

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 3rd February, 2026

Pronounced on: 27th February, 2026

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+ CRL.A. 258/2016

STATE (GOVT OF NCT OF DELHI)

.....Appellant

Through: Mr. Aashneet Singh, APP for the State

versus

SANJEEV SINGH & ANR

.....Respondents

Through: Mr. Harsh Prabhakar, (DHCLSC),
Mr. Dhruv Choudhary, Mr. Anirudh
Tanwar, Mr. Shubham Sourav, Mr.
Vijit Singh, Advs. with Respondents
in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been filed by the Appellant under Section 378 (1) (b) of the Code of Criminal Procedure, 1973 (*hereinafter*, 'CrPC') assailing the impugned judgment dated 15th November, 2014 (*hereinafter*, 'impugned order') passed by Id. ASJ Special Judge (NDPS)(West), Tis Hazari, Delhi in *Sessions Case No.3/2011* arising out of **FIR No. 339/2010**, Police Station Punjabi Bagh.

2. By the impugned order, the accused/Respondents (*hereinafter* 'Respondents') Sh. Sanjeev Singh and Sh. Shivji Jaiswal @ Guddu were



acquitted of the charges under Sections 302/34 and 323/34 of the Indian Penal Code, 1860 (*hereinafter*, 'IPC'), on the ground that the Prosecution had failed to prove its case beyond reasonable doubt against any of the Respondents. The conclusion of the Id. Trial Court is set out below:

“56. In view of the foregoing reasons, this court is of the considered view that prosecution has failed to prove its case beyond reasonable doubt against any of the two accused persons for the offence punishable under section 302/34, 323/34 IPC. Benefit of doubt is given to both the accused. Therefore, both the accused Sanjeev Singh and Shivji Jaiswal @Guddu are acquitted for the offence punishable under section 302/34, 323/34 IPC. Both the accused are in judicial custody in this case. They be released forthwith if not wanted in any other case on furnishing of their personal bond in sum of Rs.25,000/- each with one surety each of the like amount in view of provisions of section 437A Cr.P.C.”

Facts

3. The factual aspects pertaining to the present case are that on 15th November, 2010, information was received at Police Station Punjabi Bagh vide DD No. 11A (Ex. PW8/C) in respect of an unidentified dead body lying in the bushes in the jungle area behind the Post Office, Haryana Power House Complex, Punjabi Bagh. Upon receipt of the said information, Inspector H.S.P. Singh (PW-23) now ACP H.S.P. Singh, along with Sub-Inspector Manoj Kumar (PW-22) and Head Constable Bijender (PW-21), reached the spot.
4. At the spot, the police found one dead body of a male, aged about 40 years, lying there with visible injuries on the head. Vimlesh (*hereinafter* 'PW-



1') and Munesh (*hereinafter* 'PW-3') subsequently identified the dead body as that of Sh. Rakesh (*hereinafter* 'deceased'), son of Kishori Lal. PW-1 thereafter made a statement to the police stating that he was working at a liquor shop in Punjabi Bagh on a temporary basis along with his two co-brothers (*Chachere sale*), namely PW-3 and the deceased, who were residing with him at Loni and were also working at the same liquor shop.

5. According to the Prosecution, on 14th November, 2010 at around 8:30 PM, PW-1, PW-3 and the deceased were selling country made liquor at the said shop. At that time, the Respondents Sanjeev Singh and Shivji Jaiswal @ Guddu, residents of Indira Colony Jhuggi, used to visit the shop frequently and on the date of the incident, they came and demanded *Gulab Sharab*, Country made liquor. However, at that time, the deceased was selling *Narangi Sharab*, Country made liquor and refused to give them *Gulab Sharab* as it was lying in the godown and was not available at the counter and due to rush he did not have time and asked them to take *Narangi Sharab*. Upon refusal to supply *Gulab Sharab* due to rush at the shop, the Respondents allegedly insisted and threatened the deceased that they would see him outside before leaving the shop.

6. The Prosecution further alleges that after closure of the shop at about 10:00 PM, PW-1, PW-3 and the deceased proceeded on foot towards Punjabi Bagh Metro Station, with PW-1 and PW-3 walking ahead and the deceased following them. At around 10:30 PM, when they reached near the side of the road in front of Metro Pillar No. 86, near Punjabi Bagh Metro Station, it is alleged that the Respondents were already present there and started beating the deceased. When PW-1 and PW-3 approached the Respondents to save the deceased, the Respondent Sanjeev Singh attacked PW-1 on his head with



Saria (iron rod) like object, while the Respondent Shivji Jaiswal @ Guddu attacked with a fist blow to PW 3 under his left eye. PW-1, on feeling giddy and frightened, ran back towards the liquor shop and PW-3 also followed him, while the Respondents continued beating the deceased.

7. On reaching the liquor shop, PW-1 used the mobile phone of Jai Singh (PW-5), the gunman posted at the shop, to apprise his wife Meena (PW-4) regarding the incident. PW-4, thereafter informed Harvansh Singh @ Tinkoo (PW-7), cousin (*Chachera bhai*) of the deceased, who reached Punjabi Bagh by an auto thereafter and informed the police over call at about 1:00 AM on 15th November, 2010. During this period, PW-1, PW-3 and PW-7 continued their search for the deceased, however, they could not trace him.

8. During investigation, the crime team inspected the spot and took photographs of the site. Thereafter, a site plan was prepared and blood-stained earth, blood sample, earth control, articles from pocket of shirt which the deceased was wearing were collected. The post-mortem examination was conducted at Sanjay Gandhi Memorial Hospital, and the cause of death was opined as cerebral damage consequent upon blunt force impact to the head, with all injuries being ante-mortem in nature. The clothes of the deceased were preserved and sent to FSL, Rohini. A scale site plan was prepared and the call details were collected.

9. During investigation, both Respondents were arrested from Jhuggi No. A-412, Indira Colony on 15th November, 2010, at the instance of PW-1. Disclosure statements were recorded and both the Respondents pointed out the place of occurrence. Respondent Sanjeev Singh allegedly got recovered a *Saria* (iron rod) (Ex. P-1), which was seized as the weapon of offence.



10. PW-1 and PW-3 were medically examined at Sanjay Gandhi Memorial Hospital and were found to have sustained simple injuries. Subsequently, Dr. Manoj Dhingra (PW-11) opined that injuries no. 1 to 6 on the deceased could be caused by the examined iron rod or a similar object.

11. Upon completion of investigation, a charge-sheet was filed against both Respondents. *Vide* order dated 28th March, 2011, the Id. Trial Court framed charges against the Respondents for the offences punishable under Sections 302/34 and 323/34 IPC. The Respondents pleaded not guilty and claimed trial.

Proceedings before the Trial Court

12. During the course of trial, the Prosecution examined 23 witnesses to establish its case. PW-1 and PW-3 were examined as material witnesses. Meena (PW-4), Jai Singh, gunman at the liquor shop (PW-5), Rajpal Singh (PW-6), in-charge of liquor shop and Harvansh Singh @ Tinkoo (PW-7) were examined to establish the chain of events before and after the incident. Medical witnesses, crime team members, investigating officers and formal witnesses were also examined.

13. PW-1 deposed that he had been working at the liquor shop for about seven years and that his brothers-in law, PW-3 and the deceased were also working with him. He further deposed regarding the quarrel at the liquor shop, the subsequent altercation near the Metro Pillar No. 86, and the injuries sustained by him and the deceased. PW-1 stated that he informed his wife telephonically about the incident who informed Harvansh Singh @ Tinkoo (PW-7), who later informed the police that the deceased could not be traced during the night. He further deposed that in the following morning, the body of the deceased was found in bushes near the Metro Station. PW-1 identified



the Respondents as regular visitors to the shop, identified Respondent Sanjeev Singh as the person who struck him with the *Saria* (iron rod), proved his statement (Ex. PW-1/A), identified the iron rod (Ex. P-1), and stated that both the Respondents were arrested in his presence.

14. PW-3 broadly supported the Prosecution version. He stated that he had been working at the liquor shop at Punjabi Bagh Transport Centre for about fifteen years, that PW-1 is his brother-in-law (*Jija*) and that the deceased was his cousin, both working at the same shop. He corroborated PW-1 regarding the demand for *Gulab Sharab* on 14th November, 2010, the refusal to give the demanded liquor to the Respondents due to a rush of 15-16 persons at that time and asked them to come the next day for taking the *Gulab Sharab*, whereafter the Respondents threatened the deceased by telling him that “they will see him when he came out.” PW-3 further stated that after closure of the shop, he, PW-1 and the deceased proceeded towards Punjabi Bagh Metro Station, where near Metro Pillar No. 86, the Respondents allegedly assaulted the deceased with fists and kick blows as well as a *Saria* (iron rod) blow to the deceased. When PW-1 and PW-3 intervened, PW-3 was given a blow near his eye by the Respondent Sanjeev Singh and PW-1 was struck on the head with a *Saria* blow, whereafter PW-1 and PW-3 got frightened and ran away and informed the wife (PW-4) of PW-1, who further informed Harvansh Singh @Tinkoo (PW-7). He stated that Harvansh Singh @Tinkoo (PW-7) reached with 3-4 persons at the liquor shop. He further deposed that despite searching for deceased during the night, he could not be traced and that his dead body was found the next morning at 8:00 A.M./8:30 A.M. in Indira Colony in the jungle area and was taken to hospital. He also identified the iron rod (Ex. P-1) and stated that his statement was recorded by the police.



15. Meena (PW-4) deposed regarding receipt of information from PW-1 over telephone and thereafter she informed her brother Harvansh Singh @Tinkoo (PW-7) about the same. She further deposed that she got to know at 8:00AM that the deceased had passed away due to the quarrel. Gunman Jai Singh (PW-5) stated that PW-1 and PW-3 returned to the liquor shop in an injured condition at 11:00 P.M. and that PW-1 used his phone to inform his wife regarding the deceased being missing. Rajpal Singh (PW-6), the in charge of the liquor shop deposed about the liquor brands sold at the 'theka' and that on 16th November, 2010 he got to know about the quarrel that had taken place between some boys on 14th November, 2010 and that the deceased had been murdered. He further deposed that no quarrel took place in his presence. Harvansh Singh @ Tinkoo (PW-7) deposed regarding the phone call from Meena (PW-4) about the quarrel at Punjabi Bagh with PW-1, PW-3 and the deceased and the injuries sustained by the deceased, his reaching the liquor shop during the night with 3 people and informed the police over call on 15th November, 2010. He further deposed about being called at the spot on 15th November, 2010 where the dead body of the deceased was lying with a head injury and was bleeding.

16. The medical evidence was led through Dr. Manoj Dhingra (PW-11), who conducted the post-mortem examination and opined the cause of death as cerebral injury consequent upon blunt force impact on the head, and through Dr. Pankaj (PW-17), who proved the MLCs of PW-1 and PW-3 showing simple injuries.

17. The investigating officers and police witnesses deposed regarding receipt of DD entries, inspection of the spot, seizure of exhibits, arrest of the



Respondents and alleged recovery of the iron rod. The Prosecution also relied upon call detail records and forensic reports.

18. The Respondents were examined under Section 313 Cr.P.C. In their statements, the Respondents denied the Prosecution case and claimed false implication at the instance of PW-1 and PW-3. It was stated that PW-1, PW-3 and the deceased were quarrelling on the road over distribution of money and that the deceased was alleging that his money had been taken by PW-1 and PW-3. It was further claimed that while plying rickshaw, they intervened to disperse them and attempted to save the deceased, during which they sustained minor injuries and left the spot. It is asserted that due to this intervention, PW-1 and PW-3 falsely implicated them in the present case. The Respondents further stated that all three, namely PW-1, PW-3 and the deceased were under the influence of alcohol. The Respondent Shivji Jaiswal also stated that PW-1 and PW-3 were known to him previously as they used to visit his brother's shop for purchasing paan, gutka and cigarettes.

19. Both the Respondents examined one witness, DW-1, Sh. Shambu Prasad in their defence.

20. The Court heard the submissions of the Id. APP for the State, Id. Counsel for Respondent Sanjeev Singh, and Id. *Amicus Curiae* for Respondent Shivji Jaiswal. While the Prosecution contended that the case stood proved through the testimonies of PW-1 and PW-3, the defence argued that the Prosecution evidence suffered from serious infirmities. It was urged that both PW-1 and PW-3 were unreliable witnesses, that their conduct was unnatural despite being projected as eye-witnesses, and that the alleged weapon of offence (Ex. P-1) was planted. It was further contended that no independent public witness or employee from Haryana Power House or



nearby establishments was associated with the investigation, and that the nature of injuries did not correspond with the alleged weapon. It was further contended that PW-1 and PW-3 knew the locality of jhuggis where the Respondents used to live and take liquor from and that they had ample opportunities to inform the police but they did not do so. It was further contended that PW-1 informed his wife (PW-4) first but did not inform the police, despite having the mobile phone of the Gunman, Jai Singh (PW-5)

21. On appreciation of evidence, the Court found several material contradictions and omissions creating reasonable doubt.

22. PW-1 and PW-3 made significant improvements in their statements. Initially PW-1 stated only Respondent Sanjeev Singh beat the deceased with the iron *Saria* while Respondent Shivji Jaiswal used kicks and fists, but later both witnesses claimed that both Respondents gave *Saria* blows. The eyewitnesses failed to inform anyone including police, doctors, or other persons about the involvement of Respondents despite knowing them earlier, which remained unexplained. There were material contradictions between PW-1 and PW-3 on important facts including whether PW-1 went to his house at Loni or remained at the liquor shop, whether PW-5 accompanied them to the spot, and about presence of dhaba and cycle repair shop near the spot. Their conduct was further suspicious as they did not inform the police when they met Sub-Inspector Pankaj Kumar (PW-19) and Constable Vikram (PW-20) at the spot but only mentioned quarrel and snatching, and did not inform even the doctors who examined them about who caused their injuries. They were heavily intoxicated at the time of the incident.

23. The medical evidence raised serious doubts about the weapon of offense. The iron *Saria* produced in Court had a diameter of 1.6 cm and 108.5



cm in length, however, as per the medical report the metallic rod is 108.5 cm long and 6 cm in diameter. If such a heavy rod was used there would have been skull fracture but no fracture was found despite six injuries on the head. The deceased was found bleeding at 7:05 A.M. though the doctor testified injuries would take only five minutes to clot blood. No fingerprints of the Respondents were found on the recovered *Saria*. The investigation was further defective as the Investigating Officer did not seize blood-stained clothes, did not send them for FSL examination, did not obtain medical opinion connecting the weapon with injuries to PW-1, did not collect call details, did not examine other employees present at the liquor shop, and did not join any public witness despite their availability in the busy area.

24. There were contradictions regarding the arrest of Respondents. Head Constable Bijender (PW-21) stated both Respondents were arrested at 3:00 P.M. on 15th November, 2010 while as per Sh. Shambu Prasad (DW-1), they were arrested at 6:30 A.M. on the same day. DW-1 deposed that on 14th November, 2010 at about 9:30–9:45 P.M., he saw three boys coming from the liquor shop quarrelling and beating each other at Punjabi Bagh bus stand, and that public persons intervened and pacified them. The next morning, PCR staff enquired about the jhuggis of the Respondents and DW-1 took police to their jhuggis where both Respondents were found sleeping at around 6:30 A.M. DW-1 stated he had never seen them consuming liquor or quarrelling with anyone and denied that the Respondents were among the three boys quarrelling or that they were arrested at 3:00 P.M.

25. On the evidences led and depositions of both the Prosecution and the Defence, the Id. Trial Court came to a conclusion that the Prosecution failed to prove its case beyond reasonable doubt, noting material contradictions and



improvements in the testimony of eyewitnesses, their unexplained conduct of not informing anyone about the involvement of Respondents, discrepancies in the dimensions of the weapon of offence, and the defective investigation wherein crucial evidence was not collected.

26. In view of these reasons, both Respondents Sanjeev Singh and Shivji Jaiswal were given benefit of doubt and were acquitted of all charges. They were directed to be released on furnishing a personal bond of Rs.25,000/- each with one surety each of the like amount under Section 437A Cr.P.C. if not wanted in any other case.

Submissions on behalf of the Appellant/ State

27. The submissions made by the Id. APP on behalf of the Appellant is that the testimony of the two eyewitnesses Vimlesh (PW-1) and Munesh (PW-3) is sufficient to convict the Respondents. Both the eyewitnesses have clearly stated that the Respondents had entered into a scuffle with the deceased and the motive for the incident arising out of the quarrel at the liquor shop has been established on record. The eyewitnesses being injured witnesses, their presence at the spot is natural and their testimony is reliable and trustworthy.

28. The Id. APP for the Appellant further submits that the post-mortem report proves the injuries which have been suffered by the deceased and the same matches with the recovered weapon. The medical expert PW-11 has categorically opined that the injuries found on the person of the deceased could have been caused by the iron *Saria* recovered in the case. The medical evidence thus corroborates the ocular testimony of the eyewitnesses regarding the manner of assault and the weapon used.



29. The Id. APP for the Appellant further submits that the Id. Trial Court has erred in acquitting the Respondents despite clear and cogent evidence establishing their guilt. The eyewitness testimony supported by medical evidence and the recovery of the weapon of offence establishes the Prosecution case beyond reasonable doubt.

30. On the strength of the aforesaid submissions, Id. APP for the Appellant submits before the Court to convict the Respondents, and to set aside the impugned order of acquittal.

Submissions on behalf of the Respondents

31. *Per contra*, Mr. Harsh Prabhakar, legal aid Counsel on behalf of the Respondents submits that there is a major difference in the PCR calls recorded by Delhi Police Control Room. The call received at about 0.52.31 hours on the night between 14th and 15th November, 2010 reported snatching of money by unknown persons and also one Vimlesh S/o Pyare Lal aged 32 years R/o E- 134 Rampark Loni Gazibad and Munesh s/o Mahabir aged 30 years informed that near metro station, 3-4 unknown boys alongwith 2-3 women had given beatings to them and thereafter ran away and they received minor injuries and don't wish to go to the hospital and there is nothing like money snatching mentioned. Later at about 6.58.51 hours, the report of dead body was received. This difference between the two PCR calls raises serious doubt on the Prosecution story as the first call did not mention any attack by known Respondents persons.

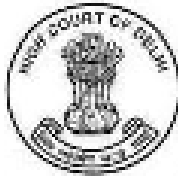
32. Mr. Harsh Prabhakar, further submits that the conduct of PW-1 and PW-3 is not natural as the deceased was the cousin brother-in-law of PW-1. It is unlikely that PW-1 would have left the deceased in an injured condition



without taking him to the hospital or informing the police about the names of attackers whom they knew. The story appears to be false and made up to blame the Respondents. The testimonies of PW-1 and PW-3 are not believable as they did not tell the names of attackers to police throughout the night despite knowing them. Reliance is placed on *Jagir Singh vs. State (Delhi)* (1975) 3 SCC 562, *Shivaji Dayanu Patil vs. State of Maharashtra* (1989) 1 Supp. SCC 758, and *Devinder vs. State of Haryana* 1997 SCC (Cri) 570 to submit that the Prosecution case becomes doubtful when names of attackers are not told at the earliest opportunity.

33. Mr. Harsh Prabhakar, further submits that the recovery of iron rod at the instance of Respondent Sanjeev Singh should not be believed in view of *Mani v. State of Tamil Nadu* (2009) 17 SCC 273 wherein the Supreme Court said recoveries were doubtful as police had already visited the area before recoveries were made under Section 27 of the Evidence Act. He submits that in the present case, the distance between the spot where body was found and the iron rod was said to be recovered is merely 10 steps. It is not believable that the police personnel and the Crime Team examining the area for hours did not find the iron *Saria* if it was actually there.

34. Mr. Harsh Prabhakar, further places reliance on *Chandrappa & Others v. State of Karnataka* (2007) 4 SCC 415 and *State of Himachal Pradesh v. Raj Kumar* (2014) 4 SCC 39 to submit that the findings of the Id. Trial Court should not be interfered with in an Appeal against acquittal unless the view taken by the Id. Trial Court is perverse. The Appellate Court would not ordinarily substitute its own view when the view adopted by the Id. Trial Court is a possible and reasonable view. The presumption of innocence with which the Respondents are protected stands strengthened in cases of acquittal.



Analysis and Findings

35. The Court has considered the matter.

36. The principal issues that arise for consideration in the present appeal are:

- (i) Whether the testimony of injured eyewitnesses PW-1 and PW-3 is reliable and sufficient to establish guilt beyond reasonable doubt?
- (ii) Whether the conduct of witnesses in not disclosing names of assailants at the earliest opportunity and contradiction in PCR calls creates reasonable doubt? and
- (iii) Whether the medical evidence corroborates the ocular testimony regarding injuries caused by the recovered weapon?

37. It is manifest from the material on record that the most damaging circumstance against the Prosecution case is the conduct of PW-1 and PW-3 in not disclosing the names of the assailants to the PCR at the first instance despite knowing the Respondents. The first initial PCR call dated 15th November, 2010 at 0:52:31 hours, records that PW-1 and PW-3 told the police that unknown persons had quarrelled with deceased and tried to snatch his money and beat them. No mention was made of any known Respondents or any murderous attack. Sub-Inspector Pankaj Kumar (PW-19) and Constable Vikram (PW-20) have deposed that PW-1 and PW-3 informed about the quarrel and snatching only and did not tell anything about any murderous attack. The said call record has been reproduced hereinbelow:

*“PCR No. Received 177
Report Received from VAN*



2026:DHC:1753-DB



RCD 7 MIN MOKA PAR VIMLESH S/O PAYRELAL AGE 32 YEARS R/O E-134 RAMPARK LONI GAZIABAD AND MUNESH S/O MAHABIR AGE 30 YEARS NE BATAYA METRO STN, KA PASS 3/4 U/K LAKDEY AUR 2/3 UK LADY HARARE SATH MARPEET KARKE BHAG GAYE MAMOO LI INJ, HOSP NAHI JANA CHAHE HAI PASE CHINNEWALI KOI BAAT NAHI HAI W/LP"

DELHI POLICE CONTROL ROOM		4/602	
DELHI POLICE (PART I)		FORM-1 (PART II) FILED IN BY WIRELESS STAFF	
1. Date: 15-Nov-2018 Time: 8:53:31		Van Selected Time: Mag. transmitted to Van No. At:	
CR.D.D. No. 15Nov101000005		Time When Van reached spot: Van Report Time: Van Post Time:	
2. Informant: (1) Mr. PANKAJ KUMAR GUPTA (444)		Status: Comments:	
(2) Phone No. 901148755		15-Nov-2018 8:57:48 PWR-49 15-Nov-2018 8:57:41	
(3) Address: D.J. NUTRITIONAL ROAD ADARSH NAGAR EXTENSION SEW DELHI-110013		15-Nov-2018 1:31:31 15-Nov-2018 1:33:34	
PC Name: PUNJABI BACH District: WEST		15-Nov-2018 8:58:11 TGR-48 15-Nov-2018 8:58:52	
Contact Name:		15-Nov-2018 1:33:37 15-Nov-2018 1:33:37	
Contact No.:			
Complaint:			
Incident Addr. PUNJABI BACH METRO STATION KE BAHAR KHADA			
Incident Info. MERE SHA SE KUCHH LADKON NE PASE CHHEN LYE HI			
Shift: Shift A		DCK No. Received: 177	
Recorded By: HC SANTOSH KUMAR 645028936405		Report Received From: VAN	
Transmitted by: HC DHARMENDER SHARMA 1461000440581		RCD 7 MIN MOKA PAR VIMLESH S/O PAYRELAL AGE 32 YEARS R/O E-134 RAMPARK LONI GAZIABAD AND MUNESH S/O MAHABIR AGE 30 YEARS NE BATAYA METRO STN, KA PASS 3/4 U/K LAKDEY AUR 2/3 UK LADY HARARE SATH MARPEET KARKE BHAG GAYE MAMOO LI INJ, HOSP. NAHI JANA CHAHE HAI PASE CHINNEWALI KOI BAAT NAHI HAI W/LP.	
PART III		INFORMATION PASSED ON TO	
Police Station: PUNJABI BACH D.D. No. Time: 15-Nov-2018 1:33:30			
Name & rank of P.S. Official informed: SE PANKAJ (2)			
Other Officers informed: (2) (2)			
PART IV		DISPATCH REPORT	
Details of action taken by Local Police and Other remarks			
Comment Time: 15-Nov-2018 1:40:35 Supervisor/Commander			
Signature of Inspector KAMELA DSV124810005			

38. There is no infirmity in the order of the Id. Trial Court regarding the various material contradictions found in the testimony of material witnesses. There are significant contradictions in the testimonies of PW-1 and PW-3 and the conduct of PW-1 and PW-3 is highly suspicious as they did not inform the police officials about the identity of the assailants when they met Sub-Inspector Pankaj Kumar (PW-19) and Constable Vikram (PW-20) at the spot but only mentioned about the quarrel and snatching. The Prosecution has



failed to explain as to why PW-1 and PW-3, who knew the Respondents as regular visitors to the liquor shop, did not inform the police about their identity. In **Jagir Singh** (supra), **Shivaji Dayanu Patil** (supra) and **Devinder** (supra), the Supreme Court held that non-disclosure of names of known assailants at the first opportunity raises serious doubt about the truthfulness of the Prosecution story. This unexplained conduct and silent burial of crucial information for several hours renders their testimony highly doubtful.

39. The case of the Prosecution further suffers from material contradictions and improvements. PW-1 and PW-3 made significant improvements in their statements. Initially, PW-1 stated only Respondent Sanjeev Singh beat the deceased with the iron *Saria* while Respondent Shivji Jaiswal used kicks and fists, but later both witnesses claimed that both Respondents gave *Saria* blows. PW-1 in his statement under Section 161 Cr.P.C. dated 15th November, 2010 stated that only Respondent Sanjeev Singh beat the deceased with iron *Saria* while Respondent Shivji Jaiswal used kicks and fist. However, PW-1 in his examination in chief in the Court made improvements and stated that both Respondents gave *Saria* blows. Similarly, PW-3 made the same improvement. Such improvements render their testimony highly unreliable. There were further material contradictions between PW-1 and PW-3 on important facts including whether PW-1 went to his house at Loni or remained at the liquor shop, whether PW-5 accompanied them to the spot, and about the presence of a dhaba and cycle repair shop near the spot. The witnesses have suppressed the genesis of the incident. The place of recovery of dead body and place of alleged quarrel are at a considerable distance with no blood or dragging marks found between them. This suppression creates serious doubt.



40. The conduct of PW-1 is wholly unnatural. The deceased was the cousin brother-in-law of PW-1. It is inconceivable that PW-1 would have left the deceased in an injured and bleeding condition without taking him to hospital or informing the police about the attackers whom they knew. PW-1 did not inform even the doctor about who caused the injury. PW-3 admitted that there was a police gypsy stationed nearby but they did not inform the police either. They were heavily intoxicated at the time of the incident. The eyewitnesses failed to inform anyone including police, doctors, or other persons about the involvement of Respondents despite knowing them earlier, which remained unexplained. This silent burial of crucial information renders their testimony unreliable and PW-1 and PW-3 are disbelieved.

41. The recovery of the iron rod at the instance of Respondent Sanjeev Singh is highly doubtful and the said evidence appears to be planted. The distance between the spot where the body was found and the iron rod allegedly recovered is merely 10-12 feet. It is wholly improbable that the police personnel and Crime Team examining the area for hours did not find the *Saria* (iron rod) lying just 10-12 feet away from the dead body. In *Mani* (supra), the Supreme Court termed recoveries farcical where police had already searched the area before recoveries were made under Section 27 of the Evidence Act. The Court disbelieved the recovery made at 300 feet distance. In the present case, the alleged recovery at merely 10-12 feet distance from the dead body is even more improbable.

42. Even the medical evidence does not corroborate the Prosecution case and raises serious doubts about the weapon of offence. The iron *Saria* produced in court had a diameter of 1.6 cm and 108.5 cm in length, however, as per the medical report the metallic rod is 108.5 cm long and 6 cm in



diameter. If such a heavy rod was used, there would have been a skull fracture but no fracture was found despite six injuries on the head. The deceased was found bleeding at 7:05 A.M. though the doctor testified injuries would take only five minutes to clot blood. The iron *Saria* produced in court had diameter of 1.6 cm, however the medical report mentions diameter of 6 cm. Further, no DNA analysis of the deceased's blood was performed on the human blood detected on the iron *Saria* to verify that it was the blood of the deceased only. This completely demolishes the Prosecution case that this particular *Saria* was used to assault the deceased. If such a heavy rod was used to inflict six injuries on the head, there would be a skull fracture, but the post-mortem report shows no fracture. No fingerprints of the Respondents were found on the recovered *Saria*. All these circumstances establish that the iron rod was planted and was not the actual weapon used.

43. The investigation in the present case was also found to be seriously defective. The Investigating Officer did not seize blood-stained clothes, did not send them for FSL examination, did not obtain medical opinion connecting the weapon with injuries to PW-1, did not collect call details, did not examine other employees present at the liquor shop, and did not join any public witness despite their availability in the busy area. These glaring lapses further undermine the credibility of the Prosecution case.

44. There were also contradictions regarding the arrest of the Respondents. Head Constable Bijender (PW-21) stated that both the Respondents were arrested at 3:00 P.M. on 15th November, 2010 while as per Sh. Shambu Prasad (DW-1), they were arrested at 6:30 A.M. on the same day. Shambhu Prasad (DW-1) deposed that on 14th November, 2010 at about 9:30–9:45 P.M., while at Punjabi Bagh bus stand, he saw three boys coming from the



liquor shop who were quarrelling and beating each other. Public persons including DW-1 intervened and pacified them. The boys stopped beating but continued their argument. The next morning, DW-1 heard people discussing that a dead body was lying near Power House compound. Later, PCR staff enquired about the jhuggis of Respondents Shivji and Sanjeev. DW-1 and another person took police to their jhuggis where both Respondents were found sleeping at around 6:30 A.M. Police took them stating a murder had been committed. DW-1 stated he knew both Respondents since long as neighbours in the same jhuggi cluster, had never seen them consuming liquor or quarrelling with anyone, and confirmed that both pulled thela rickshaw for livelihood. During cross-examination, DW-1 denied that the Respondents were among the three boys quarrelling or that they were arrested at 3:00 P.M., and denied creating false defence in their favour.

45. In *Chandrappa* (supra) and *Raj Kumar* (supra), the Supreme Court held that the Appellate court would not ordinarily substitute its own view when the view adopted by the Id. Trial court is a possible and reasonable view. The presumption of innocence stands strengthened in cases of acquittal. In the present case, the Id. Trial Court has taken a possible and plausible view. The Id. Trial Court has pointed out material contradictions, improvements in testimony, unnatural conduct, non-disclosure of names at first opportunity, farcical recovery of weapon, and lack of corroboration in medical evidence. These findings are based on proper appreciation of evidence and do not suffer from perversity.

46. After careful consideration, this Court is of the view that the Prosecution has failed to prove its case beyond reasonable doubt. The testimony of PW-1 and PW-3 suffers from material contradictions. Their



conduct in not disclosing names of the known assailants through PCR calls is wholly unnatural and unexplained. The recovery of the weapon is farcical and planted. The medical evidence does not corroborate as the DNA from the *Saria* (iron rod) was not matched with the deceased. The investigation was defective as crucial evidence was not collected including blood-stained clothes, forensic examination, fingerprints, and public witnesses were not joined despite availability. The Id. Trial Court has rightly given benefit of doubt to the Respondents. The view taken is reasonable and there is no perversity warranting interference.

Conclusion

47. In view of the above discussion, the impugned order of acquittal is hereby upheld and the Appeal is dismissed.
48. The Bail Bonds and Surety Bonds of Respondents are cancelled.
49. Pending applications, if any, are also disposed of.

**MADHU JAIN
JUDGE**

**PRATHIBA M. SINGH, J
JUDGE**

FEBRUARY 27, 2026/Av