



2026:DHC:6852-DB



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

Reserved on: 09.07.2026
Pronounced on: 19.08.2026

CNR No. DLHC010101672004
+ **CRL.A. 894/2004**
STATE

.....Appellant

Through: Mr.Aman Usman, APP with
Mr.Manvendra Yadav, Adv.
with Insp. Ranvir Singh, P.S.
Okhla Industrial Area

versus

RAJINDER SINGHRespondent
Through: Mr.Rajesh Arora, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

NAVIN CHAWLA, J.

1. The present appeal has been preferred by the State, challenging the judgment of acquittal dated 21.01.2000 passed by the learned Additional Sessions Judge, New Delhi (hereinafter referred to as 'Trial Court') in Sessions Case No. 374/97 arising out of FIR No. 675/96 registered at Police Station Okhla Industrial Area, acquitting the respondent of the offences punishable under Sections 302 and 307 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC').



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CASE OF THE PROSECUTION:

2. The prosecution case is on the basis of the complaint (Ex. PW2/A) lodged by PW-2/Ravinder Kumar stating that on 12.12.1996, he had gone to attend the *baraat* of his friend Subhash, whose marriage was being solemnized at Pul Prahlad Pur, Delhi. The deceased, was the brother of Subhash, and the injured PW-1/Naveen is the nephew of the deceased. At about 10:00 P.M, a quarrel broke out over the issue of drinking water between ‘a sardar’, the deceased, and friends of the deceased. The two grappled with each other but were pacified and separated by the persons present. ‘*The Sardar*’ thereafter went away from the venue. PW-2/Ravinder Kumar was later informed that ‘the sardar’ is the respondent herein. After some time, around 10:30 P.M., the respondent returned to the *pandal* and another quarrel started between the respondent and the deceased. The injured PW-1/Naveen tried to intervene. The respondent, however, took out a *kirpan* and attacked PW-1/Naveen on his right leg and then inflicted a blow on the left side of the abdomen of the deceased. The deceased fell down unconscious and when the respondent was tried to be apprehended, he fled away from the spot. The deceased and injured were taken to the Safdarjung Hospital by PW-2/Ravinder Kumar and PW-3/Mehar Chand (brother-in-law of the deceased), where the deceased was declared brought dead.

3. The information regarding the occurrence was conveyed to the Police *vide* DD No. 14A and 15A (Ex. PW-18/A and B, respectively). The investigation was entrusted to PW-18/Insp. Balwant Singh. He



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collected the MLC of the deceased (Ex. PW12/A) and recorded the statement of PW-2/*Ravinder Kumar*, pursuant to which, the *Rukka* was sent and the FIR came to be registered.

4. On 13.12.1996, the respondent was arrested from the bathroom of a neighbouring house at Pul Prahlad Pur, where he was allegedly hiding. He made a disclosure statement (Ex. PW18/F), pursuant to which and on his pointing out, the alleged weapon of offence, a *kirpan*, was recovered from the bushes near the *ganda nala* near Railway Line. The same was seized *vide* memo Ex. PW-5/A in the presence of *Krishan Gopal*/PW-5. Cover of the *kirpan* was also recovered from the room of the respondent, and seized *vide* memo Ex. PW-5/B. A sketch of the recovered *kirpan* (Ex. PW-5/C) was also prepared, recording its total length as 28.5 cms and the length of its handle as 7.9 cms.

5. Opinion (Ex. PW9/J) on the recovered *kirpan* was also taken from PW-9/*Dr. Arvind Thergaonkar*, who opined that the Injury No. 1 described in the Post Mortem Report could be caused by the said weapon.

PROCEEDINGS BEFORE THE LEARNED TRIAL COURT:

6. On the basis of the material collected during the investigation, the respondent was charge-sheeted for offences punishable under Sections 302 and 307 of the IPC.

7. *Vide* Order dated 07.07.1997, charges under Sections 302 and 307 of the IPC were framed against the respondent, to which he pleaded not guilty and claimed trial.



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8. To prove its case, the prosecution cited 19 witnesses, but examined 18 witnesses, including the complainant, the alleged eye witnesses to the occurrence, the recovery witness, the police officials and the medical witness.

9. The statement of the respondent was recorded under Section 313 of the Cr.P.C. on 04.01.2000, wherein he denied the allegations leveled against him and stated that he was innocent.

FINDINGS OF THE LEARNED TRIAL COURT:

10. The learned Trial Court, upon appraisal of the evidence on record, held that the prosecution had failed to establish its case beyond reasonable doubt. It observed that out of the four alleged eye witnesses to the case, PW-2/*Ravinder Kumar*, the complainant, on whose statement the FIR itself had been registered, did not support the prosecution case and denied having witnessed the incident, stating that he had signed the complaint (Ex. PW-2/A) on a blank paper. PW-4/*Shri Chand*, another eye-witness relied upon by the prosecution, also did not support the case of prosecution and denied having witnessed the incident or having made any statement to the police to that effect.

11. It further opined that there were material discrepancies between the testimonies of PW-1/*Naveen* and PW-3/*Mehar Chand* regarding the apprehension of the respondent. While PW-1/*Naveen* deposed that the respondent had been apprehended at the spot itself, PW-3/*Mehar Chand* stated that he had fled from the place of occurrence and was



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apprehended subsequently from the bathroom of a neighbouring house. It also noticed a discrepancy regarding the place of occurrence. Whereas PW-1/*Naveen* stated that the deceased had been assaulted inside the tent, the testimony of the Investigating Officer (PW-18) as well as the site plan (Ex. PW-18/D) indicated that the incident had taken place at the entrance of the *shamiyana*. The learned Trial Court considered the said inconsistency to be a material contradiction.

12. The learned Trial Court further held that the prosecution had failed to establish the recovery of the *kirpan* and its cover, as PW-5/*Krishan Gopal*, the witness to the alleged recovery of the *kirpan* and its cover, did not support the prosecution case.

13. The learned Trial Court noticed that there was discrepancy in the measurement of the alleged weapon between the seizure document and the one noted by PW-9/*Dr. Arvind Thergaonkar*. The learned Trial Court noted that, in view of the delay in forwarding the weapon for opinion of the doctor and the Investigating Officer's admission that the seal had remained in his custody until the weapon was sent for medical opinion, the possibility of tampering with the case property could not be ruled out.

14. The learned Trial Court also found the testimony of PW-1/*Naveen* to be deficient in material particulars and noted unexplained lapses in the investigation, which, according to it, further weakened the prosecution case.



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15. In view of the aforesaid findings and extending the benefit of doubt to the respondent, the learned Trial Court acquitted the respondent of all the charges.

16. The State has taken exception to the same and has preferred the present appeal.

SUBMISSIONS ON BEHALF OF THE STATE:

17. Mr. Aman Usman, the learned APP, submits that in the present case, the prosecution succeeded in establishing the guilt of the respondent through the cogent testimony of the injured eyewitness, an independent eyewitness, medical evidence, and other circumstances, however, the learned Trial Court granted the respondent an unwarranted benefit of doubt.

18. He submitted that the learned Trial Court failed to appreciate that PW-1/*Naveen*, an injured eye-witness, and PW-3/*Mehar Chand*, an independent eye-witness, had supported the prosecution case on all material particulars and had corroborated each other with regard to the assault by the respondent with a *kirpan*, the genesis of the occurrence, and the presence of the respondent at the place of occurrence. He submits that both witnesses consistently deposed that an initial quarrel over the issue of drinking water during the marriage function had been pacified, whereafter, the respondent went away only to return armed with a *kirpan*, and suddenly attacked the deceased. Their testimony on the core aspect of the assault remained unshaken during cross-examination, and the minor discrepancies pointed out by the learned



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Trial Court relate only to peripheral details, which do not affect the substratum of the prosecution case.

19. The learned APP further submitted that the testimony of an injured witness carries great evidentiary value, as such person is a victim of the occurrence himself and ordinarily would not shield the real culprit or falsely implicate an innocent person. Thus, the testimony of PW-1/*Naveen* should be relied upon and minor inconsistencies do not affect the root of the case of prosecution.

20. He submits that the learned Trial Court attached undue importance to minor discrepancies in the testimonies of PW-1/*Naveen* and PW-3/*Mehar Chand*. He submits that such variations regarding the sequence of events or ancillary details are natural, particularly when witnesses depose after a considerable lapse of time, and rather lend assurance to the spontaneity and truthfulness of their testimony. The learned APP further submits that the learned Trial Court committed an error in treating the alleged discrepancy regarding the apprehension of the respondent as fatal to the prosecution case.

21. According to the learned APP, the identity of the respondent as the assailant remained consistent throughout the prosecution evidence, and the respondent had been specifically named in the FIR. The alleged contradiction merely relates to whether the respondent was apprehended immediately at the spot or subsequently from a nearby house, which is only a collateral circumstance having no bearing on the commission of the offence, as the manner of arrest is not an



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ingredient of the offences punishable under Sections 302 and 307 of the IPC.

22. It is submitted that although PW-2/*Ravinder Kumar* was declared hostile, the learned Trial Court erred in rejecting his examination-in-chief solely on the ground that he resiled from his earlier version during cross-examination. He submits that it is settled law that the testimony of a hostile witness is not rendered wholly inadmissible and that the portion of his evidence which inspires confidence and finds corroboration from other evidence on record, can legitimately be relied upon. He contends that, in the present case, there was a substantial interval between the examination-in-chief and the cross-examination of PW-2/*Ravinder Kumar*, a circumstance which the learned Trial Court failed to appreciate while evaluating the evidence. In support of his submission, he places reliance on judgments of the Supreme Court in *Vinod Kumar v. State of Punjab*, (2015) 3 SCC 220 and *Khujji @ Surendra Tiwari v. State of Madhya Pradesh* (1991) 3 SCC 627.

23. The learned APP further submits that the medical evidence fully corroborates the ocular version of the prosecution witnesses. He submits that the Post-mortem Report (Ex. PW-9/A), duly proved by PW-9/*Dr. Arvind Thergaonkar*, unequivocally establishes that the deceased sustained a stab injury caused by a sharp-edged weapon, which was sufficient to cause death in the ordinary course of nature. According to the learned APP, the medical evidence is wholly



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consistent with the prosecution case regarding the nature of the assault.

24. It is argued that the testimony of the police witnesses with regard to the recovery of the weapon of offence ought not to have been discarded merely because PW-5/*Krishan Gopal*, the recovery witness, had turned hostile during trial. He submits that the recovery of the weapon of offence cannot be discarded solely on account of the hostility of an independent witness, particularly when the recovery stands proved through the testimony of the police officials and there is no material to suggest any motive for falsely implicating the respondent. He submits that it is a well-settled principle of law that a recovery under Section 27 of the Indian Evidence Act cannot be discarded or vitiated merely because the panch witnesses turned hostile, provided that the recovery is otherwise convincingly proved through the testimony of the Investigating Officer. To buttress his submission, the learned APP places reliance on *Uperndra Khare v. The State of Madhya Pradesh*, 2026 SCC OnLine SC 935.

25. He further submits that the discrepancy in the dimensions of the *kirpan*, as reflected in the sketch prepared at the time of recovery, and the subsequent opinion of PW-9/*Dr. Arvind Thergaonkar*, is insignificant and should not be given much importance. He submits that the sketch prepared by the Investigating Officer was only a rough sketch intended to identify the weapon and not an exact scientific measurement; minor variations in the recorded dimensions are natural and do not, by themselves, justify the inference that the weapon



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forwarded for medical opinion was different from the weapon allegedly recovered.

26. The learned APP further submits that the learned Trial Court erred in observing that the recovered *kirpan* could have been substituted or tampered with merely because the seal remained with the Investigating Officer after recovery. He submits that this finding is based on mere conjectures, as there is no evidence on record to show that the weapon was actually tampered with or substituted during the investigation. In the absence of any such material, he submits, the recovery and the medical opinion corroborating it, ought not to have been discarded.

27. He further contends that the conduct of the respondent in leaving the spot, procuring a deadly weapon, and returning to assault the deceased, demonstrates premeditation, and intention to commit the offence which the learned Trial Court has failed to consider.

28. He submits that the respondent was consistently identified by PW-1/Naveen, PW-2/Ravinder Kumar and PW-3/Meher Chand, whose presence at the spot stood established, and the defence failed to establish any motive for false implication.

29. He concludes by submitting that the prosecution succeeded in proving the charges against the respondent beyond reasonable doubt and, therefore, the impugned judgment of acquittal deserves to be set aside

SUBMISSIONS ON BEHALF OF THE RESPONDENT:



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30. Mr. Rajesh Arora, the learned counsel appearing for the respondent, submits that the learned Trial Court has rightly extended the benefit of doubt to the respondent and acquitted him, as there exist some serious discrepancies in the statements of the material witnesses and lapses in the investigation, which go to the root of the case of the prosecution.

31. He submits that when the *Rukka* was recorded, which bears the signature of PW-2/*Ravinder Kumar*, he had mentioned the name of the respondent Rajinder and had also disclosed his address, yet the FIR was only registered after a span of about four hours. It is also not disclosed who gave this information to PW2/*Ravinder Kumar*.

32. He submits that PW-2/*Ravinder Kumar*, the complainant and the alleged eyewitness to the incident, turned completely hostile in his examination and stated that he had not lodged a complaint regarding the incident at all and that he had just signed on some blank papers without witnessing the incident. He further submits that another alleged eyewitness of the incident, PW-4/*Shri Chand*, also did not support the case of the prosecution and denied having witnessed the incident.

33. He submits that PW-1/*Naveen*, the injured witness, had given a vague testimony regarding the date, time and month or year of the incident, and that PW-1/*Naveen* also could not explain the cause behind the quarrel. He submits that PW-1/*Naveen*, in his deposition in Court on 02.09.1997, stated that the incident took place two-three months back, whereas the incident is claimed to have taken place on



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12.12.1996. He further points out to the discrepancy with regard to the place of occurrence. He submits that PW-1/*Naveen*, in his examination-in-chief, categorically deposed that the deceased was assaulted inside the tent, however, the prosecution's own case, as reflected in the testimony of the Investigating Officer *Inspector Balwant Singh*/ PW-18 and the Site Plan (Ex. PW-18/D), is that the incident took place outside at the entrance of the *shamiyana*, with the place of occurrence being shown at point 'A' in the site plan.

34. The learned counsel for the respondent submits that the version regarding the apprehension of the respondent also has material variations. PW-1/*Naveen* stated that the respondent was apprehended at the spot, whereas the case of the prosecution is that he was apprehended from the bathroom on the roof of the neighbour's house. He stresses that this was a major variation which cannot be overlooked. The same was, therefore, also given considerable importance by the learned Trial Court.

35. On the aspect of recovery, the learned counsel for the respondent points out to the testimony of PW-5/*Krishan Gopal*, who denied that the police recorded any statement from him or made any inquiry or that the *kirpan* or its cover was recovered in his presence. He submits that this completely demolishes the prosecution's case with regard to the recovery of the alleged weapon.

36. He further submits that PW-3/*Mehar Chand* failed to identify the *kirpan* when showed to him and stated that he had not seen the *kirpan* and had only seen the cover as it had fallen down at the place



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of incident. He submits that despite the cover being seized, it was not shown to him for identification.

37. He submits that the Investigating Officer (PW-18) admitted that after sealing the weapon, the seal remained in his custody. There was an unexplained delay of nearly three months between the alleged recovery of the weapon and its production before the doctor for opinion. He further pointed out that the measurements of the *kirpan* recorded in the sketch (Ex. PW-5/C) showed the handle length as 7.9 cms and blade 28.05 cms, whereas the weapon sent for opinion (Ex PW 9/J) had a handle length of 7.6 cms and blade as 28.3 cms, which would show two different weapons. He submits that for the said reasons, the expert's opinion cannot be relied upon.

38. He submits that although PW-18/*Inspector Balwant Singh* had admittedly met PW-1/*Naveen* at about 2:00 a.m., however, his statement came to be recorded only at about 6:00 a.m., without any explanation for the delay. It was further contended that during the intervening period, PW-1/*Naveen* was permitted to leave the hospital and wash his blood-stained pant before the same was seized *vide* memo Ex. PW-1/A. The learned counsel for the respondent argued that PW-1/*Naveen* neither informed the PCR about the incident nor voluntarily offered himself for medical examination. It was further submitted that although PW-1 was medically examined at about 4:13 a.m., he did not disclose the name of the assailant to the doctor. It was also pointed out that the MLC neither bore the thumb impression nor the signatures of PW-1/*Naveen* nor mentioned the age of the injury.



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He further submitted that while PW-1/*Naveen* claimed that he had sustained an injury on his right leg, the MLC recorded only an injury on the right thigh.

39. It was contended that although the prosecution relied upon the alleged identification of the respondent by PW-2/*Ravinder Kumar* and PW-3/*Meher Chand* to claim that he had been apprehended from the roof of a bathroom, neither of the said witnesses deposed to that effect during trial. It was further argued that no Test Identification Parade of the respondent was conducted. Learned counsel submitted that PW-1/*Naveen* himself deposed that no article had been seized or sealed from the spot in his presence and that none of the seizure memos bore his signatures.

40. It was further contended that the prosecution failed to establish that the case property had ever been deposited in the *malkhana*, as no *Malkhana Moharrir* was examined and no entry from Register No. 19 was proved.

41. It was submitted that there is an unexplained gap between the recording of the relevant DD entry at about 11:30 p.m. on 12.12.1996 and the alleged recovery effected on 14.12.1996 from the bushes near a *ganda nala* close to the railway line. It is further submitted that no blood stains were detected on the recovered weapon.

42. The learned counsel for the respondent submits that the learned Trial Court, for the above reasons, rightly extended the benefit of doubt to the respondent and the same does not deserve any interference of this Court.



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ANALYSIS & CONCLUSION:

43. We have considered the submissions made by the learned counsels of the parties and have carefully perused the record.

44. As would be evident from the above, the star witness for the prosecution is PW-1/*Naveen*, the injured nephew of the deceased. He deposed that around 3-4 months back, his *chacha* (uncle) was getting married. He stated that while he was drinking water (later stated that he was having his meal), a *sardar* gave a knife blow on the deceased. He ran behind him, however, the *sardar* gave him a knife blow which hit on his right leg. He reiterated that the deceased was given the blow first. He deposed that in the meantime police arrived on the spot and apprehended the *sardar*. He further deposed that he and the deceased were removed to the Safdarjung Hospital by the police and some other persons had also accompanied them. He deposed that he had been hit with a knife. He states that he knows the difference between a knife, a *talwar*, and a *kirpan*. He categorically states that the deceased was hit inside the tent.

45. The above version of the incident is not in conformity with the *Rukka* (Ex. PW2/A), wherein it is stated that first the blow was given to PW1/*Naveen* and thereafter to the deceased. It further states that the assailant ran away from the place of incident. It states that the deceased was taken to the Safdarjung Hospital by PW-1/*Naveen*, PW-2/*Ravinder Kumar* and PW-3/*Meher Chand*. It is also contrary on the point as to where his statement was recorded; he states that it was at



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the Police Station/Police *Chowki*, whereas it is the case of the prosecution that it was at the place of the incident.

46. In cross-examination, he states that, '*the tent light had gone number of times and he did not bother to carefully see towards the incident*'. He also could not describe the manner in which the deceased was hit by the assailant.

47. Though PW-1/*Naveen* identified the respondent in Court as the assailant, he also states that he had identified the assailant in Court even prior to giving his statement. Interestingly, the prosecution had not conducted any Test Identification Parade (TIP) of the respondent. It has not been established by the prosecution, who initially identified the respondent as the assailant; the same remains a mystery, inasmuch as, PW2/*Ravinder Kumar* in his complaint/*Rukka* has stated that someone had identified the *sardar* as the respondent.

48. When the witnesses admittedly did not know the assailant from before, TIP would certainly have led more weight to the case of the prosecution. On the other hand, not conducting the same, though alone is not fatal to the case of the prosecution, is an important factor to be weighed in favour of the accused/respondent.

49. The other star witness for the prosecution is PW-3/*Mehar Chand*, brother-in-law of the deceased. He deposed that the respondent inflicted injuries upon the deceased, whereafter, PW-1/*Naveen* intervened and sustained an injury on his leg. He further stated that the respondent fled from the spot and went inside the house. He states that he along with PW-2/*Ravinder* and some other



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persons removed both, the deceased and PW-1/Naveen, to the Safdarjung Hospital. He states that the respondent was apprehended by the police from the bathroom of the house at Pul Prahalad Pur where he was hiding.

50. Importantly, he could not identify the *kirpan* and stated that he had not seen it, but had only seen the cover of the same. He states that though he had seen the incident, he had not seen the exact weapon of offence, but it was “most probably *kirpan*”. He states that the cover had fallen down on the ground and was lying at the spot when the assailant had run away with the *kirpan*. This part of the testimony is important, as according to the prosecution, the cover of the *kirpan* was recovered from the house of the respondent.

51. PW-2/Ravinder Kumar, the complainant on whose statement the FIR itself came to be registered, did not support the prosecution’s case during his examination before the learned Trial Court. Although the complaint (Ex. PW-2/A) bears his signatures and names the respondent as the assailant, PW-2/Ravinder Kumar deposed that he had not witnessed the occurrence and that he had signed Ex. PW-2/A and certain other documents at the instance of the police without knowing their contents. Upon being cross-examined by the learned APP, PW-2/Ravinder Kumar stated that the allegations made by him in his earlier statement implicating the respondent were incorrect.

52. The learned APP is correct in his submission that, in law, merely because a witness has turned hostile, his testimony cannot be totally discarded, and to the extent his version is found to be



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dependable on a careful scrutiny thereof, it may be accepted. In the present case, however, PW-2/*Ravinder Kumar* is the complainant and the *Rukka* is recorded on his complaint. The *Rukka* gives the name and the address of the respondent as the assailant. If it was recorded at the hospital, as claimed by the prosecution, it was also to be shown who identified the respondent as the assailant to PW-2, as it is admitted that he did not know the respondent from before. It also gains importance that the *Asal Tehrir* is recorded at 2:30 A.M. on 13.12.1996, when the incident is alleged to have taken place at about 10:30 P.M. on 12.12.1996 and the PW-18/*Insp Balwant Singh* had recorded Ex. PW12/A at the hospital itself. The reason for the delay in registration of the FIR is also not explained.

53. PW-4/*Shri Chand*, who was cited by the prosecution as an eye-witness to the occurrence, also did not support the prosecution's case and was declared hostile. During his examination-in-chief, he denied having witnessed the incident and also denied having made the statement attributed to him by the police, when confronted therewith.

54. Now, coming to the alleged disclosure statement made by the respondent (Ex. PW18/F), the witness of the same was PW-2/*Ravinder Kumar*, who, as noted herein above, had turned hostile.

55. As far as the recovery of weapon of offence is concerned, PW-18/*Insp Balwant Singh* states that the disclosure statement was made by the respondent on 13.12.1996 at about 7:30/8 P.M., whereas the recovery is stated to have been made the next day. PW 18/*Insp Balwant Singh* states that he did not make an attempt to recover the



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weapon of offence on the same day as he was “*busy personal point case and busy in conducting the post-mortem proceedings and the function at the place of recovery is already over*”. The said explanation is not acceptable. The weapon of offence is the most important piece of evidence and if its location has been disclosed by the accused, it is inconceivable that the Investigating Officer will not take immediate steps for its recovery, but would rather wait for the next day to do the same.

56. The above is coupled with the fact that the cover of the *kirpan* is also alleged to have been recovered at the disclosure of the respondent, however, PW-3/*Meher Chand* has stated that the respondent had left it at the place of the incident while running away.

57. PW-5/*Krishan Gopal*, the alleged witness to the recovery, deposed that while he was standing near his plot situated close to the railway line, the police, accompanied by the respondent, approached him and informed him that a knife had already been recovered from the respondent. According to PW-5/*Krishan Gopal*, he thereafter accompanied the police party to the respondent's house, where he remained on the ground floor while the police officials went upstairs and returned with the cover of a knife. He admitted his signatures on the recovery memos but stated that he did not know the place from where either the *kirpan* or its cover had actually been recovered. Upon being declared hostile and cross-examined by the prosecution, PW-5/*Krishan Gopal* denied that the recovery of the *kirpan*, preparation of its sketch or seizure of its cover had taken place in his presence, and



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stated that he had signed Ex. PW-5/A, Ex. PW-5/B and Ex. PW-5/C at the instance of the police.

58. Though the learned APP for the State, rightly relying upon the Judgment of **Uperndra Khare** (supra), has contended that even if the panch witnesses have turned hostile, the recovery and its evidentiary value under Section 27 of the Indian Evidence Act, cannot be negated, in the present case, this would not help the prosecution for the other lacunae that we have noted hereinabove in the recovery proceedings.

59. This now brings us to the identity of the weapon of offence, the *kirpan*, itself. PW-9/Dr.Arvind Thergaonkar, who conducted the post-mortem examination of the deceased, proved the Post-mortem Report (Ex. PW-9/A), and opined that the stab injury sustained by the deceased was sufficient to cause death in the ordinary course of nature. He further proved his subsequent opinion dated 05.03.1997 (Ex. PW-9/J), wherein he opined that the injury could have been caused by the *kirpan* produced before him for examination. The dimensions of the *kirpan* given by PW-9 in Ex. PW-9/J are admittedly at variance with the rough sketch (Ex. PW5/C) prepared by PW-18/Inspector Balwant Singh, the Investigating Officer, at the time of its seizure. Though this was sought to be explained by the learned APP as a minor discrepancy, it assumes importance as PW-18/Inspector Balwant Singh, the Investigating Officer, has admitted that the seal remained in his possession throughout. There is also a delay of almost three months in submitting the *kirpan* to PW-9/Dr.Arvind Thergaonkar for his opinion; and the chain of custody of



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the *kirpan* is not proved by the prosecution by producing the relevant witnesses, including the *Malkhana* in-charge.

60. Given the above discrepancies and the lacunae in the case of the prosecution, the learned Trial Court, in its Impugned Judgment, has given the benefit of doubt to the respondent by observing as under:

“The prosecution to prove its case must stand on its own legs and must establish beyond all reasonable doubt the charge levelled against the accused. In the instant case, the prosecution, in my view, has failed to discharge the onus. There are inherent and un-explainable discrepancies in the testimonies of PW 1 Naveen and PW 3 Mehar Chand who had tried to lend support to the case of the case of the prosecution, but there being glaring lacuna in their versions specially about the place from where the accused had been arrested as also the place of the incident which is also doubtful in view of the contrary versions given by PW 1 Naveen and PW 3 Mehar Chand and whether the incident had taken place outside the shamiyana or inside the shamiyana being un-clear, in my view, benefit of doubt has to be given to the accused and the accused is clearly entitled to an acquittal. The recovery witness PW 5 Krishan Gopal not having supported the case of the prosecution, the recovery sought to be established by the prosecution of the kirpan and its cover pursuant to the disclosure statement of the accused Ex. PW18/F also stands demolished. The other evidence sought to be set up by the prosecution has already been discussed Supra in detail and the same has been rejected.”

61. The law governing appeals against acquittal is well settled. The appellate court, though can re-appreciate the evidence, shall



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interfere only when the findings of the learned Trial Court are perverse, manifestly illegal, or grossly unjust. The Supreme Court in ***Ghurey Lal v. State of U.P.***, (2008) 10 SCC 450, observed that the presumption of innocence in favour of the accused stands reinforced by an order of acquittal, and unless the conclusions drawn by the learned Trial Court are perverse, manifestly illegal, or wholly unreasonable, the appellate court ought not to substitute its own view merely because another view is possible. The relevant extracts from the judgment are as under:-

“69. The following principles emerge from the cases above:

- 1. The appellate court may review the evidence in appeals against acquittal under Sections 378 and 386 of the Criminal Procedure Code, 1973. Its power of reviewing evidence is wide and the appellate court can re-appreciate the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law.*
- 2. The accused is presumed innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.*
- 3. Due or proper weight and consideration must be given to the trial court's decision. This is especially true when a witness' credibility is at issue. It is not enough for the High Court to take a different view of the evidence. There must also be substantial and compelling reasons for holding that the trial court was wrong.*



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70. In light of the above, the High Court and other appellate courts should follow the well-settled principles crystallised by number of judgments if it is going to overrule or otherwise disturb the trial court's acquittal:

1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.

A number of instances arise in which the appellate court would have "very substantial and compelling reasons" to discard the trial court's decision. "Very substantial and compelling reasons" exist when:

- (i) The trial court's conclusion with regard to the facts is palpably wrong;
- (ii) The trial court's decision was based on an erroneous view of law;
- (iii) The trial court's judgment is likely to result in "grave miscarriage of justice";
- (iv) The entire approach of the trial court in dealing with the evidence was patently illegal;
- (v) The trial court's judgment was manifestly unjust and unreasonable;
- (vi) The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the ballistic expert, etc.
- (vii) This list is intended to be illustrative, not exhaustive.

2. The appellate court must always give proper weight and consideration to the findings of the trial court.

3. If two reasonable views can be reached—one that leads to acquittal, the other to conviction—the High



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Courts/appellate courts must rule in favour of the accused.”

62. Similarly, in ***Chandrappa & Ors. v. State of Karnataka***, (2007) 4 SCC 415, the Supreme Court held that in cases of acquittal, there is a double presumption in favour of the accused. The relevant portion of the judgment reads as under:-

“16. It cannot, however, be forgotten that in case of acquittal, there is a double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person should be presumed to be innocent unless he is proved to be guilty by a competent court of law. Secondly, the accused having secured an acquittal, the presumption of his innocence is certainly not weakened but reinforced, reaffirmed and strengthened by the trial court.”

63. Recently, in ***Darshan Kumar v. The State of Himachal Pradesh*** (judgment dated 22.07.2026 in Criminal Appeal No. 921/2015), the Supreme Court has reiterated that *“when the view expressed by the Trial Court is either the possible or plausible one, the High Court should not replace the Trial Court’s view with its view. When there is a doubt that the prosecution has not proved its version beyond reasonable doubt to the satisfaction of the court, then the benefit will have to be given to the accused.”*

64. Upon a holistic appreciation of the evidence, we find that the view taken by the learned Trial Court in the present case is a plausible and reasonable one based on the material on record. The prosecution



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has failed to prove the guilt of the respondent beyond reasonable doubt.

65. In view of the above, we find no merit in the present appeal. The same is accordingly dismissed.

66. The bail bonds and the surety of the respondent are hereby discharged.

67. A copy of this judgment be communicated to the learned Trial Court and the concerned Jail Superintendent for information and compliance.

NAVIN CHAWLA, J.

RAVINDER DUDEJA, J.

AUGUST 19, 2026/pb/sg