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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 06th December, 2025

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CRL.A. 958/2015

STATE OF NCT OF DELHI

.....Appellant

Through: Mr. Yudhvair Singh Chauhan, APP for
State with Insp. Pawan Kumar & SI
Dalbir Singh, PS Anand Vihar.

versus

RAJESH SINGH & ORS

.....Respondents

Through: Mr. Sangram Singh, Mr. Adarsh
Shukla & Mr. Vikas Kumar, Advs.
for R-1 to 3.**CORAM:****HON'BLE MR. JUSTICE VIVEK CHAUDHARY****HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT**

1. The present appeal¹ assails Judgment dated 23.09.2014², whereby all the three accused i.e. respondents herein have been acquitted.
2. The accused persons, namely, Rajesh Singh (Respondent No. 1), Brij Bhan Singh (Respondent No. 2) and Neeju Singh (Respondent No. 3) were chargesheeted for offences punishable under Section 302 and Section 323 read with Section 34 Indian Penal Code, 1860³.
3. The case of the prosecution, as emanating from record, is that on 17.04.2011 at about 8:40 P.M., an information was received at Police Station Aman Vihar pertaining to a quarrel at B-136, Sharda Enclave, Prem

¹ Filed by the State under Section 378(3) of the Code of Criminal Procedure, 1973.

² Passed by the learned Trial Court in Sessions Case No. 121/2011 arising out of FIR No. 115/2011, registered at Police Station Aman Vihar, Delhi.

³ Hereinafter referred to as IPC.



Nagar-III, Delhi. Consequently, ASI Surender (PW13) and Constable Prashant reached there. They, however, learnt that the injured had already been removed to SGM Hospital⁴ by PCR⁵ officials.

4. ASI Surender reached SGM Hospital and came to know that three persons, namely Bachhu Kumar Jha (PW-6), Ajay Kumar Jha and Brij Bhan Singh (R-2) had been admitted *vide* MLC Nos. 5815/11, 5816/11 and 5754/11, respectively. However, he did not meet any of them as two injured i.e. PW-6 and R-2 had already been discharged and third injured had been referred to higher centre for further treatment.

5. ASI Surender returned to spot where he met PW-6 who gave statement (Ex PW-6/A) about the incident in question. He stated that one Roshan Kumar (PW-2) was tenant of his cousin Ajay Kumar Jha and he came to them and informed that a boy⁶ had mixed some substance in the vegetable which he (PW-2) was cooking, and when he objected, said boy quarrelled with him. On this, PW-6 along with Ajay Kumar Jha proceeded towards the room of PW-2 Roshan Kumar and questioned said boy i.e. R-3. When R-3 caught hold of Ajay Jha by his collar, R-1 and R-2, who were shopkeepers in the vicinity, arrived at the spot and started supporting R-3.

6. PW-6 further stated, in his statement recorded under Section 161 Cr.P.C. that R-1 and R-2 started grappling with them and then they both started hurling bricks upon them. One such brick struck Ajay Jha on his head and, therefore, he fell down. Thereafter also, all three accused gave another blow with brick on the head of fallen Ajay Jha. He, thus, prayed action against all of them, supplementing that he could identify that boy (R-

⁴ Sanjay Gandhi Memorial Hospital.

⁵ Police Control Room

⁶ Later identified as R-3.



3), if shown to him.

7. Fact, however, remains that no FIR was recorded on the basis of said statement. According to ASI Surender, he again went to SGM Hospital but could not find Ajay Jha and R-3 and, therefore, matter was kept pending.

8. On 19.04.2011, ASI Surender learnt that Ajay Kumar Jha had been referred from SGM Hospital to RML Hospital⁷ and that he was in an unconscious state. Consequent thereto, FIR under Sections 308/34 IPC was registered on 19.04.2011 at 11:30 am.

9. Same day, Ajay Kumar Jha succumbed to his injuries and information in this regard was received at 12:50 noon. Consequent upon such information, Section 302 IPC was added.

10. As per post-mortem report (Ex. PW-4/A) of deceased Ajay Kumar Jha, the cause of death was coma due to head injury caused by blunt force and the injuries were ante-mortem and sufficient to cause death in ordinary course of nature.

11. The crime team inspected the spot on 20.04.2011 and as per their report (Ex PW-20/C), no exhibits were found at the spot and, therefore, nothing was lifted from the spot. However, the police team lifted and seized one full brick and three pieces of half bricks from the spot. It also seized plaster from the wall as the same was stained with blood. The seized exhibits were sent to FSL.

12. R-1 and R-2 surrendered before the Court on 16.05.2011 and their statements were recorded, wherein, they admitted their presence at the spot of incident and their involvement in the quarrel. R-3 was arrested on

⁷ Ram Manohar Lohiya Hospital.



19.05.2011. An application was moved for conducting his TIP⁸ but he refused to participate in the same.

13. Upon completion of investigation, chargesheet was filed and case was committed.

14. R-1, R-2 and R-3 were charged under Sections 302/34 and Sections 323/34 IPC. They all pleaded not guilty and claimed trial.

15. Prosecution, in order to prove its case, examined 21 witnesses.

16. All the accused persons, when examined under Section 313 Cr.P.C., pleaded false implication. They, however, did not lead any evidence in defence.

17. After perusing the evidence on record, learned Trial Court came to the conclusion that the material on record was insufficient to hold them guilty. It noted various infirmities and contradictions in the ocular evidence and also observed that there was delay in registration of the FIR and that the injuries suffered by one accused were not explained at all. It, accordingly, acquitted them of all the charges.

18. Such order is under challenge before us.

19. We have heard learned APP for the State and learned counsel for the respondents and have carefully perused the record.

20. Learned APP for the State submits that the learned Trial Court has erred in acquitting the respondents as the prosecution's case is fully supported by the ocular evidence and all the three eye-witnesses have given coherent version of the incident. It is argued that the infirmities were insignificant and therefore, learned Trial Court should have believed the version of PW-6 Bachhu Kumar Jha, PW-1 Chandan Jha and PW-2 Roshan.

⁸ Test Identification Parade.



According to him, the testimony of all these three eye-witnesses is natural and consistent in essential particulars and gets full corroboration from medical evidence. He has contended that there was no delay in recording the FIR and since Ajay Kumar Jha remained unconscious throughout, his statement could never be recorded. The police merely waited for his recovery and, therefore, delay could not have been held fatal.

21. All such contentions have been refuted by respondents.

22. The fate of the prosecution is, largely, dependent upon the testimony of three eye-witnesses. They all have been held unreliable and untrustworthy by the learned Trial Court.

23. The prime consideration is thus to evaluate their deposition.

24. Let us first take up the evidence of star witness, PW-6.

25. We have already noted what he had claimed during the investigation. According to him, there were three assailants and the blows were given by bricks.

26. However, his deposition is materially different.

27. In his deposition, PW-6 not only claims that assailants were more than twenty in number, he also introduced other weapons. He, when entered into witness box, deposed that Roshan (PW-1) told them that “*two unknown boys*” with muffled faces had adulterated the food, being cooked by him. They then went there and Ajay was ahead and he (PW-6) was at some distance. He, then noticed two boys in muffled faces. Ajay confronted them as to why they had come and why they had adulterated the food. When Ajay threatened to call police and attempted to restrain them from moving, R-3 Neeju came there. This, obviously is totally different from what PW-6 had claimed during the investigation. We do not know who are those persons in



muffled faces, though PW-6 claimed them to be some ‘Dhannu’ and ‘Nanu’. They were never named earlier. Moreover, they have been claimed responsible for mixing something in the food whereas, as per earlier version of PW-6, R-3 was responsible for such mixing. PW-6 deposed that, thereafter, R-1 and R-2 also came there and such revelation has changed the entire sequence of events. PW-6 also deposed that R-1 was carrying a *saria*, which he allegedly pounded on Ajay’s head while R-2 has punched him. According to his further deposition, the incident quickly escalated and nearly “*twenty persons attacked them with bricks, stones, fists, kicks, saria, an iron pipe and even a sambal*”. He categorically deposed that Ajay was dragged out of house and R-3 brought *sambal* and stabbed the same on the right-side head of Ajay, due to which he (Ajay) became unconscious. He claimed that he and Ajay were beaten up relentlessly while R-1 was provoking the crowd by shouting “*Maro Maro*”. PW-6 also named ‘*Kanhaiya*’ and ‘*Vikas*’ as part of those twenty odd assailants, supplementing that Kanhaiya was armed with Iron pipe, with which Kanhaiya hit him (PW-6). During his deposition, PW-6 also claimed that his wife was also present at the spot when bricks were hurled from nearby rooftop. She is, however, not made a witness.

28. Towards the end of his deposition, PW-6 also claimed that the police officials obtained his signatures on blank papers at the hospital and, thus, attempted to disown his statement.

29. His testimony has, thus, created complete chaos.

30. The material and substantial deviations and introduction of new facts and characters have shaken the very foundation of the case. His previous statement, which he even disowned, does not contain the vivid description,



he gave in witness box. The number of assailants has increased manifold and numerous weapons, including *saria* and *sambal*, have been introduced. Before the police, he did not whisper about the presence of his wife at the spot. His initial statement is also silent about any mob of twenty persons. The facts about stabbing, exhortation and pelting of bricks from the roof-top are also missing in his initial statement. Evidently, the aforesaid deviations and substantial improvements pertaining to the identity of the assailants, number of assailants, weapons used therein, and the manner of occurrence of the incident, makes testimony of PW-6 unreliable, thereby, striking at the root of the prosecution's case.

31. PW-2 Roshan has not supported the case of prosecution. He, though, narrated some facts about the incident but faltered on the most crucial aspect of identification of accused. He deposed that he could not identify those persons who were pelting bricks and in his cross-examination conducted by the prosecution, he, though, came up with wavering answers, but, categorically, deposed that accused persons present in Court were not responsible for the incident and for the injuries caused to Ajay and PW-6.

32. Thus, the testimony of PW-2 lacks clarity, corroboration and consistency. He was the one who first came across that boy who adulterated the food that he was cooking which eventually resulted in the incident. He, however, failed to identify any of the accused. His deposition also, materially, differs from that of PW-6 on several aspects. Though, he narrated the incident of pelting of bricks, he, for reasons best known to him, distanced himself from identifying any attacker and diverted from the prosecution's version, by failing to corroborate on the significant aspect of the identity. Thus, his deposition is of no avail.



33. PW-1 Chandan, the brother of the deceased, has though deposed about the incident, he also claimed that there were more assailants and attackers. He deposed that he had gone to PW-2 Roshan's room for certain work, when he saw two boys coming out of the room and then he was told by PW-2 Roshan that those boys had adulterated the food. Upon being confronted by him, one of those boys grabbed his collar and began scuffling with him. By that time, Ajay Jha (deceased) was not even present. As per his version, the accused persons, being R-1, R-2 and R-3, along with several boys, arrived there and started assaulting Ajay and PW-6, using bricks. He deposed that he was the one who called the PCR van, which later took the injured to the hospital.

34. Thus, the testimony of PW-1 is neither in synchronization with the prosecution story nor matches with the other two witnesses. Moreover, he does not sustain any injuries, despite being directly involved in the scuffle and being in the vicinity of the brick pelters. His version, in particular to the number of assaulters, the roles of the accused persons and the sequence of events, substantially differs from PW-2 and PW-6. Moreover, there is no explanation as to why his statement was recorded by the police on 20.04.2011 when he was, as claimed, not injured and was in a position to make a statement.

35. In view of the foregoing, the main pillar of the prosecution's case collapses as the ocular evidence of PW-1, PW-2 and PW-6 suffers from mutual contradictions and significant improvements.

36. Insofar as the medical evidence is concerned, MLC of the deceased does not record any sharp or stab injury. Additionally, MLCs of Ajay jha, and PW-6 reveal that they were drunk at the relevant time. Even PW-6



admits that they all were drunk and, therefore, apparently, there is no coherency in their deposition and there is complete confusion, jumbling of facts and sequence of events and even non-identification of accused.

37. Undisputedly, Ajay Jha, the deceased, was shifted from SGM Hospital to RML Hospital. However, there is no admission slip or anything material on record to show about his admission in RML Hospital. If at all, he had been shifted to RML Hospital from SGM Hospital, there would not have been any confusion about his parentage and address, whereas, RML record describes him as 'son of unknown' and 'resident of unknown'. Such aspect has not been clarified and the possibility of his getting discharged and then admitted later in another hospital, cannot be ruled out. This also, perhaps, is the reason as to why the police could not contact him for initial two days.

38. Moreover, there is no explanation as to why the FIR was not registered immediately.

39. PW-6 had been able to narrate about the incident and assailants and there was no point in keeping the matter pending. The delay in registration of the FIR, though not fatal *ipso facto*, is a relevant circumstance to be considered along with the entire material on record, as it strikes at the root of the prosecution's case, in absence of any plausible reason for such a delay being rendered. Thus, the observation of the learned Trial Court in taking into consideration such delay in acquitting the accused persons, cannot, by itself, be characterized as improper. In absence of any cogent reason, such delay in registration of the FIR assumes significance, thereby weakening the substratum of prosecution's case.

40. To make things worse, R-2 also sustained injuries in the same



incident. Fact; however, remains that there is complete silence from prosecution about the abovesaid aspect. Absence of any explanation, much less a satisfactory one, casts doubt on the genesis of quarrel and also opens up possibility of involvement of many others, as echoed by the star witness (PW-6). Consequently, the unexplained injuries sustained by R-2 undermines the prosecution's version leaving its case clouded with grave doubts.

41. There is also no clarity about the exact place of incident- whether it was room of Roshan or courtyard or street or even rooftop. FSL report does not indicate presence of blood group of the deceased on any of the pieces of the bricks, and, therefore, no real significance can be given to seized articles. Furthermore, the claim of PW-6, that some bricks were handed over by his associates to the police, renders the seizure from the spot, highly, doubtful.

42. Equally significant is the fact that none of the other weapons, allegedly used in the commission of the offence, such as iron pipe, *saria*, *sambal* were recovered. As already noted, these weapons, though significant to the prosecution's narrative at trial, find no mention in the initial statements of the injured and no trace in the investigation.

43. On careful perusal of testimony of prosecution witnesses and exhibited documents, we do not find any compelling ground to come to any different conclusion and are of the view that benefit of doubt was, rightly, given to the accused persons. The learned Trial Court has, rightly, taken note of material contradictions and significant improvements in the ocular evidence, un-explained delay in registration of the FIR, lacunae in seizure of bricks and non-explanation of injuries received by one of the accused.

44. We are also conscious of the fact that the scope of interference in an



appeal against acquittal is a constricted 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.

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

46. Resultantly, the present appeal stands dismissed.

**(VIVEK CHAUDHARY)
JUDGE**

**(MANOJ JAIN)
JUDGE**

DECEMBER 6, 2025/kp