A.M. in Sadar Hospital, Chapra. P.W. 9 has stated in his deposition that he had gone to record the statement to the Hospital on the



direction of the Officer-in-Charge of the Police Station who had ordered him to go after recording a Sanha.

44. P.W. 3 has stated that police was informed in the night and on that information police had reached and had taken them to the Hospital. In such circumstance, this Court would have no hesitation in recording that the first version of the prosecution case which the police was informed and on that basis the Sanha was lodged has been suppressed.

45. The fardbeyan alleges that Mir Hasan and Asgar Mian had torn the clothes of the sister of P.W. 4 and they were trying to commit rape on her. In course of investigation, police did not find sufficient materials to proceed against Asgar Mian, therefore, he was not sent up for trial.

46. We have noticed from the evidence on the record that the torn clothes of P.W. 3 were neither seized by the I.O. P.W. 9 nor it was produced by the prosecution as material exhibit.

47. In course of Trial Rasulan Bibi (P.W. 1) and Nasiba Khatoon (P.W. 2) came to depose as if they are the eye witnesses of the occurrence. A perusal of the evidence of P.W. 1 would show that in paragraph-7 of her evidence she has stated that Babu Jaan (P.W. 4) is her Devar and Hasina Khatoon (P.W. 3) is her Nanad. Nasiba Khatoon (P.W. 2) is also her Nanad. She is a neighbour and



in paragraph-1, itself, she has stated that at 11:00 O' Clock in the night she was in her house when she heard the sound of halla in the house of Babu Jaan, thereafter she had come to the house of Babu Jaan with her daughter Jaitun. She has, however, immediately stated in paragraph -31 of her deposition that she could not see in the darkness that who others reached the place of occurrence. She has claimed that it was a dark night. The evidence of P.W. 1 does not inspire confidence of the Court. If she had reached the house of Babu Jaan (P.W. 4) after hearing halla she would have been able to state that who others were present at the place of occurrence.

48. The fact that she could not see as to who others were there would lead to disbelieve her testimony that she had seen the accused persons at the place of occurrence and had also seen the occurrence which had taken place. P.W. 1 has made a completely inconsistent statement which would, in fact, been nature in the contradictory statement when compared with that of the statement of P.W. 4. In paragraph-2 of her deposition she has stated that she had seen the accused persons assaulting Babu Jaan (P.W. 4) by Lathi, Danda, she has stated that Mir Hasan assaulted Babu Jaan on his head by rod and also assaulted on his hand causing fracture.



49. This is not the case of the informant (P.W. 4) in his fardbeyan (Ext. 2) that Mir Hasan had assaulted him by an iron rod on his head. It is evident that P.W. 1 is not an eye witness and she has deposed only to favour the informant and his family.

50. She has admitted in paragraph-29 that she has filed a similar kind of case against Mir Hasan, Asgar, Kalam Hussain, Saddam Hussain, Khusuru and others in which Babu Jaan, Jaitan Khatoon, Nasima Khatoon, Hasiba Bibi and Sur Hasan are witnesses. The said case was being tried in the Court of ACJM-11 as Trial No. 8 of 2018.

51. Her husband Noor Hasan had also lodged one case against the other accused persons, the Trial No. 3340/2015, which is pending in the Court of learned Judicial Magistrate, 1st Class. Her husband had lodged yet another case being Case No. 92 of 2007 against Khusru Mian, Asgar Mian, Mir Hasan and others. She has admitted that a lot of litigations are going on in the Civil Court.

52. This Court has further found from the evidence of Nasiba Khatoon (P.W.2) that she has not deposed on the point of attempt to rape upon P.W. 3. She has stated that when she came out on hearing the shouts of Hasina and Babu Jaan then she found that Hasina and Babu Jaan were being assaulted by Lathi, Danda. She has only stated that Mir Hasan, Asgar, Kalam Hussan, Saddam Hussain, Zafar Hussain, Khusruddin, Abdulla, Quraissa Bibi, Sogra Bibi,



Zarina, Nagina, Rubina, Baby, Chanda all of them were assaulting by Lathi, Danda to Hasina and Babu Jaan.

53. It is evident from her deposition that she has stated altogether a different case. The informant (P.W. 4) has alleged assault upon him only by the male members. So far as the female members are concerned, he has alleged that they had assaulted Hasina.

54. From the deposition of this witness P.W. 2 also, it appears that she is not an eye witness of the occurrence. P.W. 4 has also stated that P.W. 2 had reached five minutes after the occurrence. P.W. 2 has confirmed that there was no one else and she had taken Babu Jaan and Hasina to PMCH.

55. The evidence of P.W. 3 and P.W. 4 are required to be discussed keeping in view the findings of the learned Trial Court. The learned Trial Court has found that there are major contradictions in the deposition of P.W. 3 with respect to assault on the informant. Regarding the occurrence with her own, the evidence of P.W. 3 has been discussed by the learned Trial Court in paragraphs -11 and 12 of the impugned judgment.

56. We agree with the findings of the Trial Court that had there been any intention of the accused persons to commit rape on her, they would not have dragged her from her bedroom to the courtyard of the house. The Trial Court has rightly recorded that from the evidence of the informant it was clear that all the accused persons



are their relatives and large number of litigations are pending between both the parties. In her deposition, when P.W. 3 was suggested about her relationship with the accused persons, she categorically denied this simple fact and she expressed her ignorance but she has stated in her deposition that all the accused persons are her enemies and there is land dispute.

57. We agree with the findings of the learned Trial Court that P.W. 3 has not come clean to the Court in her evidence and the allegations of attempt to rape cannot be taken to have been proved from her statements. There are reasonable doubts particularly in the facts of the case where the first version of the prosecution case has been suppressed.

58. We have also noticed from the findings of the learned Trial Court with regard to the evidence of P.W. 4 and also upon perusal of the records that P.W. 4 has stated that he woke up on alarm of his sister from courtyard and went there to see that his sister was slammed down on the floor and her clothes were torn and accused persons were making attempt to rape her. The Trial Court has rightly recorded that the prosecution case that accused no. 2 and Asgar pressed the mouth of P.W. 3, scratched her clothes and dragged her from bedroom to courtyard for rape have not been supported by P.W. 4 and he would be in the category of a hearsay witness on this point.



59. We have noticed from the evidence of the Doctor (P.W. 5) that he had found only two injuries on the body of P.W. 4, one was a finding of clinical fracture shaft of his right humerus. So far as the P.W. 3 is concerned, she had suffered only one abrasion. The kind of injuries found on the body of P.Ws. 3 and 4 do not corroborate the prosecution case as regards the manner of occurrence. If so many accused persons had assaulted P.W. 4 by Lathi, Danda, Hand and Fist blow, P.W. 4 would have suffered multiple injuries on his body.

60. Learned counsel for the appellant has given emphasis on the statement of P.W. 4 that Mir Hasan had assaulted on his head by a Khanti, which hit his right hand and his hand was fractured.

61. We find from the evidences on the record that P.W. 4 has categorically stated in his deposition that all the accused persons had indulged in causing assault upon him. His statement that Mir Hasan had assaulted him by an iron rod on his head and when he saved his head then he suffered the injury on his right hand causing fracture of the hand is not consistent with this case set up in the fardbeyan.

62. The learned Trial Court has, therefore, rightly held that though from the documentary evidence brought on record it is found that P.W. 4 had suffered injury but there is no evidence to take a view that those injuries were caused by the accused persons of this case in the manner narrated by the prosecution witnesses.



63. We have also gone through the judgments cited at the Bar on behalf of the appellant. As regards the *maxim falsus uno* is *falsus omnibus*, what have been held by the Hon'ble Supreme Court in the case of **Edakkandi Dineshan** (supra) may be found in paragraph -22 of the judgment which reads as under:-

“22. Hence, as can be seen from above, it has been a consistent stand of this Hon'ble Court that the principle “*falsus in uno, falsus in omnibus*” is not a rule of evidence and if the court inspires confidence from the rest of the testimony of such a witness, it can very well rely on such a part of the testimony and base a conviction upon it.”

64. It is relevant from the aforesaid view expressed by the Hon'ble Supreme Court that, in fact, the *maxim falsus in uno, falsus in omnibus* is not a rule of evidence. It is for the Court to satisfy itself with the veracity of the evidence on the record and only when the evidence inspire confidence of the Court, the Court will take an appropriate view of the matter.

65. We are of the considered opinion that given the kind of enmity between the parties, the multiple litigations which have been lodged on the strength of same and one witnesses, the prosecution witnesses being highly inimical and there being no corroboration of the ocular evidence as regards the various material facts and circumstances of the case, the independent witnesses not supporting



the prosecution case and the first version of the prosecution story having been suppressed, there would be no plausible reason to take a different view of the matter.

66. In ultimate analysis, this Court finds no perversity in the findings of the learned Trial Court.

67. Thus, keeping in view the principle governing an appeal against acquittal, we decline to interfere with the impugned judgment.

68. This appeal is dismissed.

69. Let the trial court's records along with this judgment be sent down to learned trial court.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	28.08.2025

