



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of reserving: 17th April, 2026

Date of Decision: 30th April, 2026

IN THE MATTER OF:

+ CRL.L.P. 70/2022

STATE (NCT OF DELHI)

.....Petitioner

Through: Mr. Mukesh Kumar, APP for State
with SI Krishan Varma, PS Inder Puri
Delhi.

versus

RAMESH @ UDAI @ UDDA & ORS.

.....Respondents

Through: Mr. Manish Bhardwaj, Advocate for
Respondent no.1 Ramesh.
Mr. Amitej Kumar Nagar, Advocate
for Respondent No.2 & 3.

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. The acquittal of the accused persons in case FIR No. 241/2017 (Ex. P1) registered with police of PS Inder Puri under section 307/34 of Indian Penal Code ('IPC') 1860, did not go down well with the Prosecuting Agency, therefore, State invoked section 378 of Criminal Procedure Code, 1973 (Cr.P.C.) and filed the instant appeal (Crl.L.P.70/2022).

2. While impugning the judgment dated 31.01.2020, it is asserted that the learned Trial Court fell into error by attaching undue importance to the contradictions while ignoring the fact that the victim had sustained injuries which fell into the definition of 'dangerous' as opined by the Doctor.



However before adverting intensively into the grounds of appeal, the indispensable facts are required to be gone into.

3. On the intervening night of 19th – 20th October 2017, an incident was reported to the police of PS Inder Puri and the said information was reduced into writing as DD No.45A assigned to SI Sher Singh (PW-8) and Ct. Mitter Sain (PW-5), who were on emergency duty from 8pm to 8am, reached at the spot where they came to know that the injured has already been moved to Dr. Ram Manohar Lohia Hospital, New Delhi.

4. The victim was ‘unfit for statement’ as he was being operated upon when police reached there. Post his operation, the victim / complainant Varadh Raj was found fit for statement. The statement was recorded and rukka was handed over to Const. Mitter Sain by SI Sher Singh which resulted in the registration of FIR No. 241/2017 (Ex. P-1).

5. Two eye witnesses i.e. Arun (PW-3) and Shanker (PW-2) also met the police team at Dr. Ram Manohar Lohia Hospital and at their instance, site plan (Ex.PW3/A) was prepared and their statements were also recorded, which conjointly with the statement of victim / injured brought in the involvement of three persons i.e. Respondent no.1 Ramesh @ Udai @ Udda, Respondent no. 2 Sonu and Respondent no. 3 Rahul. First of all, Ramesh @ Udai @ Udda was arrested and disclosure statement (Ex.PW5/C) made by him led to the recovery of weapon of offence i.e. knife from the park near the place of occurrence.

6. The requisites of the investigation like arrest of accused Ramesh @ Udai @ Udda, preparation of the site plan, sketch of the knife (Ex.PW5/D) etc. were carried out. Subsequently, statements of the eye witnesses i.e. Arun (PW-3) and Shanker (PW-2) were got recorded under section 164 Cr.P.C. too. A charge-sheet was filed in which the two co-accused



persons/Respondent no. 2 Sonu and Respondent No. 3 Rahul were kept in Column No. 12 therein of the chargesheet, so to say that Prosecuting Agency did not find sufficient evidence to chargesheet and prosecute them. However, the Court *suo motu* took cognizance of the offence against Sonu and Rahul as well and summoned them alongwith accused Ramesh @ Udai.

7. To the charges framed under section 307/34 IPC, all the three accused/Respondents i.e. Ramesh @ Udai @ Udda, Sonu and Rahul pleaded not guilty and claimed trial.

8. The trial traversed through examination of 9 witnesses and statements of all the three accused persons whereby they had admitted certain documents filed by the prosecution i.e. FIR (Ex.P-1), certificate under section 65B (Ex.P-2), DD No. 45A (Ex.P-3) and proceedings under section 164 Cr.P.C. (Ex.P-4). Consequently, the prosecution dropped three witnesses namely ASI Geeta, ASI Satyavir Singh and Sh. Dharmender Singh, Learned Metropolitan Magistrate. The trial ultimately culminated into the acquittal of all the three accused persons through the impugned judgment, which is under challenge in the instant Appeal.

9. Learned APP for the State, while questioning the findings of learned Trial Court, asserted that even immaterial and negligible contradictions have been blown out of proportion by learned Trial Court to conclude that the case of the prosecution is not credible enough to record a finding against the Respondents. The sum and substance of the evidence led by the prosecution whereas, cogently and conclusively indicates throughout one and only inference about the involvement of the accused, if not all, then atleast one. The previous enmity between the victim and Respondent no.2 and 3 has also been taken into consideration and that paved the way for the acquittal of Respondent no.2 and Respondent no.3, especially when it was found that the



independent public witnesses i.e. Arun (PW-3) and Shanker (PW-2) have specifically stated about the absence of Respondent no.2 and Respondent no.3 at the spot. In the process, it seems that learned Trial Court has disbelieved the victim Varadh Raj also, by treating him to be an unreliable witness. It has not been considered by learned Trial Court that the victim had atleast two injuries, one of which perforated the bowel and has been termed by the Doctor to be '*dangerous*' in nature. It is matter of common knowledge that inflicting such injuries by the victim / complainant all by himself on his person is next to impossible. The other possibility could have been that he was stabbed by someone else but owing to previous enmity with the Respondents herein, he has falsely implicated them in the instant FIR. In fact, as has been deposed by public witnesses Arun and Shanker that they intervened and stopped the victim and Respondent no.1, who were scuffling with each other. However, the victim had already received injuries, when Shanker overpowered Ramesh @ Udai @ Udda and Arun snatched the knife from the hands of Ramesh @ Udai @ Udda (Respondent no.1) and threw it in the park nearby. Arun and Shanker were the persons who saved the victim Varadh Raj from being further assaulted as Respondent no.1 Ramesh finding himself to be cornered, fled from the spot. Therefore, it is submitted that the conclusion drawn by learned Trial Court in favour of accused / Respondent Ramesh @ Udai @ Udda is completely unfounded and unsustainable.

10. Learned counsel for Respondent No. 2 and 3 at the outset, argued that the prosecution, since the very inception, was not clear about the complicity of Respondent no. 2 and Respondent no. 3 Rahul and Sonu respectively and that is the reason why they were placed in Column No.12 of the chargesheet. It is further submitted that the testimony of the two independent witnesses has no reference about these two Respondents and for that matter, the



Investigating Officer has categorically admitted in his statement before the Court that during the investigations, they came to know that Respondents No. 2 & 3 Sonu and Rahul were not involved in the instant case. The investigating officer (IO) has also admitted that these two persons were not present at the spot at the time of incident. Learned counsel for Respondent no.2 and 3, on the strength of these facts, submitted that learned Trial Court has correctly dealt with the evidence on record, in so far as Respondent no.2 and 3 are concerned and therefore the impugned judgment is not required to be interfered with.

11. Learned Counsel on behalf of Respondent no.1 Ramesh @ Udai @ Udda on the other hand, came up with the plea that learned Trial Court has rightly appreciated the facts and applied the law on the facts of the case as has been dealt with in Para-38 and Para-39 of the Impugned Judgment as reproduced below:

38. Therefore from the testimonies of these two witnesses, it is very much clear that in the presence of these two witnesses, accused Ramesh @ Udda had tried to assault the injured. It is also to be seen that PW3 had deposed during his cross examination, that he had not seen accused causing any injury to injured. Meaning thereby, that the said assault was merely an attempt which was thwarted by PW2 and PW3. However, complainant / injured, in his examination in chief, is completely silent about any such attempt being made by accused Ramesh after the arrival of PW2 and PW3 and on the contrary, during his cross examination, he deposed that Shankar and Arun reached the spot when accused Ramesh was inflicting second injury upon him. Therefore, as per injured, these witnesses had seen accused Ramesh causing the second injury but these witnesses deny this fact.

39. It is also to be noticed that according to the injured, accused Ramesh was apprehended at the spot and accused Rahul and Sonu managed to flee. However, on the one hand, PW2 and PWW3 totally denied the presence of accused Rahul and Sonu and on the other hand, instead of corroborating the version of injured



that accused Ramesh was apprehended, they stated that accused Ramesh managed to flee.”

12. In addition to that, it is submitted that there is no corroborating evidence so far as the complicity of respondent no.1 is concerned. Testimony of the victim and so called independent witnesses is not credible in view of the contradictory stands taken by these two sets of witnesses. The injured / complainant Varadh Raj says not only about the involvement of Ramesh @ Udai @ Udda, but has categorically stated that he was neutralized by Respondent no.2 and 3 by holding his hands and thus, facilitated the Respondent no.1 Ramesh @ Udai @ Udda to carry out the assault on him. The deposition of Arun and Shanker, on the other hand, clearly reflects that these two persons Sonu and Rahul have no involvement or concern at all. In such circumstances, how far it would be appropriate to trust the deposition of complainant Varadh Raj, asserted by learned counsel for Respondent No. 1.

13. In addition to the aforesaid aspect of the case, learned counsel for Respondent no.1 further argued that the weapon of offence i.e. knife could not be connected with respondent no.1 Ramesh @ Udai @ Udda. The knife neither had blood stains nor it was sent for FSL examination and that it was not recovered at the instance of respondent no.1 Ramesh. It is emphasized that the investigating officer was fully aware even before the Disclosure Statement was made by Respondent no.1 Ramesh that the knife was thrown in the park nearby, as was told by witness Arun and Shanker. The knife was lying at a public place over which Respondent no.1 Ramesh @ Udai @ Udda had no control, therefore it cannot be considered that the knife was recovered at the instance of Ramesh or that it was under his exclusive control, protection and possession. Further, it is contended that there is no



conclusive evidence about the use of said knife in causing injuries to the complainant, inasmuch as Dr. Ashish Vora (PW-9), who opined about the use of knife has categorically stated that the ‘stab injury’ on *‘the right iliac region could be caused by some other sharp edged weapon besides the knife’*. It only brings in a possibility of use of some other sharp edged weapon, but does not rule out the use of the knife in question.

14. In addition to the aforesaid contentions, learned counsel for the Respondent no. 1 has further pointed out certain discrepancies, which according to him goes to the root of the matter and takes away the sheen, substance and strength of the appeal. It has been elaborated by the learned counsel for Respondent no. 1 that it was not clear as to who all were present at the spot at the time of the incident and who all were involved. Contradictions are in abundance in this case, inasmuch as the victim has stated in no uncertain terms that his hands were held by Sonu and Rahul whereas the Respondent no. 1 Ramesh stabbed him in his stomach. Two independent public witnesses whereas nowhere mention about the presence of Sonu and Rahul at all at the scene of the occurrence. Obviously they do not say about their complicity in the offence. In such circumstances, the credibility of the prosecution’s case gets an irreparable dent.

15. Similarly, two more irreconcilable circumstances relating to the removal of the victim to the hospital are there. According to the Appellant/prosecution, the victim Varadh Raj was taken to the hospital on the scooty of Monty, whereas the parents of the injured followed in a car. The car, surprisingly, reached before the scooty to the hospital. In such circumstances, if the car was available, then the victim should have been taken to the hospital in the car instead of the scooty for the obvious reason that car is comparably a safe and comfortable vehicle to transport the



injured, as compared to the scooty. However, these are not material enough to uproot the case as a whole. The mental state of shock, urgency to save life, are predominant sentiments and one may get things mixed up. It does not, however, goes to the core of the issue, thus, not affect the case.

16. Additionally, it is submitted that in the MLC (Ex. PW7/A) none of those, who find mention in the statements, who have taken the victim to the hospital are reflected instead, sister of the victim Radhi's name is there. How come she arrived at the hospital when the victim was taken by Monty on a scooter and in the car the parents of the victim were there. There is no reference at all of the sister of the victim. In view of the aforesaid submissions, it is asserted that it is a cooked up case against the Respondents, more particularly, against Respondent no. 1 due to the inimical relations between the parties concerned. In such circumstance, it is asserted that the impugned judgment does not require any interference.

17. Learned counsel for Respondent No. 1 has placed reliance on the following judgments:-

- i) *Ram Ashrit Ram And Ors. vs. State of Bihar*, AIR 1981 SC 942;
- ii) *Jafarudheen & Ors. vs. State of Kerala*, 2022 INSC 464; and
- iii) *Mallappa & Ors. vs. State of Karnataka*, 2024 INSC 104.

However, the judgments are not applicable to the facts of the instant case and do not espouse the cause of the Respondent, inasmuch as in *Ram Ashrit Ram's case (supra)*, the aspect of the contradictions has been dealt with, whereas it has been the consistent observation in the various judgments that contradictions are bound to occur in the testimony, but only those contradictions that can be termed as material, which matter and not all. Trivial and immaterial contradictions do not affect the case. In the instant



case, no doubt certain contradictions, more particularly about the complicity of Respondent No. 2 & 3 with regard to them, the deposition of PW-1 on the one hand and PW-2 and PW-3 on the other hand, are standing against each other. However, this alone is not going to completely take away the prosecution's case in view of the injuries sustained by the victim and nature of injuries.

In *Jafarudheen's case (supra)*, it has been held that the acquittal recorded against an accused should not be disturbed unless sufficient and strong reasons are there. There are reasons which are strong and sufficient also to indicating about the complicity of the Respondent.

In *Mallappa's case (supra)*, it has been held that two views exist, the one in favour of the accused should ordinarily be followed. So far as the proposition laid down is concerned, there cannot be any quarrel, but then this would be applicable only when two views are possible.

18. In the instant case, on the contrary no two views are possible, so far as complicity of Respondent is concerned. As such the judgments relied upon by the learned counsel for the Respondent No. 1 have no bearing or application in the instant case.

19. While countering the submissions, it is asserted on behalf of the Appellant that the circumstances in which the injured was placed were critical as he was bleeding profusely from his injuries and whatever vehicle was found available was used. The parents of the victim were not stated to be at the spot of the occurrence thus, the only possibility is that they followed the scooty when they were informed and there is nothing unusual there. So far as, the presence of Radhi at the Hospital is concerned, it cannot be ruled out that she also accompanied her parents in the car and in any case,



these aspects nowhere corrodes the credibility of the prosecution's case rather corroborates.

20. Testimony of injured witness has been given precedence and primacy, for the simple reason that the injuries are a telltale indication of the goings on, unless, it is proved that injuries were self inflicted or manipulated in some other manner. Normally, the testimony of the injured witness is treated as trustworthy, credible and actionable. Wherever, it is found suitable corroboration can also be looked into. In this context, reference can be made to the judgment:

Balu Sudam Khalde v. State of Maharashtra, 2023 SCC OnLine SC 355, wherein the Hon'ble Supreme Court expounded on the key principles that are to be kept in mind while assessing the credibility of an injured witness, the relevant part has been reproduced hereunder:

“26. When the evidence of an injured eyewitness is to be appreciated, the undernoted legal principles enunciated by the courts are required to be kept in mind:

26.1. The presence of an injured eyewitness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

26.2. Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

26.3. The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

26.4. The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

26.5. If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then



such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

26.6. The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.”

In ***State of U.P. v. Naresh***, (2011) 4 SCC 324, it was held that the evidence of an injured witness must be given due weightage being a stamped witness, thus, his presence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsely implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present during the occurrence. Thus, the testimony of an injured witness is accorded a special status in law. The witness would not like or want to let his actual assailant go unpunished merely to implicate a third person falsely for the commission of the offence. Thus, the evidence of the injured witness should be relied upon unless there are grounds for the rejection of his evidence on the basis of major contradictions and discrepancies therein.

21. In the instant case, the injury sustained by the victim has been opined as dangerous. Thus, it is nearly impossible that it could be a self inflicted injury to frame somebody. There is no reference as to the fact that injuries were given by someone else and the Respondents have been falsely implicated. However, testimony of two independent public witnesses brings in an element of doubt when both of them say in unison that during the incident, they did not see anyone scuffling or causing injuries to the victim



except Respondent no. 1. They have very clearly and categorically ruled out the complicity of Respondent no. 2 and 3. This brings the testimony of injured under cloud, but then it does not absolves the Respondent no. 1.

22. It has also been contended on behalf of the Respondent that the victim should not be believed as he was not found truthful about the complicity of the Respondent no. 2 and 3, then he may not be believed in respect of Respondent no. 1 as well. The contention stems from the latin proverb *falsus in uno, falsus in omnibus*. However, this principle has no application in the Indian law and setting.

An onerous task of finding out the truth is the prime responsibility of Courts from the cocktail of truth, false, half truths half false and a mix of all these. The litigants/witnesses do not speak complete truth, but the Courts are still expected to ascertain the true facts. Courts have to shoulder the responsibility of extracting the truth as far as it is possible and in this process, the false facts testified by witness has to be separated and the nuggets of the truth are to be extracted and acted upon.

Reference in this context can be made to the judgment by the Hon'ble Apex Court in:

- i) *Ugar Ahir vs State of Bihar*, AIR 1965 SC 277;**
- ii) *Mohan Singh vs State of M.P.*, 1999 (2) SCC 428;**
- iii) *Triloki Nath vs State of U.P.*, 2005 (13) SCC 323; and**
- iv) *State of Uttar Pradesh vs Krishna Master*, 2010 (12) SCC 324.**

23. According to an African proverb, *truth and oil always come to the surface*. The truth which surfaces after discarding the falsified facts, testified by the victim Varadh Raj, what emerges on record is that there was a fight between Respondent no. 1 and injured Varadh Raj (PW-1) witnessed by



Shanker and Arun examined as (PW-2 and PW-3 respectively) in which the victim was stabbed. One of them Shanker (PW-2) had subdued the Respondent no. 1 neutralised him and Arun (PW-3) snatched the knife from his hand and threw it in park, that is how the life of the victim was saved. The Respondent no. 1 fled from the scene, finding it too hot for him to handle. The victim has named the Respondent no. 1 as the person, who actually stabbed him, although in addition to the Respondent no. 1 he has, apparently, tried to rope in Respondent no. 2 and 3. Not only the Investigating Officer has categorically ruled out their complicity but the independent public witnesses have consistently maintained that Respondent no. 2 and 3 were not involved in the incident, as can be seen from their statements under Sections 164 Cr.P.C. (Ex. PW-2/A and Ex. PW-3/B) and depositions before the Court.

24. As such, what emerges on record is that the learned Trial Court, disbelieved the entire case of the prosecution, primarily on account of the fact that victim has brought in Respondent no. 2 and 3 also on the scene, whereas they were not present. As such, it seems that applying the latin proverb of *falsus in uno, falsus in omnibus*, the testimony of victim Varadh Raj (PW-1) has been totally discarded and in the proven the testimony of PW-2 and PW-3 has also been thrown out. Learned Trial Court has, on the other hand, totally ignored the injuries sustained by the victim Varadh Raj (PW-1) nor it seems the gravity of the injuries has been taken into consideration. It may be a case that Varadh Raj (PW-1) due to his inimical relation with Sonu and Rahul, attempted to rope them in too, by falsely implicating them. But how can the injuries, the possibility of use of the knife recovered and the testimony of PW-2 and PW-3 can be totally and completely wiped out. The discrepancy qua the Bakery and Park stands



clarified by the site plan (Ex.PW-3/A), where the place of incident is near Bakery on one side and Parks on other two sides. This explains the throwing of knife in park and its recovery. Absence of blood stains on the knife in these set of facts becomes immaterial. There is no explanation or answer, leave alone any cogent one is there on which the Respondent may fall back upon to resuscitate the case in their favour.

25. As a result, the appeal succeeds partially *vis-a-vis* Respondent no. 1 only, whereas, it stands dismissed qua Respondent no. 2 and 3, who too were charged under 307/34 IPC. However, it is the Respondent no. 1 Ramesh @ @ Udai @ Udda, who alone is responsible for committing the offence. The target of attack, number of blows, which are more than one coupled with the opinion of the Doctor that the injury sustained by the victim endangered his life, leads to no other conclusion or inference which can be drawn other than that the Respondent no.1 intended to cause such an injury which could have resulted into the death of the victim. So far as the requirements of Section 307 IPC is concerned, the same has been elaborated by the Hon'ble Apex Court in ***Hari Kishan vs. Sukhbir Singh***, AIR 1988 SC 2127, in the following words:-

“Under Section 307 IPC what the court has to see is, whether the act irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in that section. The intention or knowledge of the accused must be such as is necessary to constitute murder. Without this ingredient being established, there can be no offence of "attempt to murder". Under Section 307 the intention precedes the act attributed to accused. Therefore, the intention is to be gathered from all circumstances, and not merely from the consequences that ensue. The nature of the weapon used, manner in which it is used, motive for the crime, severity of the blow, the part of the body where the injury is inflicted are some of the factors that may be taken into consideration to determine the intention.”



26. When the facts of the instant case, are tested on the parameters laid down as referred above, then it appears clearly and cogently that the Respondent no. 1 had left no stone unturned to translate his intention of causing death, but for the fact that the victim survived due to the intervention of Arun and Shanker at the time of assault and immediate medical treatment. As a result, Respondent No. 1 Ramesh @ Udai @ Udda is held guilty under Section 307 IPC and convicted thereof.

27. As regards the aspects of sentence to Respondent no. 1, given his questionable antecedents and the manner in which the victim was assaulted, he does not deserve any leniency after being convicted under Section 307 IPC except may be for the fact that he has faced criminal proceedings for nearly a decade. As such he is sentenced to undergo Rigorous Imprisonment (RI) for a period of 5 years and to pay a fine of Rs. 20,000/-, in default of which, he shall further undergo Simple Imprisonment (SI) for a period of 4 months. He shall be entitled to the benefit of set off under Section 428 Cr.P.C., if any.

28. Appeal stands disposed of accordingly, Respondent no. 1 Ramesh @ Udai @ Udda to surrender forthwith before the Trial Court in order to serve the sentence.

29. A copy of the judgment be provided to the Respondent No. 1 Ramesh @ Udai @ Udda.

30. A copy of the judgment be transmitted to learned Trial Court and the Prison Authority for information and compliance.

VIMAL KUMAR YADAV, J

APRIL 30, 2026/bj/ps/akc