

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.566 of 2000

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Against the Judgment of conviction dated 15.09.2000 and the order of sentence dated 16.09.2000, passed Sri Diwakar Jha, 5th Additional Sessions Judge, Gopalganj in Sessions Trial No. 211 of 1996, arising out of Barauli (Sidhwalia) P.S. Case No. 243 of 1995.

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Dumar Bin @ Domar Bin, Son of Balist Bin, Resident of Village – Khajuria,
P.S. Sindhwalia, District – Gopalganj.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Ms. Anukriti Jaipuriyar, Amicus Curiae

For the Respondent/s : Mr. Satya Narayan Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
and
HONOURABLE MR. JUSTICE ALOK KUMAR

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE ALOK KUMAR)

Date : 21-07-2026

Heard Ms. Anukriti Jaipuriyar, learned *Amicus Curiae* for the Appellant and Mr. Satya Narayan Prasad, learned counsel for the State.

2. The present appeal has been preferred against the Judgment of Conviction dated 15.09.2000 and Order of Sentence dated 16.09.2000 passed by the learned 5th Additional Sessions Judge, Gopalganj, in Sessions Trial No. 211 of 1996 arising out of Sidhwalia P.S. Case No. 243 of 1995, whereby the appellant was convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to undergo



rigorous imprisonment for life and fine of Rs. 5000/- and in default of payment to undergo R/I for one year.

3. The prosecution case, as unfolded in the fardbayan of the informant, Dharamnath Singh alias Chiraiya Das, son of Late Jamadar Singh, recorded at Sidhwalia Police Station on 19.10.1995 at about 6:00 P.M., is that on 19.10.1995 at about 3:30 P.M., the informant reached his agricultural field from the eastern side, while his brother, Paras Singh (deceased), arrived at the field from the northern side. It is alleged that the informant's *Rahar* crop was damaged by cattle. The informant questioned the accused as to why they had destroyed the crop and stated that he would not abandon his land on account of their actions. Thereupon, it is alleged that the appellant, along with the other co-accused persons, started assaulting the informant with *lathis* at the instigation of co-accused Palita Bin. It is further alleged that Algu Bin was the first to assault the informant with a lathi, whereafter the remaining accused persons also joined in the assault. The appellant inflicted a spear blow on the abdomen of the informant's brother, Paras Singh, causing him to fall on the field. Thereafter, Kanchan Bin allegedly assaulted Paras Singh with lathi. The occurrence was witnessed by Vishwanath Singh, Amresh Singh, Yogendra



Singh, and other persons, who rushed to the place of occurrence. Upon seeing other villagers were approaching, all the accused persons allegedly fled from the place of occurrence. It is also alleged that the informant's brother Paras Singh died on the field at that time.

4. On the basis of the aforesaid fardbayan, Barauli (Sidhwalia) P.S. Case No. 243 of 1995, dated 20.10.1995, was registered against the present appellant along with other co-accused persons for the offences punishable under Sections 147, 148, 149, 302 and 324 of the Indian Penal Code.

5. Upon completion of the investigation, the police submitted charge-sheet no. 02/96 dated 12.01.1996 against the present appellant along with other co-accused persons for the offence punishable under Sections 147, 148, 149, 302 and 324 of the Indian Penal Code.

6. Thereafter, the learned Chief Judicial Magistrate took cognizance of the offence and on 19.07.1996 and the case was committed to the Court of Sessions. Upon commitment on 22.01.1997, charges under Sections 147, 148, 149, 323 & 302 IPC were framed against the appellant and other eight co-accused persons. The charges were read over and explained to them in Hindi, to which they pleaded not guilty and claimed to



be tried.

7. The prosecution in order to substantiate its case, has examined as many as nine witnesses and exhibited some documents on its behalf. List of prosecution witnesses and exhibits are being mentioned hereunder in tabular form.

List of Prosecution Witnesses :

Prosecution witness no.	Name of witness	Description
1.	Yogendra Singh	Villager
2.	Bhagwat Singh	Villager
3.	Janak Singh	Villager
4.	Bishwanath Singh	Villager
5.	Bikram Singh	Villager
6.	Suresh Pandey	Villager (Seizure list witness)
7.	Dharamnath Singh	Informant / Brother of the deceased
8.	Nilesh Kumar Singh	Son of deceased
9.	Dr. Shambu Nath Singh	Doctor who conducted post-mortem

List of Exhibits on behalf of the prosecution :

Exhibit No.	Description of the Exhibit	Date/attested by
1	Fardbayan	09.05.2000
2	Formal FIR	12.05.2000
3	Signature of witness on Seizure List	12.05.2000
4	Carbon copy of Post-Mortem Report	05.09.2000

8. After closure of the prosecution evidence, the statement of the appellant was recorded under Section 313 of the Code of Criminal Procedure on 08.09.2000. The appellant



denied all incriminating circumstances appearing against him in the prosecution evidence and claimed innocence.

Submission on behalf of Appellant

9. Learned Amicus Curiae, Ms. Anukriti Jaipuriyar, appearing on behalf of the appellant, has, at the outset, submitted that the judgment of conviction is against the weight of evidence and has been rendered on mere presumption of guilt. It is contended that the prosecution has failed to prove its case beyond reasonable doubt, inasmuch as the testimonies of the prosecution witnesses suffer from material contradictions and inconsistencies.

10. It is further submitted that the conviction of the appellant rests solely on the testimony of PW-8, who is the son of the deceased and, therefore, an interested witness. The testimony of PW-8 is replete with material contradictions and inconsistencies and finds no corroboration from any independent witness or other reliable evidence on record. In such circumstances, PW-8 cannot be treated as a wholly reliable or sterling witness, and it would be unsafe to sustain the conviction solely on the basis of his uncorroborated testimony.

11. Learned counsel for the Appellant also submits that although the FIR was instituted against nine accused



persons, including the present appellant, eight of them have been acquitted as the prosecution failed to establish their guilt beyond reasonable doubt. The failure of the prosecution case against the co-accused, coupled with the absence of corroboration from independent witnesses, seriously undermines the prosecution version. In the absence of any cogent or distinguishing evidence against the appellant, his conviction on the same set of evidence is wholly unsustainable and is liable to be set aside.

12. It has, lastly, been submitted that the Investigating Officer has not been examined in the present case. The non-examination of the Investigating Officer has caused serious prejudice to the defence, as the appellant has been deprived of the valuable opportunity to prove material contradictions and omissions, and effectively challenge the fairness and legality of the investigation. It is also contended that the prosecution has failed to establish any motive attributable to the appellant.

13. In view of the aforesaid facts and circumstances, it is submitted that the impugned judgment of conviction and order of sentence is fit to be set aside as the prosecution has miserably failed to prove its case beyond



reasonable doubt.

14. Learned counsel for the Appellant relied on a Judgment of *Rai Sandeep @ Deepu v. State (NCT of Delhi)*, reported in *(2012) 8 SCC 21*, wherein the Hon'ble Supreme Court has well discussed the concept of “sterling witness” and has held that where conviction is based solely on one witness, his testimony must be of very high quality and should inspire complete confidence. If the witness suffers from inconsistencies or improbabilities, conviction cannot be sustained.

15. Referring to above Judgment, she argued that P.W.8 Nilesh Kumar Singh, being the sole witness after all other witnesses turned hostile, his testimony must satisfy the test of a sterling witness. She further relied on a Judgment *Vadivelu Thevar v. State of Madras*, reported in *AIR 1957 SC 614*, wherein the Hon'ble Supreme Court has discussed that conviction can be based on testimony of a solitary witness, if wholly reliable. She further argued that P.W.8, being the son of deceased and unsupported by any independent witness requires corroboration. She further relied on a Judgment in the case of *State of Rajasthan v. Kalki*, reported in *(1981) 2 SCC 752*, wherein it has been held that evidence of related witness requires careful scrutiny. She also relied on a Judgment in the



case of *Behari Prasad v. State of Bihar*, reported in (1996) 2 SCC 317 and *Arvind Singh v. State of Bihar*, reported in (2001) 6 SCC 407, wherein it has been held that non-examination of the Investigating Officer causes serious prejudice. Finally, she concluded her argument by relying on Judgment of Hon'ble Supreme Court in the case of *Muluwa v. State of Madhya Pradesh*, reported in AIR (1976) SC 989 and *Sarwan Singh Rattan Singh v. State of Punjab*, reported in AIR (1957) SC 637, on an issue of suspicion, however strong, cannot take the place of proof.

Submission on behalf of the Respondents

16. *Per contra*, learned Additional Public Prosecutor, Satya Narayan Prasad, appearing on behalf of the State, while opposing the appeal submitted that the learned trial Court, after considering all the evidence and exhibits placed on record, has rightly convicted the appellant, as the offences alleged against the appellant appear to be serious in nature. It is contended that the prosecution has succeeded in proving the charges beyond all reasonable doubts. It is further submitted that any apparent contradictions and inconsistencies in the testimony of the prosecution witnesses are minor and trivial in nature, which do not affect the core of the prosecution case or the



overall credibility of the witness. Such discrepancies, it is urged, are liable to be disregarded in the interest of justice. Learned Additional Public Prosecutor placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Vadivelu Thevar v. The State of Madras***, reported in ***AIR 1957 SC 614***, in which it is held that "*The Court unequivocally held that it is a well-established rule that the court is concerned with the quality and not the quantity of evidence, and that insisting on a plurality of witnesses would indirectly encourage subornation of witnesses and leave genuine crimes unpunished.*" He further relied on the judgment of Hon'ble Supreme Court in the case of ***Adalat Yadav and Another v. State of Bihar***, reported in ***2026 INSC 403*** in which it has been held that "*the testimony of a single injured eyewitness, if deemed of sterling quality, can seal a conviction even without independent corroboration and even where other alleged eyewitnesses have been discredited.*"

17. It is, therefore, submitted that the impugned judgment of conviction and order of sentence do not suffer from any legal infirmity or irregularity warranting interference by this Court in exercise of its appellate jurisdiction. The appeal is devoid of any merit and fit to be dismissed.

Conclusion



18. We have heard the parties and perused the materials available on record as well as lower court records and proceedings and also taken note of the arguments canvassed by learned counsel appearing on behalf of the parties.

19. It would be apposite to discuss the oral/documentary evidence as available on record to re-appreciate the evidence for just and proper disposal of the present appeal.

20. PW-1 Yogendra Singh (co-villager), in his examination-in-chief, deposed that the occurrence had taken place about four years prior to his deposition at around 3:30 p.m. He stated that he had just reached his house when he heard that Paras Singh had died and Dharamnath Singh had sustained injuries. The place of occurrence was the agricultural field of Dharamnath Singh. He further stated that he had not witnessed the assault. The witness was **declared hostile** at the request of the prosecution.

21. In his cross-examination by the prosecution, PW-1 stated that his statement had been recorded by the police. He further deposed that he had only stated before the police that, upon hearing the hula, he proceeded to the place of occurrence where he found Dharamnath Singh lying injured and Paras



Singh lying dead. He categorically denied having stated before the police that he had witnessed the accused persons assaulting Dharamnath Singh. He also denied having stated that accused Domar Bind inflicted a spear blow on the abdomen of Paras Singh, causing an injury on the left side of his stomach, or that accused Kanchan Bind broke the spear and thereafter assaulted the deceased with the broken spear, inflicting injuries which resulted in his death. He further denied having stated before the police that, on seeing the villagers approaching, the accused persons fled from the place of occurrence. The witness denied the suggestion that he was deliberately suppressing the truth. The witness stated that he knew all the accused persons. He identified the seven accused persons present in Court.

22. In his cross-examination by the defence, PW-1 stated that he reached the place of occurrence after 15 minutes. He further deposed that he is a pattidar (agnate) of the deceased, Paras Singh.

23. PW-2 Bhagwat Singh (co-villager), in his examination-in-chief, deposed that the occurrence had occurred about four years prior at about 3:00 p.m. He further stated that at that time, he was at his house and did not witness the occurrence himself. Upon receiving information about the incident, he



arrived at the place of occurrence, where he found Paras Singh was dead and Dharamnath Singh was in injured condition. He stated that his statement was recorded by the police, wherein he had also stated that he reached on the place of occurrence after receiving information and saw the dead body of Paras Singh and Dharamnath Singh in an injured condition. He further deposed that he did not recognize any of the accused persons and did not identify anyone present in Court.

24. In cross-examination, PW-2 stated that the place of occurrence is situated at a distance of about 2 kilometers from his house.

25. PW-3 Janak Singh (co-villager), in his examination-in-chief, deposed that he had no knowledge about the occurrence of this case. He further deposed that on the date of the incident, he was at Pipra Fair. The learned additional public prosecutor submitted that the statement of PW-3 was not recorded in the case diary. This witness was not cross-examined by the defence.

26. PW-4 Bishwanath Singh (co-villager), in his examination-in-chief, deposed that the occurrence had taken place about four and a half years prior. He stated that he did not remember the time of the occurrence. He further stated that on



the date of the incident, he had gone to the Pipra fair to purchase a bull and returned from the fair after two days. Upon his return, he came to know that a quarrel had taken place between Paras Singh and Bin people, and he heard that Paras Singh had died in the said quarrel. He further deposed that he had not seen anyone being killed, as he was not present on the date of the occurrence. He further stated that he did not remember whether his statement had been recorded by the police.

27. In cross-examination, PW-4 stated that he came to know from the villagers that Paras Singh was dead.

28. PW-5 Bikram Singh (co-villager), in his examination-in-chief, identified the signature and handwriting of Rameshwar Mahto on the fardbayan, which was marked as Exhibit-1. He also identified the handwriting and signature of Ali Hussain, the then Station House Officer of Barauli Police Station, which was marked as Exhibit-2.

29. In cross-examination, PW-5 stated that it was not written in his presence.

30. PW-6 Suresh Pandey (co-villager), in his examination-in-chief, deposed that on 19.10.1995 at 06:30 p.m. Sub Inspector (Daroga ji) came to his village carrying a piece of paper and asked him to sign it. He further stated that he signed



the document. The witness identified his signature on the seizure-list, which is marked as Exhibit-3. The witness was **declared hostile** at the request of the prosecution.

31. In his cross-examination by the defence, PW-6 stated that he was some distance away from the place of occurrence and went there only when the Sub-Inspector (S.I.) called him. He further deposed that the seizure list had already been prepared when he arrived, and he signed it. He further stated that he could not tell the length of the stick or the other seized article. He reached the place only after the incident had already occurred.

32. PW-7 (Informant), in his examination-in-chief, deposed that he had gone to inspect his agricultural field, where he found the goats and cattle belonging to the accused persons grazing in his *Rahar* crop. When he protested, the accused persons surrounded him and started assaulting him. He further stated that he became nervous and could not recognize any of the accused persons. According to the informant when he was beaten and he became unconscious. He stated that he could not say who assaulted him or who assaulted the other. The informant was declared hostile at the request of the prosecution.

33. In his cross-examination by the prosecution,



PW-7 stated that he did not remember whether he had given any statement to the police. He denied that he had stated before the police that Algu Bind had assaulted Paras with a stick and that the other accused had also assaulted him with sticks. He further stated that he did not remember telling the police that Domar Bind had struck his brother Paras in the stomach with a spear or that Kanchan Bind had assaulted his brother with a stick. He also did not remember informing the police that the incident had taken place at about 3:00 p.m. PW-7 explained that he was nervous. He denied the suggestion that he was suppressing the truth in collusion with the accused.

34. In his cross-examination by the defence, PW-7 stated that the field where the incident occurred was situated at a distance of about one to two bighas from his house. He deposed that he and his brother Paras had not gone to the field together and Paras did not have any enmity or strained relations with the accused. He also stated that the houses of other persons belonging to the accused's locality were situated near the place of occurrence.

35. The conviction was based on the deposition of Nilesh Kumar Singh (PW-8), who happens to be the son of the deceased. In his examination-in-chief he stated that the incident



occurred about five years ago at 3.30 P.M. on Thursday. At the time of the incident, this witness was at his home. He stated that his uncle Dharamnath Singh and his father had gone to inspect the fields. At that time the Bind brothers, including Palita Bind, Algu Bind, Shiv Bind, Dumar Bind, Kanchan Bind, Siraman Bind and Daroga Bind exchanged hot words and began beating his father and uncle. He stated that when there was a hulla, he went there to inspect. He further stated that he saw Dumar hit his father with a spear and Kanchan hit his father with the back of the spear, and others were beating his uncle with sticks. On receiving information, the police reached there, noted the report and left the place. He also stated that his father died as a result of beating. After his death, the villagers came there. This witness recognized all the accused present and claimed to identify them. He also stated that he told the Police that the accused fled away after seeing the villagers. The distance between the farm and his house is about 200 yards. There are five or six houses between the farm and his house. He further stated that his farm is after the houses of Sona Lal Manjhi, Urethi Bind, Saral Bind and Mati Laal Bind. He also stated that his statement was recorded by the police at the site of the incident, one or two hours after the incident. He also stated that



when he arrived, the accused had already beaten his father and uncle. The other villagers were not present. He stated that his father died and his uncle fell unconscious.

36. In his cross-examination, P.W. - 8 stated that he had no enmity with the accused before the incident, and the area where the incident occurred is his land. There was no dispute over this land. He stated that his uncle and father went to ask the accused at 3.30 P.M.; he did not accompany them. Later on, he heard a hulla from both sides ten minutes after their departure. He further stated that he was grazing buffalo nearby and heard the hulla of his uncle and father, and then he ran towards that site. He was empty-handed. At that time his uncle had fainted and his father had died after the beating. He further narrated that his father did not bleed. His uncle had a fracture in his ankle. He also stated that when he went to save them, the accused persons did not beat him. The spear moved from the left side of his uncle. The first injury was from the spear. He further stated in his cross-examination that he did not know whether his father tried to stop the spear when it was thrown, as he had gone there later. He also stated that he had not seen the spear on the land but had seen the stick.

37. P.W.9 the Medical Officer, who conducted



Postmortem examination on the dead body of Paras Singh, indicated that death was caused due to shock and hemorrhage as a result of caused by a sharp pointed and penetrating weapon such as Bhala and found the following *ante mortem* injuries:

- (1) Abrasion 1" X 1/2" over middle on right leg on lateral side.
- (2) Abrasion 1/2" X 1/2" over forehead in its middle near hair line.
- (3) Sharp penetrating wound 2/3" X 1/2" X deep into abdominal cavity situated within 10th and 11th rib in mid axillary line on left side.

On dissection the witness found abdominal cavity full of blood and blood clots and spleen punctured and inter costal space between 10th and 11th rib punctured. The witness stated that these injuries corresponded to injury no.3. The witness opined that, according to the doctor, the time elapsed since death was 24 hours. The witness identified his writing and signature on the Postmortem report marked Ext.4.

38. In this case all the independent eyewitnesses namely Bishwanath Singh (PW-4), Yogendra Singh (PW-1) and Amresh Singh (not examined) failed to support the prosecution. The PW-1 turned hostile, PW-4 denied his presence and stated



he was away from village and Amresh Singh was not examined.

39. Having carefully examined the entire evidence available on record and giving thoughtful consideration to the rival submissions made by the Learned *Amicus Curiae* for the Appellant and Learned APP for the State, this Court finds that a quarrel had taken place in the agricultural field of PW7 in the afternoon of 19.10.1995, which resulted in the death of Paras Singh, brother of the informant (PW7), due to injury caused to a vital part of the body.

The most important point for consideration is as to whether the prosecution has been able to prove beyond reasonable doubt that the present appellant was the one who caused the death of Paras Singh, the brother of the informant (PW7).

It is quite interesting that PW7, who also happens to be the informant and the brother of the deceased, and the one who was present at the site of the incident, was declared hostile at the request of the prosecution.

PW-7 (Informant), in his examination-in-chief, had stated that he became nervous and could not recognize any of the accused persons. According to the informant when he was beaten and he became unconscious. He stated that he could not



say who assaulted him or who assaulted the other. In his cross-examination by the prosecution, PW-7 stated that he did not remember whether he had given any statement to the police. He denied that he had stated before the police that Algu Bind had assaulted Paras with a stick and that the other accused had also assaulted him with sticks

40. It is important to consider whether PW-8 (son of the deceased), admittedly the sole witness against the appellant, can be considered a sterling witness, when he himself contradicts his own statements in this case, having stated in his testimony that he arrived later at the place of incident and further stated that he did not see the spear at the place of incident but saw a stick. Further, his testimony is not corroborated by the informant PW-7, or by the seizure-list witnesses. Here, it is important to note that a “sterling witness” is a credible, trustworthy and consistent witness whose testimony is so reliable that a Court can accept it without any corroboration. This indicates that quality rather than quantity of the testimony matters. For a witness to be considered a “sterling witness”, the testimony must meet great judicial standards. The unimpeachable consistency, the confidence in answering defence questions, and the independent and unbiased nature are



important. On perusal of the deposition of PW-8, it is quite clear that there are material contradictions and inconsistencies in his statements. Specially, in respect to where he was when the incident took place.

The Hon'ble Apex Court in ***Rai Sandeep @ Deepu vs State Of NCT Of Delhi (2012 (8) SCC 21)***, in para has 22 held that,

“In our considered opinion, the ‘sterling witness’ should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross- examination



of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have co-relation with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material



particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”

(Emphasis Supplied)

On the touchstone of the above principle, when we test the version of PW-8's deposition, it is unfortunate that the said witness has failed to satisfy most of the tests mentioned above. The deposition of PW-8 suffers from material contradictions and inconsistencies. Since PW-8, being the son of the deceased, is an interested witness, his testimony must be examined with greater caution.

Further in ***Krishan Kumar Malik v. State of Haryana (AIR 2011 SUPREME COURT 2877)*** in respect of the offence of gang rape under Section 376 (2) (g), IPC, it has been held as under in paras 31 and 32:

“31. No doubt, it is true that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality. But, in the case in hand, the evidence of the prosecutrix,



showing several lacunae, which have already been projected hereinabove, would go to show that her evidence does not fall in that category and cannot be relied upon to hold the appellant guilty of the said offences.

32. Indeed there are several significant variations in material facts in her Section 164 statement, Section 161 statement (CrPC), FIR and deposition in court. Thus, it was necessary to get her evidence corroborated independently, which they could have done either by examination of Ritu, her sister or Bimla Devi, who were present in the house at the time of her alleged abduction. The record shows that Bimla Devi though cited as a witness was not examined and later given up by the public prosecutor on the ground that she has been won over by the appellant.”

(Emphasis Supplied)

41. It is relevant to state here that the I.O. was not examined in this case, the consequences of it is that the contradiction u/s 161 of Cr.P.C. could not be proved, defense lost valuable right of confronting the PW, place of occurrence could not be proved, seizure and investigation could not be verified, this leads to a serious prejudice to the defense coupled with the fact when most of the eye-witnesses have turned out to



be hostile and conviction was based on a sole witness that too an interested witness.

In this regard it is important to discuss here the case of ***Chhote Lal v. Rohtash and Others, [2023 INSC 1072]***, in which the Hon'ble Apex Court upheld the High Court's acquittal, affirming that the testimony of a sole eyewitness — particularly one who is an interested witness with demonstrated enmity against the accused — must be examined with the greatest caution, and if material discrepancies are found, it cannot qualify as evidence of sterling quality". The relevant portion i.e., para 13 of the said judgment is reproduced as below;

"It may not be out of context to mention that the appellant/complainant, a sole eyewitness, happens to be the most interested witness being the father of the deceased and having long enmity with the group to which the accused persons belong, therefore, his testimony was to be examined with great caution and the High Court was justified in doing so and in doubting it so as to uphold the conviction on his solitary evidence".

(Emphasis Supplied)

42. Because of the nature of evidence, which is



available on record, the least, which ought to have been done by the learned Trial Court, was to accord the benefit of reasonable doubt to the appellant inasmuch as I am clearly of the view that in the light of the evidence on record, which I have discussed above, it was not proper to convict the appellant. The benefit of such a situation ought to have been given to the appellant. The Infirmities in the Prosecution's Case which Lead to Reasonable Doubt are flaws that fail to meet the "beyond a reasonable doubt" standard. "Beyond a reasonable doubt" is the ultimate standard of proof in the legal system. It means that the prosecution must prove guilt conclusively, such that no reasonable or rational person could arrive at another explanation based on the evidence.

43. The ultimate benchmark of "beyond a reasonable doubt" upholds the presumption of innocence in the legal system that we follow. The presumption of innocence is the absolute bedrock of a fair criminal justice system. It protects individuals from wrongful, arbitrary imprisonment by requiring the State to bear the burden of proof and to establish guilt beyond a reasonable doubt, rather than placing the burden on the accused to prove his innocence. It is pertinent to discuss here the landmark judgment of *Kali Ram v. State of Himachal*



Pradesh, (1972) 2 SCC 808, which is a cornerstone of Indian criminal jurisprudence for its emphasis on the ‘presumption of innocence’ and ‘the strict standard of proof in criminal trials’, and hence one of the most celebrated judgments on the ‘benefit of doubt’ and the ‘presumption of innocence’ in Indian legal history. The said judgment was rendered by a three-Judge Bench of the Hon'ble Apex Court, wherein, in para 25, the Court held that:

“Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. Rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the Court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the Court entertains reasonable doubt regarding



*the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable; it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by report to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of **State of Punjab v. Jagir Singh 1974 3 SCC 227** a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and phantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the Court has to judge the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the Courts should not*



at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures”.

(Emphasis Supplied)

44. Applying the above principle to the facts of the case in hand, I find that the deposition of PW-8 cannot be taken as gospel truth on its face value, and in the absence of any other supportive evidence, there is no scope to sustain the conviction and sentence imposed on the appellant.

45. In the result, this appeal succeeds. The impugned conviction of the appellant by the judgment, under appeal, and the consequential sentence, passed under the impugned order, are hereby set aside. The appellant is held not guilty of the offence, which he stand convicted of, and is acquitted of the same under benefit of doubt. The Appellant is acquitted of the offences alleged against him. The Appellant is on bail, therefore, he is discharged from the liabilities of his bail bonds.

46. I put on record words of appreciation for the able assistance rendered by Ms. Anukriti Jaipuriyar, learned *Amicus Curiae*, to this Court in arriving at the proper conclusion for deciding the instant appeal. We direct the High Court Legal Services Authority to pay an amount of Rs. 10,000/- to Ms.



Anukriti Jaipuriyar, learned Amicus Curiae, for service rendered by her.

47. The Registry is directed to return the Lower Court’s Record forthwith along with a copy of this Judgment.

(Alok Kumar, J.)

Anil Kumar Sinha, J.:– I agree.

(Anil Kumar Sinha, J.)

Manish Kumar

AFR/NAFR	A F R
CAV DATE	23.06.2026
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