



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

% Judgment reserved on: 15.11.2025

Judgment delivered on: 02.12.2025

+ CRL.A. 960/2015

STATE

.....Appellant

versus

RAVINDER @ KUKU & ANR.

.....Respondent

Memo of Appearance

For the Appellant:

Mr. Nawal Kishore Jha, APP for the
State with Insp. Praveen Kumar.

For the Respondent:

Mr. Vikas Padora and Mr. Tushar Malik,
Advocates for R-1.

Mr. Javed Ali, Advocate for respondent
No.2.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

1. State takes exception to judgment dated 29.09.2014, whereby respondents Ravinder @ Kuku and Deepak @ Kala have been acquitted of all the charges levelled against them.
2. Let us take note of the relevant facts.
3. On 14.05.2006, an information was received by the police at around 11:25 p.m. that a person had been shot in front of *Parshu Ram Dharamshala, Shiv Ram Park, Nangloi, New Delhi*.
4. On receiving such information, SI Raghubir Singh (PW-23) and Constable Kanak Bhushan (PW-12) reached House No. C-1, Shiv Ram Park, Main Najafgarh Road, New Delhi.
5. They noticed a motorcycle lying in front of said house, and learnt that injured had already been removed to *Maharaja Agrasen Hospital*.
6. SI Raghubir Singh left for the hospital, while Constable Kanak

Bhushan remained there for preservation of the spot.

7. SI Raghbir Singh collected the MLC of injured, Sunil, which revealed that he had suffered a gunshot injury.

8. However, he did not meet any eye-witness at the hospital and returned to the spot. He requisitioned the crime team for inspection of the spot. He prepared a *rukka* and sent the same to PS at 12.45 a.m. for registration of the FIR. By that time, he did not come across any eye-witness.

9. In the meanwhile, information (DD No. 60B) was received from the hospital at 1:45 a.m. that injured Sunil, *who had been admitted in the hospital by his wife Sushma*, had died during his further treatment.

10. It needs to be highlighted, right here, that as per prosecution story, Ved Mati (PW-3), who is mother of the deceased Sunil, is solitary eye-witness of the incident. She had, as per prosecution story, seen the incident and taken her son to the hospital. On her return to her home same night, she made statement to the police.

11. In her statement made to SI Raghbir Singh, she divulged that on 14.05.2006, she was present at her home. Sunil returned at about 11:00 p.m. from his work. He knocked at the door and as soon as she opened the same, accused Ravinder @ Kuku and Deepak @ Kala, whom she already knew, came there along with one boy having fair-complexion. Her son Sunil was trying to bring his motorcycle inside when accused Ravinder @ Kuku and said fair-complexioned boy, at the instigation of accused Deepak @ Kala, shot Sunil from behind. All the three accused, thereafter, fled in a Maruti Car, which was already parked on the other side of the road in front of her house. She also claimed that she could identify the third accused, if shown to her. She also revealed that she had taken her injured son to the hospital with

the help of her neighbour, Zahir Ahmed (PW-1), in a Maruti Car.

12. Further investigation was assigned to Inspector R.S. Malik, who, unfortunately, died before he could depose in the present matter.

13. Ravinder @ Kuku and Deepak @ Kala were arrested. One country made pistol was recovered from the possession of accused Ravinder @ Kuku and Maruti Car in-question, bearing number DL3CA1813, was also seized.

14. The name of third accused was ascertained as 'Bhura', and since he could not be apprehended, proceedings under Section 82 /83 Cr.P.C were initiated against him.

15. A charge-sheet was accordingly filed.

16. Accused Bhura @ Sahid was also arrested later and all the three accused were charged for commission of offence under Section 302/34 IPC. Accused Ravinder @ Kuku was also charged under Section 25 of Arms Act. They all pleaded not guilty and claimed trial.

17. Since accused Bhura @ Sahid was found to be a juvenile, proceedings *qua* him were directed to be separated *vide* order dated 11.02.2013.

18. The prosecution examined 32 witnesses in order to prove its case.

19. The stand of both the respondents herein was of total denial and according to them they were innocent and had been falsely implicated in the case.

20. Accused Ravinder @ Kuku also examined Naresh (DW-1) in his defence.

21. PW-3 Ved Mati was stated to be the solitary eye-witness and prosecution also heavily relied upon the testimony of Zahir Ahmed and

Amrish Kumar (PW-10).

22. Zahir Ahmed did not see the incident but since he was present at his STD shop situated close to the spot of incidence, on hearing loud bang and cries, he rushed to the spot where he saw Sunil lying in an injured condition and his mother screaming. He took them to hospital in his car.

23. Amrish Kumar is brother-in-law of deceased who had come to their residence to take Sushma (wife of deceased Sunil) to her parental home. Since Sunil had not returned home from his place of work, he came out of their house at around 10:30 p.m. for roaming. While returning, he heard a bang (*Dhamake ki Awaaz*) and then saw three persons rushing towards one Maruti Car, having number 1813 which was parked with '*headlights on*'. They sat in the abovesaid Maruti Car and fled toward "*Nilothi*". Amrish Kumar knew two of them i.e. accused Ravinder @ Kuku and Deepak @ Kala and claimed that he could identify the other. He also corroborated the fact that Sunil was rushed to Hospital with the help of vehicle provided by Zahir.

24. Sushma, who is wife of deceased, was neither cited as a witness nor examined.

25. Learned Trial Court, after careful analysis of the evidence, came to the conclusion that PW-3 Ved Mati was not a reliable witness and had not witnessed the incident in-question. It also rejected the testimony of Amrish Kumar while observing that he was unnecessarily portraying himself as a witness. Taking note of the same as well as of various other infirmities and contradictions, both the accused persons, Ravinder @ Kuku and Deepak @ Kala, have been acquitted.

26. Such judgment is under challenge before us.

27. The prime contention coming from the side of the State is to the effect that PW-3 Ved Mati has given a very cogent and transparent version of the entire incident and there was no reason, whatsoever, to have discarded her testimony.

28. It is argued that the incident had taken place in front of her eyes and, she, immediately, rushed her son to the hospital and since, she was in a state of shock, the delay in recording of her statement could not have been held against her. Moreover, no police official met her at the hospital and, therefore, there was no occasion for her to have revealed anything at the Hospital. It is contended that her testimony remained completely unshaken and consistent and despite exhaustive cross-examination, defence could not elicit anything from her, which may even remotely indicate that she was not an eye-witness. While also relying on testimony of PW-1 Zahir Ahmed and PW-10 Amrish Kumar, learned APP submits that the acquittal is based on mis-appreciation of evidence and, therefore, the impugned judgment needs to be set aside and both the respondents need to be held guilty.

29. All such contentions have been refuted by learned Counsel for respondents.

30. They submit that the case set up by the prosecution itself is clearly indicative of the fact that PW-3 Ved Mati was a planted witness who never saw any such incident. Our attention has been drawn towards her testimony and various prosecution documents in order to bring home the fact that her statement is ante-dated and manipulated. It is also argued that there exists complete mystery as to where exactly the alleged incident had taken place and who took the injured to the hospital and how. It is also argued that

learned Trial Court was fully justified in rejecting the testimony of PW-10 Amrish Kumar, as his presence at the spot was highly doubtful.

31. We have carefully gone through the Trial Court Record and given our anxious consideration to the rival contentions.

32. The fate of the prosecution is, squarely, dependent upon the testimony of PW-3 Ved Mati. Besides being mother of deceased, she is the only eye-witness and, therefore, her testimony needs to be securitized very cautiously.

33. On careful perusal of testimony of prosecution witnesses and exhibited documents, we, however, do not find any compelling ground to come to any different conclusion. There are various reasons, as detailed hereinafter, which persuade us to hold that benefit of doubt was, rightly, given to the accused persons.

34. Let us knit the sequence of events.

35. On 14.05.2006, Police Post Nihal Vihar, Police Station, Nangloi received information from PCR at around 11:25 p.m. The information was to the effect that one person had been shot in front of *Parshu Ram Dharamshala, Shiv Ram Park, Nangloi, New Delhi*. It was recorded in *rojanamcha vide* DD No. 24 (Ex PW16/A) and ASI Rajender and Constable Narender were asked to rush to the spot.

36. Thus, the earliest information was received approximately around 11:25 p.m.

37. Such information was sent by PCR.

38. However, the Court does not have the benefit of having statement of any PCR official. No PCR official has been cited as witness. There is no *PCR form* on record, either. To make things worse, it is also not clear as to what was his source of information. We do not even know the name or

number of such caller and what he informed and when exactly. Moreover, ASI Rajender and Constable Narender, who had been deputed to rush to the spot, have also not been examined. There is no clarity whether after being entrusted with said DD Entry, they had ever gone to the spot or learnt anything related to the incident or not.

39. Importantly, the abovesaid initial information (DD No.24) was to the effect that one person had been shot in front of *Parshu Ram Dharamshala*.

40. We lay emphasis over the same.

41. Since there was never any information that the incident had taken place outside House No. C-1, Shiv Ram Park, Main Najafgarh Road, New Delhi, it is quite bewildering as to how the police team reached the said house. We have seen the scaled site plan (Ex.PW18/A) which does not even show any such Dharamshala in the vicinity. The prosecution never bothered to elucidate location of any such Dharamshala during the trial. ACP Harpal Singh, whereas, when asked during the trial, deposed that he was not even aware whether any such Dharamshala was situated in Nangloi area. Though, a quick glance on 'Google Map' may show existence of said Dharamshala in said area but the distance between the same and spot should have been apprised with complete precision.

42. Let us now analyse the testimony of SI Raghubir Singh who had gone to the spot along with Constable Kanak Bhushan. After reaching the spot, SI Raghubir Singh made inquiries and learnt that the injured had been removed to Maharaja Agrasen Hospital, Punjabi Bagh. He, then, went to the aforesaid Hospital and came to know that the name of injured was Sunil, who was under treatment. He collected his MLC (Ex PW9/A).

43. In his further deposition, he, in no uncertain terms, deposed that no witness of the incident was found in the hospital. He also deposed that he never saw or met PW-3 Ved Mati at the hospital.

44. PW-3 Ved Mati, in her deposition, claimed that after the incident, when she shouted for help, her neighbour Zahir Ahmed and his family members came there and with their help, Sunil was taken to Maharaja Agrasen Hospital, Punjabi Bagh. She deposed that, initially, they took him to 'Vimal Hospital' and after administering basic first aid, Sunil was referred to Maharaja Agrasen Hospital, Punjabi Bagh and, therefore, they got him admitted there. According to her, during the period Sunil was under treatment at Maharaja Agrasen Hospital, she was not in her senses and, therefore, she was not aware whether any police official met her or not. According to her, the Police met her for the first time in the morning of 15.05.2006 at around 4:00 a.m. or 5:00 a.m. at her house, when she had returned from the hospital.

45. Learned APP submits that the testimony on record clearly indicates that PW-3 Ved Mati was the one who had taken her son to the hospital with the help of others and since her son was badly injured, it was not expected from her that she would make immediate statement to the police. Her prime concern, it is contended, was to ensure that her son gets recovered.

46. Undoubtedly, in any such situation, a mother would, certainly be under deep distress and shock and may not be in a position to apprise the police, then and there, about the incident but, at the same time, if she was present at the hospital, the police, certainly, would have noticed her and met her.

47. As noted already, as per SI Raghubir Singh, she was not found present at the hospital and her such 'absence from hospital' cannot be brushed aside, casually.

48. Generally, the concerned doctor gathers information from the person who brings any such injured to the hospital and if any name is revealed, the same is normally mentioned in MLC. Sunil was, allegedly, brought to hospital by his wife and mother but MLC of Sunil does not record names of any of the assailants. No plausible explanation about the same has come from the prosecution.

49. We further note from the testimony of SI Raghubir Singh that after his return to the spot, the crime team was immediately requisitioned by him. Such team reached there and took photographs of the spot.

50. The site plan was also prepared same day by SI Raghubir Singh.

51. Obviously, it must have been prepared at the instance of PW-3 Ved Mati who had, by that time, returned from the hospital and had given the details of the incident and assailants. However, Ved Mati has categorically, deposed that site plan was prepared on 28.05.2006 only and even the photographs of the spot were taken on 28.05.2006.

52. Her such deposition also creates a doubt in the veracity of the prosecution story.

53. Moreover, the photographs captured by HC Vijay Kumar (PW-14) are of very poor quality and do not lead us anywhere. Importantly, said photographer, categorically, deposed that there was no street light at the spot and they had to click photographs using headlights of their vehicle. First IO SI Raghubir Singh also corroborated him as he, too, deposed that it was rainy day and that there was no street light at the spot.

54. Equally intriguing is the non-filing of any '*spot inspection report*'.

55. The spot was examined by Crime Team but we do not find their report on record. Had Crime Team inspected the spot and was able to trace any blood spot at the main door of the house of PW-3 Ved Mati, it would have, certainly, given some boost to her version.

56. PW-3 Ved Mati has admitted in her cross-examination that it was dark night and that her son was hardly two steps away from her when he was shot. She deposed that the accused persons were standing on a '*kuccha rasta*' between pavement and road. Since postmortem report does not indicate any tattooing or blackening around the entry point of the bullet, it has to be inferred that the assailants had fired from some distance. The incident was over in a flash and in such a peculiar situation, if we reconstruct the entire scene, it may not look practicable for Ved Mati to see and identify the assailants from some distance when the weather was rough and it was dark outside.

57. Moreover, as per statement given by PW-3 Ved Mati to SI Raghubir Singh, she knew the names of only two accused persons but if first IO (PW-23) is to be believed, PW-3 Ved Mati had revealed names of all three accused persons.

58. The learned Trial Court seems fully justified in discarding the testimony of PW-10 Amrish Kumar.

59. Amrish Kumar is brother-in-law of the deceased who had come to take his sister back to village. However, if it was really so, it does not click to common sense that despite such horrific incident wherein his sister lost her husband, he would leave for his village on 15.05.2006 and would come back next day to make a statement to the Police. If he had seen the assailants

running away after the incident, he would have, surely, stayed back and reported the matter to the police, immediately to ensure that the culprits were brought to the books.

60. As already noticed above, injured was bleeding and was rushed to hospital in a car.

61. In the process of transportation, the blood got spilled not only on the clothes of Zahir Ahmed (PW-1), Ved Mati (PW-3) and Amrish Kumar (PW-10), it also soiled the car seats. However, no blood was lifted from the car. No blood-stained clothes of Ved Mati (PW-3) and Amrish Kumar (PW-10) were seized by the Police.

62. Undoubtedly, Sushma and Sunil had married hardly 28 days before the incident and from that perspective, a newly wedded wife would be under a big shock. The Court can, very well, understand the trauma and ordeal she was going through. However, since she was present at the house at the time of the incident and had also accompanied her husband to the hospital, police should have taken her statement, after she had regained her composure.

63. It was important from one more viewpoint.

64. When the information was sent by Maharaja Agrasen Hospital, Punjabi Bagh, to the police about the death of Sunil, it was categorically mentioned therein that Sunil had been admitted in the Hospital by his wife and that there was some quarrel (*majrub Sunil S/o Madan Lal R/o C-1, Shiv Ram Park, New Delhi, ko uski patni Sushma ne Jhagre mein majrubi halat mein Shiv Ram Park se dakhil aspatal karvaya hai, jiski dauran-e-ilaaj death ho gayi hai*). Such information DD 60B (Ex PW11/B) gives a new twist to the case. It was never projected to be a case of quarrel with anyone and, therefore, to have necessary elucidation and clarification, examination

of Sushma was rather imperative. Her non-examination has left a big hole in the case of prosecution which further compounds the miseries of prosecution. Her holding back, evidently, goes against the prosecution.

65. There is another mysterious circumstance which, too, has not been elucidated by the prosecution.

66. If PW-3 Ved Mati is to be believed, she had divulged the names of the assailants to Zahir Ahmed when Sunil was being taken to the hospital. However, testimony of Zahir Ahmed is in direct contrast to the above as he deposed that no such names were ever revealed by Ved Mati. Moreover, according to Zahir, when Sunil was being taken to the Hospital, he was conscious and talking whereas Amrish Kumar claims that Sunil was unconscious.

67. As per postmortem report, there was entry and exit wound, consequent upon such gunshot injury. That being so, the bullet should have been recovered from the spot.

68. No bullet or cartridge case has, however, seen light of the day.

69. We have already taken note of the fact that crime team report is not part of Trial Court Record and, therefore, we are unable to fathom any reason as to why these could not be recovered. Even if, it rained that night, the crime-team should have prepared a comprehensive report. Crime team should have made earnest efforts in not only finding blood but also in tracing out any such bullet or cartridge case, particularly, when according to PW-3 Ved Mati, her son was hardly at a distance of two steps from the door when he was shot.

70. In her deposition, PW-3 Ved Mati, also claimed that around ten days after the incident, she came to know that there was dispute between her son

and the accused and, therefore, the possibility of implication cannot be, completely, ruled out.

71. If we believe the version of prosecution and assume that PW-3 Ved Mati had made statement at around 4:00 or 5:00 a.m. on 15.05.2006, the Police would have, in that eventuality, learnt about the manner in which the incident had taken place and also about the names of the assailants.

72. Sunil died during the treatment and when Insp. Malik sent a request for his postmortem at around 1:00 p.m. on 15.05.2006, he would have been, certainly, in the thick of the things but in the *brief facts* (Ex. PW32/F) prepared by him, it is rather mentioned that no eye-witness could be contacted. Thus, by even 1:00 p.m., the police was clueless about the assailants which is not in synchronization with the statement of PW-3 Ved Mati, made allegedly at 4:00 or 5:00 a.m. which is prior to preparation of *brief facts*.

73. The injured was, initially, taken to Vimal Hospital where he was given primary treatment but no effort was made to collect any document from said Hospital or to record statement of any Doctor who had given him such treatment.

74. The trial *qua* juvenile offender was conducted by Juvenile Justice Board (JJB) and, admittedly, such juvenile offender has already been acquitted by JJB. Such order of acquittal of juvenile offender has attained finality as the same was never assailed by the prosecution. This assumes importance as according to PW-3 Ved Mati, such juvenile was also carrying fire-arm and had fired on exhortation of his co-accused Deepak @ Kala.

75. This Court is conscious of the fact that the scope of interference in an appeal against acquittal is a restricted one. It is possible when it is



successfully demonstrated by the appellant that there is manifest illegality or perversity in the conclusions recorded by the Trial Court or where Trial Court's decision is found to be based on an erroneous view of law or where the entire approach of the Trial Court in dealing with the evidence was patently illegal or where decision has been given, ignoring material evidence. Appellate Court can interfere with the order of acquittal when it comes to the conclusion that the conviction was the only outcome. It cannot overturn order of acquittal, merely, on the ground that another view was also possible.

76. Here, we fail to come across any perversity in any of the findings, necessitating any interference.

77. Resultantly, the present appeal stands dismissed.

(VIVEK CHAUDHARY)
JUDGE

(MANOJ JAIN)
JUDGE

DECEMBER 2, 2025/sw/sa