

2025:PHHC:179705-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-D-595-DB of 2004

Reserved on:-27.10.2025

Pronounced on:- 28.10.2025

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Naresh and another ...Appellants
Vs.
State of Haryana ...Respondent

**CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

**Present: Mr. Gaurav Tyagi, Advocate
for the appellants.**

Mr. Parmod Kumar, AAG, Haryana.

N.S.SHEKHAWAT, J.

1. The appellants have preferred the present appeal against the impugned judgment dated 19.05.2004 and order dated 21.05.2004 passed by the Sessions Judge, Sonapat, whereby, both the appellants have been convicted for the commission of the offence under Section 302 read with Section 34 IPC and have been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5000/- alongwith default stipulation.

2. The FIR Ex.PA/1 in the present case was registered on the basis of the statement Ex.PA made by Kumari Geeta, daughter of

Ram Mehar resident of Chidana and the same has been reproduced below:-

“Statement of Kumari Geeta d/o Ram Mehar caste Jat r/o Chidana at present Gudha Road near Kumari Geeta Vidya Mandir School Gohana age 14 years. Stated that I am resident of above address. My father Ram Mehar had gone to Saudi Arb country. We are three sister and brothers. I am eldest and both my brothers are younger to me. I am studying in 7th class. My uncle Ramesh has already expired eight months ago. After his death my aunt Rajesh had performed Kareva with my father. My Mausi (aunt) Rajesh @ Babli is living in village Chidana and my mother Rajwanti was living at Gohana in the house of my Fooofa (uncle) Rattan alongwith us from two years ago because my Bua (aunt) had expired about 3 years ago. My Bua's children also used to live with us and son of my Mausi (aunt) Vikas @ Vickky s/o Ramesh also used to live with us. My father are three brothers. Naresh is my youngest uncle who lives at village. Two months ago my uncle Naresh had made a quarrel with my Mausi Rajesh and my mother Rajwanti about the partition of the plot and also given beating to my Mausi. He wants to take possession of whole the plot. My uncle Naresh was having a grudge from that time. He came to Gohana at our house twice or thrice and gave threat to my mother that no need to put your foot in the plot and if you demanded any share of the plot you would be killed. My mother scolded him and asked him not to come here. Today i.e., 30.05.2002, I along with my younger brother Satish and uncle's son Vikas @ Vickky were studying

and sitting in the verandha of house and my mother was stitching her suit. At about 5:30 P.M. my uncle Naresh and Nesha s/o Chander Jat r/o village Chidana both came inside our house and my uncle Naresh stated that she should be taught a lesson for demanding share in the plot and after that Naresh threw my mother sitting before sewing machine in the varanda. We tried to rescue her but Naresh also pushed us to backside. Nesha caught hold of my mother's both hands and my uncle Naresh inflicted various blows of knife on head, hands, chest, stomach and feet of my mother continuously. When we raised alarm of Bachao-Bachao our uncle also shown knife to us and due to fear we rushed back. On hearing our noise our relatives Hari Om s/o Raghbir Singh caste Jat r/o Lath who was staying at our house since morning came on the spot from neighbour's house. On seeing him my uncle Naresh and Nesha ran away towards Meham Road along with knife. We all ran behind to catch them then we saw a Maruti car of white colour on the Guddha chowk, in which a person was sitting on the driver's seat. My uncle Naresh and Nesha sat in the car and asked Karambir to run away and all the three rushed towards the city in that car. On our return at home I found my mother dead. I sent my brother Vikas to call my Mausī (aunt) from village Chidana. My Mausī Rajesh reached at our house and we told her, all the facts. Leaving the dead body in the custody of her aunt Rajesh and our brother Vikas, I was going to the police station for reporting the matter alongwith her relative Hari Om, at the same time, you met us. I got recorded my statement heard, which is correct. Action be taken. Sd/- Kumari

Geeta, Attested Amar Dass SZ/SHO P.S. City Gohana”.

3. After the registration of the FIR, the investigation was conducted by the police and both the appellants were ordered to be arrested. The appellant No.1 got recovered a knife, which was blood stained. After completion of investigation, the challan under Section 302/34 IPC was presented before the Area Magistrate.

4. Since the offence under Section 302 IPC was triable by the Court of Sessions, the case was committed to the Court of Sessions Judge, Sonipat. After considering the challan and the accompanying documents, the trial Court found a *prima facie* case under Section 302/34 IPC against both the appellants, to which, they pleaded not guilty and claimed to be tried by the trial Court.

5. In support of the prosecution case, the prosecution examined PW1 Kumari Geeta, who had reiterated the statement made by her initially to the police and admitted that she had made the complaint Ex.PA under her signatures. The prosecution further examined Smt. Rajesh as PW2, who stated that about 04 months ago, her son Vikas came to her house at village Chidana and told her that his uncle Naresh and two other persons had killed his mother Rajwanti by stabbing her in a room. She rushed to their house and found that Rajwanti was dead in the house and multiple injuries were present on her body. Vikas also told her that one Karambir had also accompanied Naresh to commit the crime and third person Nesha was also with Naresh. In the meantime, the police reached at the spot and

took the dead body in possession. The prosecution further examined PW3 Hari Om, who stated that on 30.05.2002, he had gone to the house of Rattan Singh at Gohana for money. Kumari Geeta and his sons were present in his house. Thereafter, he went to the house of neighbour and was waiting for Rattan Singh. On hearing the noise, he reached the house of Rattan Singh and found that Naresh was carrying a knife and had caused injuries to Smt. Rajwanti. Nesha had caught hold of her hands and he was also with him. Seeing him, they fled towards Gudda Chowk and boarded the car and went towards Gohana. Karambir was driving the said car in which both the accused escaped. He came back to the place of occurrence and found that Smt. Rajwanti had already succumbed to the injuries. He and Kumari Geeta informed the police. The police reached at the spot and he made his statement to the police. The prosecution further examined Satish aged about 10 years, a child witness. Before recording his testimony, the trial Court had put two questions to him to ascertain his capability to understand the questions and the proceedings in the Court and to give evidence. The Court has found him intelligent enough to depose as a witness. PW4 Satish stated that at about 05.30 p.m. on 30.05.2002, his uncle Naresh and Nesha came to their house and both of them were identified in the Court room. Nesha accused caught hold of his mother and his uncle Naresh gave knife blows to his mother on her head, abdomen, legs and arms. He and Vikas saw Naresh causing injuries to his mother while Nesha was holding his

mother. His sister Kumari Geeta was also present at the spot, when the injuries were caused. Hari Om was also reached their house at that time. Nesha and Naresh fled away after causing injuries. Karambir was present at Gudda Road with a car and Nesha and Naresh fled away in that car with Karambir. There was a dispute regarding a plot of land between them and Naresh etc., and injuries were caused to his mother due to said dispute. The prosecution further examined PW5 Anil Kumar, ASI, who had recorded the formal FIR Ex.PA/1 and made his disclosure statement Ex.PA/2 on the same. He also sent special reports to the Judicial Magistrate and higher police officers. The testimony of PW6 HC Ranbir Singh was formal in nature.

6. The prosecution further examined PW4 Dr. Karambir, who had conducted the postmortem examination on the dead body of Rajwanti wife of Ram Mehar on 31.05.2002 and the relevant extract of his testimony has been reproduced below:-

“The length of the dead body was 5 feet. The dead body was moderately built and nourished, wearing white jumpher (printed), Salwar, grey coloured braizer (vest) and underwear of dark grey colour, blue chunni. The mouth was closed and eyes were open. Rigormortis were present.

On examination the following injuries were noticed:-

- 1. An incised wound over the middle finger of right hand size 3 x 1 cm.*
- 2. An incised wound over the left breast size 2 x 1 cm.*
- 3. An incised wound over the left side in front of Axilla deep upto the lung of size 7 x 4 cm.*

4. *An incised wound over the left side behind the Axilla of size 4 x 2 cm.*
 5. *An incised wound over the right hypochondrium of size 5 x 2 cm.*
 6. *An incised wound over the abdomen below the umbilicus of size 7 x 2 cm.*
 7. *Incised wound over the left arm of size 4 x 1 cm and 3 x 1 cm side by side.*
 8. *An incised wound over the scalp of size 4 x 1 cm just above the behind the ear.*
 9. *An incised wound over the lumbar region of size 3 x 1 cm in the middle.*
 10. *An incised wound over the left elbow of size 5 x 4 cm laterally.*
 11. *An incised wound over the left arm of size 10 x 1 cm.*
 12. *An incised wound over the left fore-arm of size 3 x 1 cm.*
 13. *An incised wound over the right knee joint of size 6 x 3 cms, 2 x 1 cms side by side. On dissection, fracture patella was present.*
 14. *An incised wound over the right thigh of size 7 x 3 cms.*
 15. *A superficial wound over the right thigh of size 1 x 0.5 cms.*
 16. *An incised wound over the left knee joint two in number side by side of size 8 x 1 cms and 6 x 1 cms.*
 17. *An incised wound over the left thigh of size 1 x 0.5 cm.*
- Both the pleura, right lung, pericardium, mouth, pharynx, abdominal wall, spleen and kidneys were pale and healthy. The left lung was pale and healthy and there was an incised wound over the left side of size 4 x 2*

c.ms. in corresponding to injury No. 3. The heart was empty. Liver was pale and healthy and there was an incised wound over the antero-inferior surface of size 3 x 2 c.ms. corresponding to injury No.5. Stomach was containing semi-digested food. Small intestine was containing chyle and bile juices. intestine was containing gases and faecal matters. Urinary bladder was containing small amount of urine. External genital was normal in appearance.

In my opinion, the cause of death in this case was hemorrhage with hypoglycemic shock due to the above mentioned injuries. All the injuries were antemortem in nature and sufficient to explain the cause of death in normal course of life.

I handed over to police (1) a well stitched dead body after postmortem examination alongwith its belonging, (2) copy of P.M.R., (3) Police papers numbering 1 to 22 duly signed by me. A parcel bearing eight seals containing the clothes of the deceased, and (5) sample seal. The probable time between the injuries and death was within half an hour and between death and postmortem examination, it was within 24 hours. EX.PC is the carbon copy of the postmortem examination report, which is in my hand and bears my signatures. Ex. PC/1 is the police request for conducting postmortem examination. Ex.PC/2 is the inquest report numbering 1 to 22 which was initialed by me. (At this a sealed parcel bearing the seals of FSL is opened and a Chhuri is taken out of it and shown to the witness). All the injuries except injury No. 13 on the person of the deceased, can be caused with the Chhuri Ex.P1. (At this stage, another sealed parcel bearing the seals of FSL is

opened and a lady shirt, one Salwar, one braizer, one under-wear and one chunni are taken out of it and shown to the witnesses.) Lady shirt Ex.P2, Salwar Ex.P3, Brazier Ex. P4, Under-wear Ex. P5 and Chunni Ex. P6 are the same clothes which was sealed ty me at the time of postmortem examination.”

7. The prosecution further examined PW8 Constable Jagbir Singh, who had prepared the scaled site plan Ex.PE with correct marginal notes. PW9 Jagdish Chander proved on record the photographs of scene of crime, where the dead body of Rajwanti was lying in the house. The testimonies of PW10 Jasbir Singh and PW11 Raj Pal ASI were formal in nature. The prosecution examined Rattan Singh son of Mehar Singh as PW12, who stated that there was a dispute regarding the ownership of plot of land between Naresh, appellant and Ram Mehar. This plot was inherited by brothers of his wife from her father and the dispute arose after the partition of the properties. Naresh, accused asserted that he was the sole owner of the plot of land and while Ram Mehar and his wife asserted that Ram Mehar had also a share in the plot. Rajwanti and Naresh had altercations with each other in his presence over the share of Ram Mehar in this plot. They also scuffled and exchanged blows with each other over the dispute regarding this plot at another time. Again, regarding this plot, on receiving a telephonic message regarding the murder of Rajwani, he went to Gohana and reached home. Thereafter, he had narrated the facts to the police. On 04.06.2002, Naresh and Nesha were apprehended by the police and on interrogation they

confessed their crime. Naresh suffered a disclosure statement Ex.PH and he got recovered a blood stained knife vide recovery memo Ex.PH/1. Similarly, Nesha also suffered a disclosure statement and stated that he had caught hold of Rajwanti while Naresh had given knife blows to her. The testimony of PW13 Satyavir Singh was formal in nature. The prosecution further examined PW14 SI Amar Dass, who had initially conducted the investigation in the present case. He had arrested the accused on 04.06.2002 and made recoveries in the present case. Similarly, the prosecution examined PW15 Vikas, who did not support the case of the prosecution and was declared hostile.

8. After the statements of PW1 Kumari Geeta and PW4 Satish, applications under Section 311 Cr.P.C. were moved by the accused for recalling both the witnesses for further cross-examination. When both the witnesses, PW1 Kumari Geeta and PW4 Satish appeared as witnesses, they were declared hostile and did not support the case of the prosecution. Rather both the witnesses stated that at the time of incident, they had gone to market to fetch milk and vegetables. They had not seen Hari Om in their house on that day. Even, there was no dispute between their mother and uncle Naresh over the plot. They even disowned the previous statements made by both the witnesses.

9. After the closure of the prosecution evidence, the entire incriminating evidence was put to both the appellants in the shape of

their statements under Section 313 Cr.P.C. Naresh accused, stated that he was innocent and he and his other co-accused had been falsely involved. PW3 Hari Om was related to Rattan Singh PW12 and they both were inimical towards him and in collusion with police, they had falsely involved them in the present case. Similar stand was taken by Nesha, co-accused.

10. In their defence, the appellants examined DW1 Jai Pal, who stated on 30.05.2002, he was present in his house and Hari Om son of Raghbir Singh did not come to his house. His house was situated near the house of Rattan. The appellants further examined Ram Mehar son of Ram Sarup as DW2, who stated that Naresh, co-accused was his real brother. They were living separately from each other for the last 15 years. At the time of separation of agricultural land, plot and residential house were also partitioned peacefully. There was no dispute over a plot, between him and his brother Naresh. At the time of death of his wife Rajwanti, he was serving in Saudi Arabia as driver. The plot at Gohana was purchased by him in his name and he had sent the money from Saudi Arabia for construction of his house on the plot at Gohana to his wife but she did not spend the amount on the plot and handed over the said amount to Rattan, who was his brother-in-law. He had taken that amount only for two months but did not return the same. His wife demanded money from Rattan but he refused to return. Rajesh wife of his younger brother had performed *Kareva* marriage with him as his

brother Ramesh had expired. He used to send expenses of his both wives and children. His brother Naresh informed him about the death of his wife Rajwanti and he came to India 13/14 days after that.

11. Learned counsel for the appellants has vehemently argued that as per the prosecution version, there was a dispute between appellant No.1 and Ram Mehar, husband of the deceased over a plot. However, Ram Mehar appeared as DW2 and specifically deposed that there was no dispute over the plot as agricultural land and residential house were already partitioned peacefully at the time of separation. Consequently, there was no motive on the part of the appellants to commit the crime.

12. Learned counsel for the appellants further submitted that PW1 Kumari Geeta and PW4 Satish have been wrongly relied upon by the trial Court while recording the judgment of conviction against the appellants. In fact, PW1 Kumari Geeta and PW4 Satish were recalled for further cross-examination and they clearly stated that earlier statements were made under the pressure of PW2 Smt. Rajesh (Massi), PW12 Rattan Singh (Fufa) as well as the appellants. They deposed that their signatures were obtained on blank papers by the appellants in collusion with PW12 Rattan Singh who works in the Cabinet Secretariat and is an influential person. Even, as per the admitted case of PW12 Rattan Singh, he had three children who were also living with Rajwanti at his house but none of them had been made a witness in the present case. Apart from that, it has been shown

that a blood stained knife was recovered from Naresh, however, the said recovery was made from the open plot/field and the same could be seen by any passers by. Even, no independent witness was joined at the time of recovery. Apart from that, even the FSL report clearly suggested that the traces of blood detected on the knife were too small for Serological tests and it clearly proved that the alleged recovery had been planted on the appellants. Still further, the trial Court failed to appreciate that DW1 Jai Pal had clearly deposed that Hari Om alleged eye witness did not visit his house ever. Still further, the testimony of DW2 Ram Mehar also exonerated the appellants and it is apparent that they had been falsely involved in the present case.

13. On the other hand, learned State counsel has vehemently argued that in the present case, PW1 Kumari Geeta and PW3 Hari Om had witnessed the occurrence and they had supported the case of the prosecution. Further, it was also apparent that on his arrest, Naresh got recovered a blood stained knife, which was used in the commission of the crime. Still further, it was also apparent from the prosecution evidence that a dispute relating to a plot was pending between the parties and due to the said motive, Naresh came to the house of Smt. Rajwanti and committed her murder with the help of Nesha, co-accused. Learned State counsel further submitted that even though, Kumari Geeta PW1 and Satish PW4 tried to help the accused, when they were called for further cross-examination, but their earlier testimonies were more truthful and when they were recalled after

several months, they tried to help the accused by disowning their earlier statements. Thus, the impugned judgment and order passed by the trial Court is liable to be upheld by this Court.

14. We have heard the learned counsel for the parties and perused the record with their able assistance.

15. In the present case, the main argument raised by the learned counsel for the appellants is that PW1 Kumari Geeta and PW4 Satish were recalled for further cross-examination and they had clearly stated that they were not present at the place of alleged occurrence and had been wrongly shown as eye witnesses. Rather, the statements made earlier in the Court were under the pressure of police and also under the pressure of Rattan Singh and Rajesh. The police had obtained their signatures on blank papers and their previous statements were not correct. However, we find no substance in the argument raised by learned counsel for the appellants in this regard. The prosecution had initially examined Kumari Geeta PW1 on 08.10.2002 and PW4 Satish also on 09.04.2003. Both the witnesses had specifically alleged that Naresh and Nesha came to their house. Naresh was carrying a knife, which was concealed in his *Chaddar*. They started hurling filthy abuses at their mother. In the meantime, when their mother protested, Naresh took out a knife and killed her by causing injuries with a knife. Nesha, appellant/co-accused was also holding his mother while she was attacked by Naresh appellant No.1. The statements of PW1 Kumari Geeta and PW4 Satish were duly

corroborated by the testimony of Smt. Rajesh PW2, who stated that about 04 months ago, her son Vikas came to their house at village Chidana and told her that the appellants and their co-accused had killed Rajwanti in a room by stabbing her. The prosecution had also examined another eye witness PW3 Hari Om, who clearly stated that on hearing the noise, he rushed to the house of Rattan Singh and found that Naresh appellant No.1 had caused injuries to Rajwanti with knife and Nesha had caught hold of her hands. On seeing him, both the appellants ran away from the spot. No doubt, when PW1 Geeta and PW4 Satish were recalled for further cross-examination on 10.02.2004, i.e., after several months, they had refused to support the case of the prosecution. However, the earlier statements made by both the witnesses were consistent in material particulars and the maxim 'Falsus in Uno, Falsus in Omnibus' does not apply in Indian context. Apart from that, the statements of three eye witnesses, namely, PW1 Kumari Geeta, PW3 Hari Om and PW4 Satish were duly corroborated by the testimony of PW7 Dr. Karambir, MO, who found 17 incised wounds all over the body of Smt. Rajwanti and all the injuries were sufficient to cause death in the ordinary course of life.

16. The Hon'ble Supreme court has discussed the maxim 'Falsus in Uno, Falsus in Omnibus' in several land mark judgments and held that the said maxim of law has no application in India. In the matter of *Israr versus State of U.P. 2005(2) RCR(Criminal) 40*, the Hon'ble Supreme Court held as follows:-

“17. To the same effect is the decision in State of Punjab v. Jagir Singh, AIR 1973 Supreme Court 2407 and Lehna v. State of Haryana, 2002(3) SCC 76. Stress was laid by the accused-appellants on the non-acceptance of evidence tendered by some witnesses to contend about desirability to throw out entire prosecution case. In essence prayer is to apply the principle of "falsus in uno falsus in omnibus" (false in one thing, false in everything). This plea is clearly untenable. Even if major portion of evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused notwithstanding acquittal of number of other co-accused persons, his conviction can be maintained. It is the duty of Court to separate grain from chaff. Where chaff can be separated from grain, it would be open to the Court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons. Falsity of particular material witness or material particular would not ruin it from the beginning to end. The maxim "falsus in uno falsus in omnibus" has no application in India and the witnesses cannot be branded as liar. The maxim "falsus in uno falsus in omnibus" has not received general acceptance nor has this maxim come to occupy the status of rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be disregarded. The doctrine merely involves the question of weight of evidence which a Court may apply in a given set of circumstances, but it is not what may be called 'a mandatory rule of evidence'. (See Nisar Ali v. The State of Uttar Pradesh, AIR 1957 Supreme Court 366)”.

17. Similar observations were made by the Hon'ble Supreme Court in the matter of ***Jakki @ Selvaraj and another versus State Rep.***

By the IP, Coimbatore 2007(2) RCR(Criminal) 105, as under:-

8. As noted above, stress was laid by the accused-appellants on the non-acceptance of evidence tendered by PW-13 to contend about desirability to throw out the entire prosecution case. In essence the prayer is to apply the principle of "*falsus in uno falsus in omnibus*" (false in one thing, false in everything). This plea is clearly untenable. Even if major portion of evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, notwithstanding acquittal of number of other co-accused persons, his conviction can be maintained. It is the duty of Court to separate the grain from the chaff. Where the chaff can be separated from the grain, it would be open to the Court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons. Falsity of particular material witness or material particular would not ruin it from the beginning to end. The maxim "*falsus in uno falsus in omnibus*" has no application in India and the witnesses cannot be branded as liars. The maxim "*falsus in uno falsus in omnibus*" has not received general acceptance nor has this maxim come to occupy the status of a rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be discarded. The doctrine merely involves the question of weight of evidence which a Court may apply in a given set of circumstances, but it is not what may be called 'a mandatory rule of evidence'. (See ***Nisar Ali v.***

The State of Uttar Pradesh (AIR 1957 Supreme Court 366). Merely because some of the accused persons have been acquitted, though evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also be acquitted. It is always open to a Court to differentiate accused who had been acquitted from those who were convicted. (See Gurcharan Singh and Anr. v. State of Punjab (AIR 1956 Supreme Court 460). The doctrine is a dangerous one specially in India for if a whole body of the testimony was to be rejected, because a witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead-stop. Witnesses just cannot help in giving embroidery to a story, however true in the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the Court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. The evidence has to be sifted with care. The aforesaid dictum is not a sound rule for the reason that one hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment. (See Sohrab s/o Beli Nayata and Anr. v. The State of Madhya Pradesh 1972 3 SCC 751) and Ugar Ahir and Ors. v. The State of Bihar (AIR 1965 Supreme Court 277). An attempt has to be made to, as noted above, in terms of felicitous metaphor, separate the grain from the chaff, truth from falsehood. Where it

*is not feasible to separate truth from falsehood, because grain and chaff are inextricably mixed up, and in the process of separation an absolutely new case has to be reconstructed by divorcing essential details presented by the prosecution completely from the context and the background against which they are made, the only available course to be made is to discard the evidence in toto. (See **Zwinglee Ariel v. State of Madhya Pradesh (AIR 1954 Supreme Court 15)** and **Balaka Singh and Ors. v. The State of Punjab. (AIR 1975 Supreme Court 1962)**. As observed by this Court in **State of Rajasthan v. Smt. Kalki and Anr. (AIR 1981 Supreme Court 1390)**, normal discrepancies in evidence are those which are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and those are always there, however honest and truthful a witness may be. Material discrepancies are those which are not normal, and not expected of a normal person. Courts have to label the category to which a discrepancy may be categorized. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so. These aspects were highlighted in **Krishna Mochi and Ors. v. State of Bihar etc., 2002(2) RCR (Criminal) 567 (SC) : JT 2002(4) SC 186.***

Applying the principles set out above, it is clear that even when the testimony of a witness is discarded in part vis-a-vis some other co accused persons, that cannot per se be the reason to discard his evidence in toto. As rightly observed by the trial Court and the High Court, the evidence of PW-13 has not been shakened in any manner though he was cross examined at length.

Additionally, the trial Court and the High Court have found that the evidence of the doctor (PW 4) clearly shows existence of injuries in the manner described by PW-13 by weapons allegedly held by the appellants. In that view of the matter, the judgment of the High Court does not suffer from any infirmity. The appeal fails and is dismissed.

18. Similar observations were made by the Hon'ble Supreme Court in the matter of ***Edakkandi Dineshan @ P. Dineshan & Ors. versus State of Kerela 2025 AIR Supreme Court 444***, as under:-

*"19. It is a settled position that 'falsus in uno, falsus in omnibus' (false in one thing, false in everything) that the above principle is foreign to our criminal law jurisprudence. This aspect has been considered by this Court in a plethora of judgements. In the case of **Ram Vijay Singh v. State of UP, 2021 SCC Online SC 142** a Three Judge bench of this Hon'ble Court had held that:*

*"..(20) We do not find any merit in the arguments raised by the learned counsel for the Appellant. A part statement of a witness can be believed even though some part of the statement may not be relied upon by the Court. The maxim falsus in uno, falsus in omnibus is not the rule applied by the courts in India. This Court recently in a judgement **Ilangoan v. State of T.N.** held that Indian Courts have always been reluctant to apply the principle as it is only a rule of caution. It was held as under: (SCC Pg 536, Para 11)"*

"..(11) The Counsel for the Appellant lastly argued that once the witnesses had been disbelieved with respect to the co accused, their testimonies with respect to the present accused must also be discarded. The Counsel is,

in effect, relying on the legal maxim "falsus in uno, falsus in omnibus", which Indian Courts have always been reluctant to apply. A three Judge bench of this Court, as far back as in 1957, in Nisar Ali v. State of UP, held on this point as follows (AIR p 368, Para 910)

"(9) This maxim has not received general acceptance in different jurisdictions in India nor has this maxim come to occupy the status of a rule of law. It is merely a rule of Caution. All that it amounts to is that in such cases the testimony may be disregarded and not that it must be disregarded.

(10) The Doctrine merely involves the question of weight of evidence which a Court may apply in a given set of circumstances, but it is not what may be called "a mandatory rule of Evidence"

(21) Therefore, merely because a prosecution witness was not believed in respect of another accused, the testimony if the said witness cannot be disregarded qua the present Appellant. Still, further it is not necessary for the prosecution to examine all the witnesses who might have witnessed the occurrence. It is the quality if evidence which is relevant in criminal trial and not the quantity."

Hence, as can be seen from above, it has being 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."

19. In view of the above preposition of law, this Court has no hesitation to hold that the depositions of PW1 Kumari Geeta and PW4

Satish have to be viewed with care and caution. Both the witnesses had earlier supported the case of the prosecution. However, the appellant No. 1 is real uncle of the witnesses and it is quite possible that the other family members had pressurized both the child witnesses to turn hostile, when they were recalled for further cross-examination. Consequently, the earlier statements made by both the witnesses can be safely relied upon, while convicting both the appellants in the present case.

20. Learned counsel for the appellants had vehemently argued that in the present case, as per the statement of DW2 Ram Mehar, there was no dispute over the plot as agricultural land and residential house were partitioned peacefully at the time of separation and the prosecution had failed to prove the motive on the part of the appellants to commit the crime. However, we do not agree with the submissions made by learned counsel for the appellants in this regard. In fact, DW2 Ram Mehar is real brother of appellant No.1 and he returned to India after several days of the occurrence. Even, he tried to help the appellants by stating that there was no dispute relating to the plots, but he could not produce any documentary evidence in this regard. Even otherwise, it is a case of eye witness account and the eye witnesses have been found to be reliable by this Court. Consequently, the argument raised by learned counsel for the appellants is meritless and is rejected.

21. The learned counsel for the appellants tried to impress us

by raising an argument that three children of PW12 namely Vinod, Sanjay and Pooja were also living with Rajwanti and none of them were made a witness in the present case. However, the said argument cannot be accepted in view of the fact that the prosecution had already cited three witnesses, namely, PW1 Kumari Geeta, PW3 Hari Om and PW4 Satish and there was no need of citing more eye witnesses in the present case. Moreover, the FSL report clearly suggested that the traces of blood were detected on the knife, which was recovered from appellant No.1. The FSL report cannot be rejected on the ground that the traces of blood detected on the knife were too small for serological tests and we find the argument to be illogical.

22. In view of the above discussion, we find no hesitation to hold that the prosecution has been able to prove the case against both the appellants beyond the shadow of reasonable doubt and the appeal is without any merit. The impugned judgment dated 19.05.2004 and order dated 21.05.2004 passed by the trial Court are upheld. As a consequence, the appeal is ordered to be dismissed.

23. The appellant/accused are directed to surrender within 15 days from today, failing which, the CJM concerned shall issue non bailable warrants against the present appellants/accused and shall commit them to custody to serve the remaining sentence of imprisonment.

24. All pending applications, if any, are disposed off, accordingly.

25. The case property, if any, may be dealt with as per the rules.
26. Records of the Court below be sent back.

(N.S.SHEKHAWAT)
JUDGE

(SUKHVINDER KAUR)
JUDGE

28.10.2025
amit rana

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No