



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

*Reserved on: 28th January, 2026
Pronounced on: 16th April, 2026*

+ CRL.A. 555/2002
MOHAN SINGH

.....Appellant

Through: Mr. Mohd. Shamikh, Advocate.

versus

STATE OF DELHIRespondent

Through: Mr. Aman Usman, APP with
Mr. Manvendra Yadav,
Advocate with Insp. Deepak
Kumar Yadav, PS Mayapuri for
State.

2.

CRL.A. 704/2002
SURINDER SINGH

.....Appellant

Through: Mr. B. K. Roy, Mr. Sunder Lal
Sharma and Mr. Yashwant
Sharma, Advocates

versus

STATE OF DELHIRespondent

Through: Mr. Aman Usman, APP with
Mr. Manvendra Yadav,
Advocate with Insp. Deepak
Kumar Yadav, PS Mayapuri for
State

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. These two appeals have been filed by the appellants against the judgment of conviction dated 05th June, 2002 and the order on



sentence dated 10th July, 2002 passed by the learned Additional Sessions Judge, New Delhi [“**trial court**”], in Sessions Case No. 40/2001, arising out of FIR No. 182/1996 registered under sections 302/307/34 of the Indian Penal Code [“**IPC**”] at Police Station Mayapuri. Since both the appeals emanate from the same FIR and assail the same judgment, they are being disposed of together by this common judgment.

Brief Facts

2. Pithily put, the case of the prosecution is that on 09th June, 1996, at about 5:15 PM, an incident took place at the TSR stand located in Sagarpur, Delhi. Raj Kishore [PW-8], a TSR driver, was present at the stand along with his nephew Ram Kishore [deceased]. The appellant Surinder Singh, also a TSR driver, attempted to take passengers out of turn, leading to an altercation between Raj Kishore [PW-8] and appellant Surinder Singh

3. After the initial exchange, appellant Surinder Singh, before leaving, told Raj Kishore [PW-8] that he would let him know how he had stopped him from taking passengers out of turn. He then left the spot and returned shortly thereafter accompanied by his parents- Sh. Brij Mohan and Smt. Sada Kanwar and the appellant ASI Mohan Singh, armed with weapons like a knife, iron strip (*patti*), four-cornered *danda* and a hockey stick. During the ensuing assault, appellant Surinder struck Raj Kishore [PW-8] on his right eye with the hockey stick. Appellant ASI Mohan Singh caught hold of Ram Kishore [deceased]. He along with Brij Mohan then exhorted to stab him by uttering “*maar sale ko chaku, bach na jaye*”, upon which,



Appellant Surinder took out a knife from the back pocket of his pant and inflicted 2-3 knife blows on Ram Kishore [deceased]. The mother of the Appellant Surinder, that is Sada Kanwar, also gave blow with iron *patti* to the deceased. Meanwhile, when Raj Kishore [PW-8] tried to save the deceased, he was caught hold by Brij Mohan and Appellant ASI Mohan Singh. Appellant Surinder Singh stabbed him with knife blow on the left side of his chest, while ASI Mohan Singh struck iron *patti* on his left eye. He caught hold of that strip which resulted in injuries on his right hand. Raj Kishore [PW-8] and Ram Kishore [deceased] ran towards 'D' Block police picket but Ram Kishore collapsed on the way and later succumbed to his injuries. PW8 Raj Kishore was then removed to the hospital for medical treatment.

4. The information of the incident was recorded vide DD No. 15-A. The police reached the spot and thereafter went to the hospital, where (PW-8) was medically examined. On the basis of his statement, the present FIR No. 182/1996 was registered at Police Station Mayapuri.

5. During investigation, the police seized the four-cornered *danda*, along with the TSRs and the knife. The blood-stained clothes of Sada Kanwar and blood-stained uniform of ASI Mohan Singh were also seized. They were arrested on the same day, whereas appellant Surinder Singh was arrested on 10th June, 1996 and was interrogated. He made a disclosure statement [Ex. PW2/B] and at his instance, a blood-stained T-shirt [Ex. P6] and a piece of hockey stick [Ex. P7] was recovered. They were sealed and seized *vide* memos Ex. PW2/C and Ex. PW2/D respectively.



6. Upon completion of investigation, chargesheet dated 03.04.1997 was filed against the accused persons.
7. The learned trial court framed charges under Sections 302/307/34 IPC against all accused persons. Accused Sada Kanwar was additionally charged under Section 25 read with Section 27 of the Arms Act. They pleaded not guilty and claimed trial.
8. In order to substantiate its case, the prosecution examined 28 witnesses, including the injured witness Raj Kishore [PW-8].
9. Statements of accused were recorded under Section 313 of the Code of Criminal Procedure [“Cr.P.C.”], wherein, they denied the incriminating evidence put to them and claimed innocence. In their defence, they examined one witness namely Ghanshyam Naruka (DW-1).
10. The learned trial court, *vide* impugned judgment dated 05th June, 2002, acquitted accused persons Brij Mohan, Sada Kanwar and appellant ASI Mohan Singh of the charges under Section 302 IPC, but convicted them for lesser offence under Section 324/34 IPC. However, appellant Surinder Singh was convicted for offence under Section 302 IPC. Accused Sada Kanwar was also convicted for offence under Section 25 of Arms Act. *Vide* order dated 10th July, 2002, the convicts were sentenced as under:-

“Accused Surinder is sentenced U/s 302 IPC to undergo imprisonment for life and to pay a fine of Rs. 100/- in default to further undergo R.I. for one week.

Accused Brij Mohan, Sada Kanwar and Mohan Singh are sentenced to undergo R.I. for one and a half years and to pay a fine of Rs. 1,000/-each in default to further undergo



R.I. for seven days.

Accused Sada Kanwar is also sentenced to undergo R.I. for six months U/s 25 Arms Act and to pay a fine of Rs. 100/- in default to further undergo R.I. for seven days.”

11. Feeling aggrieved, the appellants have preferred the present appeals.

12. The sentences awarded to the appellants Mohan Singh and Surinder Singh were suspended *vide* orders dated 07th August, 2002 and 21st November, 2002 respectively.

13. During the hearing of these appeals, the counsel for appellant Mohan Singh in CRL.A. 555/2002 confined his challenge only to the quantum of sentence and submitted that he does not wish to challenge the judgment of conviction dated 05th June, 2002. It was further prayed that he may be released for the period already undergone by him. The said submission is also supported *vide* an Affidavit dated 28th January, 2026 filed by him.

Submissions on behalf of the Appellant Surinder Singh in CRL.A. 704/2002:

14. The learned counsel, appearing for appellant Surinder Singh in CRL.A. 704/2002, assailed the impugned judgment on the ground that it is contrary to law and that the prosecution case suffers from inherent improbabilities. It was submitted that the prosecution version is neither probable nor appealing to the common sense. It has been contended that the incident took place in a crowded place that is ‘Sunday Market’, but prosecution failed to produce even a single independent public witness apart from the injured interested witness



and the police persons. He submitted that the injured witness at the best proves his presence at the spot and suffering injuries, but it is not guaranteed that the version given by him was truthful.

15. The learned counsel has pointed out that PW-8 Raj Kishore deposed that all accused including Brij Mohan, Sada Kanwar and ASI Mohan Singh, were present at the spot and participated in the assault, whereas, PW-6 Constable Richpal categorically stated that only appellant Surinder Singh was present and that the other accused were not present at the spot at all. Such contradictory versions regarding the presence and role of the accused demolish the prosecution story. He further submitted that PW-8 attributed hockey blows, knife blows and iron *patti* blows in a particular sequence, whereas, PW-6 claimed to have seen the incident from a moving bus and deposed only about a single blow inflicted by the appellant Surinder Singh. According to him, these two versions are mutually destructive and cannot co-exist. The incident of murder cannot be seen by eye witnesses differently.

16. It has been further submitted that PW-18 Constable Dilbag Singh also deposed about injury to one more person namely Babban, but the said Babban is neither an accused nor a witness in the case. The non-examination of such a material witness casts a serious doubt on the prosecution version and suggests suppression of material facts and evidence.

17. It was also contended that there is no recovery of knife from the possession of appellant Surinder Singh. The non-recovery of knife at his instance and the absence of any forensic corroboration of the presence of blood on the knife, fatally weakens the prosecution case.



18. It was also contended that prosecution has failed to prove any strong motive behind the commission of the crime, inasmuch as, the incident arose out of a sudden quarrel on a trivial issue and there was no *mens rea* or motive for the commission of the murder. It has been further submitted that prosecution failed to place on record any document that appellant Surinder Singh ever used to drive scooter or that the scooter was in his name or in the name of any of his family members or it was a hired scooter. He further submits that the police has even failed to produce the driving license in the name of appellant Surinder Singh.

19. It was further submitted that even though two police witnesses had already reached at the spot by 5.45 pm and the distance of the police station from the place of incident was hardly one kilometre and the incident took place at 5.45 pm on 09th June, 1996, but the FIR was registered at 7.55 pm, that is after more than two hours. The three accused, the recovered weapon and the case property were allegedly kept for about two hours without even registration of the FIR and without seizure of the same. The delay in registration of the FIR and not sealing the weapon of offence and other case property cannot rule out the possibility of false implication and plantation of the weapon of offence because police could not arrest the real culprit despite their presence at the place of occurrence. It is also submitted that despite three out of the four accused persons already apprehended at the spot, their names are not mentioned in the DD entry, which proves fabrication and false implication.

20. Relying upon the testimony of DW-1 Ghanshyam, it is argued



that the appellant Surinder Singh was forced to come at the police station in bargain for the release of Brij Mohan and Sada Kanwar, who were illegally detained with the assurance that after enquiry he would be let off, but was falsely implicated in the present case along with the other co-accused persons namely Brij Mohan, Sada Kanwar and ASI Mohan Singh.

Submissions on behalf of the Appellant ASI Mohan Singh in CRL.A. 555/2002

21. The learned counsel for the appellant Mohan Singh while confining his prayer to only the quantum of sentence, submits that the appellant has already undergone one year of sentence out of one and a half years awarded to him and is now aged about 80 years and because of this case, he was placed under suspension and was not even paid the service benefits. He therefore prayed that lenient view be taken and appellant Mohan Singh may be sentenced with imprisonment already undergone by him.

Submissions on behalf of State

22. *Per contra*, learned APP for the State contended that the Trial Court has given detailed and well-reasoned findings and convicted the appellants after a fair trial and proper appreciation of evidence.

23. It was submitted that the presence of PW-8 Raj Kishore, an injured witness, at the scene of occurrence stands conclusively established and carries strong evidentiary value. It was contended that the absence of independent public witnesses is not fatal to the prosecution case and conviction can be based on the testimony of an injured witness and police witnesses if found reliable.



24. The alleged contradictions in the statements of PW-6, PW-8 and PW-18 are, at best, minor discrepancies arising from differences in perception and passage of time. These variations do not go to the root of the matter and do not discredit the core of the prosecution case and the trial court has carefully considered their statements before passing the judgment.

25. It was lastly submitted that the prosecution has proved its case beyond reasonable doubt and that the learned trial court has rightly convicted the appellants. Considering the gravity of offence, it was stated that the appeals are devoid of merit and deserve to be dismissed.

Reasoning and Analysis

26. We have considered the rival submissions and have perused the material on record. It is well settled that while exercising appellate jurisdiction in a criminal appeal against conviction, the Court may re-appreciate the evidence to ascertain whether the findings recorded by the trial court suffer from perversity, material illegality, or result in miscarriage of justice.

27. Dealing with the present case, on the basis of the evidence led, we find that the prosecution case rests primarily on the testimonies of PW-8 Raj Kishore (injured witness), PW-6 Constable Richpal (eye witness), as also PW-11 HC Mahender Singh and PW-18 Constable Dilbagh Singh, who reached at the spot immediately on getting the information.

28. From the evidence led, it is evident that the occurrence of the incident itself is not in dispute. The evidence establishes that the incident took place at the TSR stand at Sunday Market on 09th June,



1996, in which PW-8 Raj Kishore suffered injuries on his person and one Ram Kishore, the nephew of PW-8, died at the spot due to stab injuries.

29. The defence has laid considerable emphasis on the inconsistencies in the testimonies of material witnesses, thereby, arguing that such contradictions and inconsistencies weaken the prosecution case. We, therefore, now proceed to examine the material evidence in order to assess as to whether the same inspires confidence or create any reasonable doubt in the prosecution narrative.

30. PW-8 Raj Kishore deposed that on 09th June, 1996, he was standing at Sagarpur TSR Stand near Ajanta Park and was waiting for his turn. His nephew (Bhanja) Ram Kishore was also with him. Meanwhile, accused Surinder Singh came in his TSR No. DIR 8917. PW-8 told him that it was his turn to lift the passengers but accused Surinder Singh was adamant. On his protest, accused Surinder Singh told him *“wait for some time, I will let you know how to stop me from taking the passengers out of the turn”*. Surinder Singh came back armed with a knife, accompanied by co-accused persons namely SI Mohan Singh, his father Brij Mohan and his mother Sada Kanwar (mentioned as Sarda Rani in the testimony of PW-8). Brij Mohan was having a four cornered danda, Surinder was having hockey stick and the mother of Surinder was having a knife like iron strip (*patti*). Surinder gave hockey blow on his head, as a result, the hockey stick broke. SI Mohan Singh was in police uniform. Brij Mohan gave danda blow on his right shoulder. On seeing this, his nephew Ram Kishore rushed to save him. SI Mohan Singh and Brij Mohan then caught hold



of Ram Kishore. SI Mohan Singh exhorted “*Maar Saale Ko*”. On hearing this, Surinder Singh took out a knife from his back pocket and gave 3-4 knife blows on the chest of Ram Kishore. When PW-8 tried to save him, he was caught by Surinder Singh and Brij Mohan, SI Mohan Singh gave a knife blow near his diaphragm (below his chest) and the mother of accused Surinder Singh gave him a blow with knife like iron *patti* on his face near left eye. PW-8 Raj Kishore further deposed that public had gathered at the place of incident and on seeing them, the accused persons tried to run away, but before that, accused Surinder gave a knife blow to him, resulting in injuries in his righthand palm. He further stated that he and his nephew Ram Kishore tried to rush towards D Block, Janak Puri Police Chowki but Ram Kishore fell down only after 5-10 steps. He rushed to the Police Chowki and was taken to hospital by the police on a Bullet motorcycle, where his statement Ex. PW-8/A was recorded by the police. He identified all the accused, including the present appellants Surinder Singh and Mohan Singh.

31. In his cross examination, PW-8 stated that he had told the police in his statement Ex. PW-8/A that as soon as they arrived, SI Mohan Singh enquired from accused Surinder as to who removed his scooter from there. He was confronted with statement Ex. PW-8/A, where this fact is not so recorded. He further stated that he told the police that he was not allowed to fall as accused Mohan Singh and Brij Mohan had caught hold of him by his arms. He was confronted with statement Ex. PW-8/A, where this fact is not so recorded. He further said that he had told the police in his statement that on seeing Ram Kishore, both the



accused, that is, Brij Mohan and SI Mohan Singh, had left him and caught hold of Ram Kishore. However, this fact is not mentioned in the statement Ex. PW-8/A. Similarly, the fact that accused Mohan Singh gave him knife blow near his diaphragm, was also not found mentioned in the statement Ex. PW-8/A. In further cross examination, he stated that accused persons were also accompanied by one more person at the time of assault on them, who also gave them beatings. The fifth such person was having bricks in his hands and he hit him below the neck. However, no injury was inflicted by the fifth person on the person of deceased Ram Kishore. He further stated that the blood did not drop on the clothes or motorcycle of the police official, who took him to the hospital from the police post.

32. Upon appreciation of the testimony of PW-8 Raj Kishore, we find that his testimony to the extent that SI Mohan Singh gave him knife blow near his diaphragm is in contradiction and an improvement over the previous statement Ex. PW-8/A, which formed the basis of recording of the FIR. However, his remaining testimony with regard to the details of the incident, particularly with regard to presence of the accused persons with weapons at the spot and causing of stab injury to Ram Kishore by appellant Surinder Singh remains consistent and cogent.

33. The incident allegedly took place in the month of June 1996. The testimony of PW-8 was recorded on 17th September, 1999, that is after more than three years. Human memory is short and when such like incidents involving so many persons happen all of a sudden and the witness is called upon to depose about them after a long interval,



due to failing memory, such like contradictions may occur in the testimonies of even a truthful witness and therefore should not be given much importance, particularly when the testimony of the witness on the other material aspects inspires confidence.

34. No doubt, in cross examination, PW-8 has deposed about the involvement of one more offender who hit brick below his neck but is not prosecuted, the same cannot be regarded as an improvement or a contradiction of the prosecution narrative of the incident, inasmuch as, in his statement Ex. PW-8/A, PW-8 stated that besides four named accused, there were some other persons also who had beaten them and therefore the mention of fifth offender in cross examination is not fatal to the prosecution version.

35. PW-6 Constable Richpal from Delhi Home Guard is the eye witness of the occurrence. According to him, on 09th June, 1996, at about 5.15 pm, he alighted from a bus coming from Sagar Puri at D Block, Janak Puri and boarded a bus route No. 832 to Shahdara. On the way, he saw from glass panes of the bus that two three wheeler scooters stopped, the driver of one of the scooters and the passengers in the scooter got down from the said scooter and the drivers of both the scooters started quarrelling. One of the drivers took out a knife from the back pocket of his trouser and thrust the same in the chest of other scooter driver. He deposed that the name of the scooter driver who gave knife blow was subsequently revealed as Surinder Singh while the name of the deceased was also subsequently revealed as Raj Kishore. He deposed that he got the bus stopped and went to the nearby police booth, where he came to know that the police had



already reached at the spot. He thereafter returned at the spot where HC Mahender Singh and HC Dilbagh Singh were found present. At their instructions, he removed the injured to DDU Hospital and got him admitted there. According to him, accused Brij Mohan, Sada Kanwar and Mohan Singh were not present at the spot and were found sitting at the police station subsequently. He further stated that the clothes of Brij Mohan, Sada Kanwar and Mohan Singh were seized by the police. He identified his signatures on the seizure memo Ex. PW-6/A and Ex. PW-6/B respectively. He is also witness to the arrest of accused Brij Mohan, Sada Kanwar and Mohan Singh and identified his signatures on the personal search memos Ex. PW-6/D and Ex. PW-6/E.

36. PW-6 was declared hostile and was cross examined by the learned APP with the permission of the court. In such cross examination, he denied the suggestion that in his statement dated 09th June, 1996, he gave the name of injured/deceased as Ram Kishore. He denied that in his presence after Surinder inflicted a blow on the person of the deceased, there was an exchange of hockey and danda blows between both sides. He denied the suggestion that when he returned from the police booth, he found HC Dilbagh Sigh and HC Mahender Singh had apprehended the father and mother of accused Surinder and one Assistant Sub Inspector of Delhi Police. He denied the suggestion that he had got the injured Ram Kishore admitted in DDU Hospital and not Raj Kishore. He denied the suggestion that accused Brij Mohan, Sada Kanwar and Mohan Singh were arrested in his presence pursuant to evidence having been collected against them



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by the Investigating Officer. He was confronted with statement Ex. PW-6/F, where the aforesaid facts are so recorded. He denied that accused Brij Mohan, Sada Kanwar and Mohan Singh were arrested in his presence. However, he voluntarily stated that they were not present at the spot but were seen by him subsequently at the police station, where they were arrested in his presence. He admitted that the saree and blouse which the accused Sada Kanwar was wearing, were taken into police possession. He admitted that the clothes of the aforesaid accused persons were kept in sealed parcels, which were sealed with the seal of GS. He denied that on 10th June, 1996, he joined the investigation with SI Mehar Singh, SI Karan Singh and Inspector Gyan Singh or that accused Surinder was arrested from house No. 681/10, Saad Nagar, Palam Colony or that his personal search was conducted in his presence vide memo Ex. PW-2/A. However, he admitted that the memo Ex. PW-2/A bears his signatures. According to him, accused Surinder was arrested on the night of 09th June, 1996 itself and he signed the personal search memo Ex. PW-2/A on 09th June, 1996. He denied that accused Surinder gave disclosure statement Ex. PW-2/B on 10th June, 1996 but admitted signatures on the disclosure statement. He denied that accused Surinder had pointed out house No. 681/10, Gali No. 27-C, Saad Nagar, Palam Colony and got recovered his black colour T shirt which was seized in his presence vide memo Ex. PW-2/C but identified his signatures on the memo Ex. PW-2/C. According to him, accused Surinder had pointed out the place and got recovered the T shirt on 09th June, 1996. He denied that on 10th June, 1996, accused Surinder had got recovered the broken



the name of the injured rushed to the hospital was Raj Kishore and not Ram Kishore does not also affect the worth of his testimony. Both names being similar, PW-6 may have mixed up the name of the person rushed to the hospital by him.

39. PW-11 HC Mahender Singh, who was on duty at Sunday Market, D Block, Janak Puri, reached at the spot upon getting the information regarding quarrel. He categorically deposed that on reaching the spot, he found accused Mohan Singh in the uniform, accused Brij Mohan armed with danda and accused Sada Kanwar. He stated that accused Surinder gave knife blows to one Raj Kishore in his presence. He further deposed that Ram Kishore was also lying in an injured condition. In the meanwhile, PW-18 HC Dilbagh Singh and PW-6 DHG Richpal also reached there. PW-6 took injured Ram Kishore to the hospital. He further deposed that when they tried to overpower accused Surinder and Sada Kanwar, the mother of accused Surinder snatched the knife from him and helped him in escaping from the spot. With the help of HC Dilbagh Singh, he overpowered SI Mohan Singh, Brij Mohan and Sada Kanwar. Raj Kishore also left for the hospital. He further stated that the danda and the knife were seized from accused Brij Mohan and Sada Kanwar vide memos Ex. PW-10C and Ex. PW-10/D. One broken piece of hockey was seized vide memo Ex. PW-10/G. The blood spots and earth control were lifted from the spot vide memo Ex. PW-10/F. The TSR was seized vide memo Ex. PW-10/H. He identified the recovered articles including the knife and the broken piece of hockey.

40. In cross examination, PW-11 stated that there were number of



shops near the place of occurrence and that PW-6 and PW-8 reached at the spot after 5-7 minutes of his arrival at the place of occurrence. He further stated that he was holding accused Mohan Singh and that accused Sada Kanwar and Brij Mohan tried to run away. He admitted that the Home Guard Constable had taken Ram Kishore (deceased) to DDU Hospital.

41. The testimony of PW-11 to the extent that Surinder Singh gave knife blows to Raj Kishore in his presence, has not been contested during cross examination. There is not even a suggestion that he did not inflict knife blows to Raj Kishore. The testimony of PW-8 Raj Kishore thus stands corroborated to the aforesaid extent by the testimonies of PW-6 and PW-11. PW-11 further corroborated the presence of all the accused persons at the spot and the recovery of weapon of offence, that is knife, danda and broken piece of hockey from the spot. Another important aspect proved through the testimony of PW-11 is that Sada Kanwar helped accused Surinder run away from the spot and, in the process, took away the knife from him, which explains the reason why he was not apprehended from the spot itself then and there.

42. PW-18 HC Dilbagh Singh, who was on duty at Police Picket, Maya Puri, also rushed to the spot upon getting the information regarding quarrel, involving TSR drivers at Sagar Pur near Aditya Apartments and TSR Stand. He deposed that on reaching the spot, he found that HC Mahender Singh was holding the hand of accused Brij Mohan. SI Mohan Singh was also present there. He deposed about the presence of mother of accused Surinder also at the spot, who made



him escape from the spot after snatching the knife from his hand. He further deposed that the injured lying there after receiving the knife blow, was sent to DDU Hospital through DHG Richpal Singh. According to him, one more injured namely Babban was also sent to the hospital.

43. There is no cross examination of PW-18 with regard to his testimony that accused Surinder was made to escape from the spot by his mother.

44. Much emphasis has been laid by the defence regarding introduction of one more injured namely Babban. In the absence of any other evidence in this regard, any reference of injured Babban appears to be just one stray and unsubstantiated statement and cannot be treated as constituting an integral or pivotal part of the prosecution case. Even, the defence did not question about the presence of any such injured at the spot or hospital from the IO. Hence, such averment made by of PW-18 cannot be given undue importance.

45. Admittedly, the incident took place near the TSR Stand near Sunday Market. It is also in evidence that there were shops near the place of occurrence. It is also in evidence that public persons had gathered but none of them was joined in the investigation or made witnesses. In the matter of appreciation of evidence of witnesses, it is not the number of witnesses but the quality of their evidence which is important, as there is no rule of law or evidence that any particular number of witnesses is to be examined to prove/disprove a fact. It is a time honoured principle that evidence must be weighed and not counted. The test is whether the evidence led has a ring of truth, is



cogent, credible and trustworthy or otherwise. It is the quality and not the quantity which determines the adequacy of evidence as provided under Section 134 of the Indian Evidence Act, 1872. In the present case, the evidence of the injured witnesses cannot be discarded merely on the ground that the independent public witnesses were not examined. The Supreme Court in *Appabhai and Anr. Vs. State of Gujarat, AIR 1988 SC 696* held that:-

“11.It is no doubt true that the prosecution has not been able to produce any independent witness to the incident that took place at the bus stand. There must have been several of such witnesses. But the prosecution case cannot be thrown out or doubted on that ground alone. Experience reminds us that civilized people are generally insensitive when a crime is committed even in their presence. They withdraw both from the victim and the vigilante. They keep themselves away from the Court unless it is inevitable. They think that crime like civil dispute is between two individuals or parties and they should not involve themselves. This kind of apathy of the general public is indeed unfortunate, but it is there everywhere whether in village life, towns or cities. One cannot ignore this handicap with which the investigating agency has to discharge its duties. The court, therefore, instead of doubting the prosecution case for want of independent witness must consider the broad spectrum of the prosecution version and then search for the nugget of truth with due regard to probability, if any, suggested by the accused.”

46. We do find that there are certain contradictions/omissions/improvements in the testimonies of the witnesses, but they are not of such a magnitude as to demolish the substratum of the prosecution case. In cases of sudden violence, the witnesses cannot be expected to



narrate the occurrence with photographic precision. Normal discrepancies with passage of time are natural and may in facts and circumstances of the case lend assurance that the witnesses are not tutored.

47. The presence of PW-8 Raj Kishore at the spot stands conclusively established, he being an injured witness. His testimony assumes considerable significance for more than one reason. Firstly, he was himself injured in the same transaction and is, therefore, a natural witness to the occurrence. Secondly, his evidence, insofar as the role of appellant Surinder Singh is concerned, has remained substantially unshaken. He has also elaborated the role played by the appellant Mohan Singh during the incident. Merely because PW-8 was related to the deceased, would not be a valid ground to discard his testimony, particularly when he himself suffered injuries in the incident of assault. There is no reason why he would shield the real culprits and implicate innocent persons with whom he has no axe to grind. No material contradictions of such magnitude have been brought out as would render his evidence unworthy of acceptance.

48. It is a settled principle that the testimony of an injured witness carries strong evidentiary value and stands on a higher pedestal than any other witness and deserves acceptance unless strong reasons exist for its rejection. In *Abdul Sayeed Vs. State of Madhya Pradesh [(2010) 10 SCC 259]*, the Supreme Court held as under:

“28. The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself



*been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. "Convincing evidence is required to discredit an injured witness." [Vide **Ramlagan Singh v. State of Bihar, Malkhan Singh v. State of U.P., Machhi Singh v. State of Punjab, Appabhai v. State of Gujarat, Bonkya v. State of Maharashtra, Bhag Singh, Mohar v. State of U.P.(SCC p. 606b-c), Dinesh Kumar v. State of Rajasthan, Vishnuv. State of Rajasthan, Annareddy Sambasiva Reddy v. State of A.P. and Balraje v. State of Maharashtra.]***"

49. What remains constant and materially unshaken in the prosecution evidence is that the appellant Surinder Singh was the person who wielded the knife and inflicted the fatal injuries on Ram Kishore. On this core aspect, the evidence of PW-8 remains clear and categorical. Even the testimony of PW-6, when read fairly, does not exculpate Surinder Singh, but rather supports the prosecution case to the extent that the principal assailant Surinder caused stab injuries to PW-8. The consistent thread running through the prosecution evidence is thus that the fatal knife assault was committed by appellant Surinder Singh and this core evidence remains unshaken. Minor inconsistencies or variations in narration are natural in the case of sudden violence and do not erode the core of an otherwise credible prosecution case.

50. It is evident from the testimony of PW-8 that appellant Surinder Singh attempted to take passengers out of turn, which led to altercation, following which, he went and came back with the co-accused persons, including appellant Mohan Singh, armed with



weapons, that is knife, danda, hockey stick and *patti* and inflicted stab wounds to PW-8 Raj Kishore and his nephew Ram Kishore (deceased). The medical evidence corroborates the ocular testimony of causing stab wounds with knife.

51. The argument of defence regarding absence of motive to kill and the act being not premeditated is not impressive. Multiple stab injuries with knife were caused to PW-8 and the other victim. Such stab injuries were caused on the vital parts of the body. Appellant must be attributed the knowledge that by such act, he would cause death of the victim. The case in hand does not fall under any of the exceptions of Section 300 of the Indian Penal Code. The evidence on record clearly reveals that appellant Surinder Singh was not a passive bystander or a mere participant in a sudden scuffle, but the person who escalated the incident into a fatal assault by using a deadly weapon. The act of taking out a knife from the back pocket of his pant and inflicting repeated blows on the deceased Ram Kishore, clearly establishes the requisite knowledge that by such act, he would cause death of the victim. The nature of weapon used, the manner of assault and the resultant death leaves no room for doubt that the offence squarely falls within the ambit of Section 302 IPC.

52. It is evident from the testimonies of PW-11 HC Mahender Singh and PW-18 HC Dilbagh Singh that accused Mohan Singh, Brij Mohan and Sada Kanwar were overpowered at the spot. PW-10 SI Karan Singh, the first IO of this case, who reached the spot after receiving DD No. 15-A Ex. PW-4/A, also confirmed the presence of the aforesaid three accused at the spot in the custody of HC Dilbagh



Singh and HC Mahender Singh. Inspector Gyan Singh, second IO (PW-28) deposed about the arrest of the aforesaid three accused from the spot with weapons. Thus, the presence and arrest of accused Mohan Singh from the spot is beyond doubt. Admittedly, the names of accused Mohan Singh, Brij Mohan and Sada Kanwar are not mentioned in the FIR. The FIR Ex. PW-4/B was recorded on the basis of the statement of PW-8 Raj Kishore Ex. PW-8/A, recorded at the hospital. In such statement, he did not mention the names of the accused persons except accused Surinder. However, it is recorded that accused Surinder came back at the spot along with an ASI, having one star, his father and mother. There is no cross examination of PW-8 Raj Kishore as to whether he knew the names of the aforesaid three accused persons at the time when he gave the statement Ex. PW-8/A and therefore accused Mohan Singh cannot take any benefit on account of the reason that his name is not mentioned in the FIR.

53. The incident took place at 5.15 pm and the information regarding the incident reached the Police Station vide DD No. 15-A Ex. PW-4/A at 5.45 pm, whereafter, SI Karan Singh (PW-10) firstly went at the spot and from there to the hospital, where, he recorded the statement of the injured Raj Kishore, prepared the Rukka Ex. PW-10/A and sent the same at Police Station at 7.30 pm for the registration of the FIR. As per PW-4, ASI Om Prakash, Duty Officer, the Rukka was received at 7.55 pm, on the basis of which, he recorded the FIR. We find no inordinate delay in the registration of the FIR, which may create any kind of suspicion or doubt of any manipulation or interpolation.



54. The evidence on record, as appreciated by the learned trial court, clearly establishes that appellant Surinder Singh was the principal assailant and gave fatal injuries to the deceased Ram Kishore. As per the MLC and post-mortem report of the deceased Ram Kishore, he suffered multiple ante-mortem stab injuries caused by a sharp-edged weapon. One of the stab wounds was located on the chest, a vital part of the body and was found to be penetrative in nature and sufficient in the ordinary course of nature to cause death. The weapon used and the repeated blows to the two victims, leave no manner of doubt that accused had the knowledge that by such act, he would cause the death of the victim.

55. The gravity of the offence committed by the appellant Surinder Singh, resulting in the loss of a human life, cannot be diluted based on minor contradictions. The judgment of the learned Trial Court therefore does not warrant any interference. It is also noteworthy that the learned Trial Court, while appreciating the evidence, carefully distinguished the role of the present appellant from that of the co-accused persons and did not accept the prosecution case in its entirety against the other accused persons. This indicates a judicious evaluation of evidence and lends assurance to the correctness of the findings recorded against all the accused persons.

56. This Court is, therefore, of the considered opinion that prosecution has successfully proved its case beyond reasonable doubt against the appellant Surinder Singh. We find no merit in the challenge laid to his conviction under Section 302 IPC. Upon an independent re-appreciation of the evidence on record, we are of the



considered view that the learned trial Court was justified in convicting Surinder Singh and that his conviction and subsequent order on sentence are just, proper and proportionate to the gravity of the offence.

57. The case of appellant Mohan Singh [in CRL.A. 555/2002], however, stands on a different footing. The learned Trial Court itself has recorded a clear finding that he did not give fatal injuries to the deceased and that the principal role in causing death was attributable to Surinder Singh. While the presence and participation of Mohan Singh in the occurrence stands proved, the evidence does not attribute to him any direct act resulting in the death of the deceased, as held by trial court. The appellant Mohan Singh is not challenging his conviction, but simply prays for reduction of his sentence and has also filed an affidavit in this regard.

58. The criminal justice system in India embodies the reformatory theory of punishment. The object of sentencing is not merely to punish but to transform the individual into a law-abiding citizen, particularly where the circumstances do not disclose a continuing propensity for violence and the offender is capable of reform. The Hon'ble Supreme Court in *Mohammad Giasuddin Vs. State of Andhra Pradesh, (1977)* 3 SCC 287, while emphasizing the reformatory theory of punishment, observed as under:

“9. It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered



not by undue cruelty but byre-culturisation. Therefore, the focus of interest in penology is the individual, and the goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defence. We, therefore, consider a therapeutic, rather than an “in terrorem” outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind.”

59. The Supreme Court in ***Pramod Kumar Mishra v. State of Uttar Pradesh, 2023 SCC OnLine SC 1104***, while relying on the judgment of ***Mohammad Giasuddin*** (supra) held that while imposing sentence, aggravating and mitigating circumstances of a case are to be taken into consideration. Further, in ***K. Pounammal v. State Represented by Inspector of Police, 2025 INSC 1014***, the appellant chose not to contest his conviction, but sought a reduction in sentence. The Supreme Court upheld the conviction but modified the punishment considering the mitigating circumstances. The relevant portion of the judgment reads as under:-

“6. The conviction and sentence have their respective realms. While the conviction would be recorded on the basis of evidence adduced before the Court which would establish the implication of the accused in the offence, the guilty person or the convicted when to be awarded a sentence, a host of factors would operate to govern.”

6.1. In determining the final sentence and the nature thereof, variety of factors that would



operate would include the intervening time between the commission of offence and the actual award of the sentence, age of the accused, the stress which he or she might have suffered because of passage of time during each case has remained pending and undecided, the family circumstance and such other factors, without becoming exhaustive.”

7. The process of sentencing by the courts is guided by theories such as punitive, deterrent or reformative. Each school of thought has its own object and purpose to explain awarding of sentence and its utility. Amongst these theories, reformative approach has become increasingly acceptable to the modern jurisprudence. Reformation is something always considered progressive. When there are mitigating circumstances, the court would lean towards reducing of the sentence. The focus would be on the crime, and not on the criminal. The society and system would nurture the guilt with positivity, while selecting the sentence.”

60. The appellant Mohan Singh in CRL.A. 555/2002 is stated to be 80 years old. This Court while suspending the sentence of appellant Mohan Singh vide order dated 07th August, 2002 noted that he has already deposited the fine amount and has undergone one year in jail during the trial. The judgment of conviction is of the year 2002. He has suffered the ignominy and ordeal of the trial for over two decades. The prolongation of a criminal case for an unreasonable period is in itself a kind of suffering and the convict who has appealed against conviction and sentence, everyday awaits the fate of litigation and spends time in distress.

61. In light of the cumulative facts and circumstances of the case

