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

Date of Decision: 24th April, 2026.

Uploaded on: 30th April, 2026

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CRL.A. 759/2012

TAUQUEER HUSSAIN

.....Appellant

Through: None.

versus

STATE & ORS

.....Respondents

Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav, Adv. for the State
Mr. Shrikant Verma, Adv. (*through*
V/C) for R2 to R8
Insp. Ram Manohar, Div. North East,
Delhi

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

CRL.M.A. 2611/2014

1. The Application already stands disposed of in view of the order dated 4th March, 2014. The same is not needed to be shown in the list.

CRL.A. 759/2012

2. The present appeal has been filed under Section 372 of The Code of Criminal Procedure, 1973 (*hereinafter* 'Cr.P.C.') assailing the impugned judgment dated 25th February, 2012 passed by Id. ASJ- 04, North-East District, Karkardooma Courts, Delhi whereby, the Respondents/Accused herein have been acquitted in *Sessions Case No. 136/2009* arising out of *FIR*



No. 84/09 registered at P.S. Khajuri Khas, Delhi, for offences punishable under Sections 302/201/120B/34 of the Indian Penal Code, 1860 (*hereinafter, 'IPC'*) on the ground that the Prosecution had failed to prove its case beyond reasonable doubt against any of the Respondents. The conclusion of the Id. Trial Court is set out below:

“56. In view of the above discussion, the prosecution has miserably failed to bring home the guilt of accused persons beyond all shadow of reasonable doubt. Therefore, the accused persons namely (1) GAGAN SINGH @ GAGAN, (2).RAKESH @ GUDIYA, (3) ROHTASH, (4) SHAKTI UPADHYAY, (5) ROHIT @ SONU @ KALIYA and (6) RAJESH @ PINTU, are entitled to benefit of doubt and acquittal and hence are acquitted of the charge u/s 302 IPC, 120-B, 34 IPC. Accused Malti Devi is acquitted of the charge u/s 201 IPC.”

Factual Matrix

3. The case of the Prosecution, in brief, is that one Kallu @ Arif, son of Taufiq was allegedly given beatings by the Accused persons. On 11th April, 2009, at about 10:53 P.M., information was received at the P.S. Khajuri Khas regarding certain boys who had forcibly entered into a house at Sonia Vihar, Delhi pursuant to which DD Entry No. 30-A was recorded and was assigned to S.I. K.P Singh for investigation. Upon reaching the spot, S.I. K.P. Singh found that the injured Kallu @ Arif had already been removed by PCR to GTB Hospital. Thereafter, he made inquiries and then proceeded to the hospital. Upon reaching the hospital, the doctor reported that the injured person was unfit for statement. While the said DD was pending, *vide* DD No. 52-B on 12th April, 2009, an information regarding death of injured Kallu was



received.

4. The MLC was prepared and post-mortem was conducted *vide* Ex.PW-14/A post-mortem Report No. 421/09 dated 12th April, 2009. The post-mortem revealed as many as 20 ante-mortem injuries and PW14 Dr. Atul Gupta, Sr. Resident Forensic Medicine, Safdarjung Hospital, proved post-mortem report of deceased Kallu which is Ex. PW14/A. He opined the cause of death as shock due to ante-mortem injury to head and due to hemorrhage produced by multiple injuries to the body all injuries being ante-mortem in nature and produced by blunt force impact. The relevant portion of the post-mortem report and Examination in Chief of Dr. Atul Gupta is reproduced hereinbelow for ease of reference:

(ब) निष्कर्ष
(H) Opinion

Time since death is about six hours.

Cause of death in this case is shock due to antemortem injury to head and due to hemorrhage produced by multiple injuries to the body. All injuries are antemortem in nature and produced by blunt force impact.

सब परीक्षण करने वाले चिकित्साधिकारी के
हस्ताक्षर व पद
Signature & Designation of
Medical Officer

पुलिस को ही गई वस्तुएं :
Items handed over to Police :

Dr. Atul Gupta
2009

Examination in Chief of Dr. Atul Gupta:

“Cause of death was shock due to antemortem injury to heads and due to haemorrhage produced by multiple injuries to the body. All injuries were antemortem in nature and produced by blunt force



impact. All the injuries were collectively sufficient in ordinary course of nature to cause death.”

5. Meanwhile, the deceased was identified by Sh. Aman Khan @ Khanu (PW-19) and Sarver Hussain @ Soni *vide* their statements Ex. PW19/A and Ex. PW25/E respectively on 12th April, 2009. *Vide* receipt Ex. PW 19/B, Aman Abdullah Khan alongwith Wasim Haider had taken custody of body of the deceased. Dr. Sumit, CMO PW6 has proved the MLC Ex.PW6/A in the handwriting of Dr. Pawan who had examined the injured under his supervision *vide* MLC No. A-1452/09 at 11:55 PM, and the patient was brought with alleged history of assault. The said MLC shows that the injured was admitted in GTB Hospital at about 11:55 PM, on 11th April, 2009 and was given medical treatment. However, during medication, he became unfit for statement at 2:15 A.M., and subsequently the injured died at the hospital. The relevant portion of the MLC reads as under:

“Pt unfit for statement”

6. On the next day i.e. 12th April, 2009, at about 9:05 AM, one Abbas Mirza S/o Sh. Ghazanafar Ali. R/o B-4/89, Yamuna Vihar, Delhi-53, came to the Police Station and got his statement recorded. Briefly stated, he deposed that the deceased Arif @ Kallu was called from his restaurant by Accused Gagan Singh on the pretext of visiting a house, and thereafter was taken towards Sonia Vihar where he was assaulted by the Accused persons. On the basis of this statement by Sh. Abbas Mirza, the present FIR under Section 302/34 IPC was registered. Eight persons were named as the Accused persons and thereafter, *vide* order on Charge dated 12th October, 2009 charges were framed by the Id. Trial Court for offences under Sections 302 /120B/201 of



the IPC against Accused Gagan Singh @ Gagan, Rakesh @ Guria, Rohtash, Shakti Upadhyay, Rohit @ Sonu and Rajesh @ Pintu. Out of the Accused persons, Respondent/Accused Malti, however, was charged for offence under Section 201 of the IPC.

7. As per the Prosecution case, on 11th April, 2009, PW-4 Danish is stated to have received an SMS from PW-1 Manju on his mobile phone. The relevant portion of the testimony of PW-4 regarding the said SMS reads as under:

“Bhaiya Rohtash ne Sham, ko Sharab Pillai or usko marte hue le gaya.”

8. Upon receipt of the said information, PW-4 Danish further informed the same to PW-3 Nazish telephonically. PW-3 then conveyed this information to PW-2 Abbas Mirza. The Prosecution’s case substantially relies upon the said chain of communication amongst the above stated witnesses.

9. Upon registering of FIR, on 12th April, 2009, Accused Gagan Singh and Rakesh @ Gudiya were arrested and their disclosure statements were recorded. On the same day, Accused Malti Devi was also arrested, her statement was recorded and she was produced before the Court and remanded to judicial custody. Subsequently, on 17th April, 2009, Accused Rohtash was interrogated and is stated to have made a disclosure to the effect that the iron rod used in the commission of the offence had been thrown in a vacant plot while fleeing from the spot. Pursuant thereto, the said iron rod was recovered at his instance and seized, and the pointing out memo as well as site plan were prepared.

10. On the same date, Accused Rohit@Sonu@ Kaliya was also interrogated, arrested and is stated to have made a disclosure, pursuant to which the *danda* allegedly used in the commission of the offence was



recovered at his instance.

11. Thereafter, on 21st April, 2009, Accused Shakti Upadhyay, while in custody, made a disclosure statement, was formally arrested, his mobile phone was seized and he was remanded to judicial custody.

12. Further investigation was carried out by the Investigating Officer/Inspector Pankaj Sharma, and on 28th April, 2009, Accused Rajesh @ Pintu joined the investigation, made a disclosure statement and was arrested, and the pointing out memo was prepared, after which he was also remanded to judicial custody.

13. During the course of trial, the Prosecution examined as many as thirty witnesses in support of its case.

14. As previously stated, the Prosecution has relied upon a chain of communication among certain witnesses. PW-1 Ms. Manju sent an SMS to PW-4 Danish (brother of deceased Kallu), however, during her examination in the court, she stated that she had not sent message No. 1 and 2 in Ex.PW1/A but admitted to sending message No. 3.

15. PW-2 Sh. Abbas Mirza who is the complainant, deposed that Accused Gagan had taken Kallu (deceased) from a restaurant and subsequently he received information from PW-3 Nazish regarding the incident. Upon receipt of this information, the complainant along with PW-3 Nazish reached Sonia Vihar and saw the accused persons beating Kallu with iron rod and *danda*.

16. PW-3 Nazish in his testimony had deposed that he received information through SMS from PW-1 Manju *via* PW-4 Danish.

17. PW-4 Danish, who is the brother of the deceased has deposed that he received the said SMS from PW-1 Manju informing that Kallu was being beaten and thereafter he informed PW-3 Nazish.



18. PW-5 Sh. Bilal Ahmed stated that he received a message from the deceased on 11th April, 2009, then he spoke to him over phone, and was informed that he was being called by Manju's father, however, he did not go to the spot as he was in Ghaziabad.

19. The Prosecution also examined formal and official witnesses, including, PW-6 Dr. Sumit who proved the MLC of injured Kallu. PW-7 ASI Sunita proved the registration of FIR. PW-10 SI Mukesh Jain inspected the spot and prepared site plan. PW-14 Dr. Atul Gupta proved the post-mortem report and opined that the injuries were ante-mortem in nature and sufficient to cause death in the ordinary course. Other police witnesses proved arrest memos, disclosure statements, seizure memos and recovery of weapons.

20. After recording the prosecution evidence, the Accused/Respondents were examined under Section 313, Cr.P.C, wherein incriminating evidence against Accused persons were put to them, wherein they denied the Prosecution evidence and claimed innocence. They stated that they were being falsely implicated. They did not opt to lead any evidence in their defence.

21. After considering the evidence on record, the Id. Trial Court held that the Prosecution has not established the guilt of the Accused persons beyond reasonable doubt. Benefit of doubt was given to the Accused and they were acquitted of the charge under Section 302 IPC, 120B/302 IPC. Accused Malti Devi was acquitted of the charge under Section 201 IPC.

Proceedings before this Court

22. The present appeal was filed by the victim's father, who has since expired, and the State has not challenged the impugned judgment. On 3th



February, 2026, Id. Counsel for the Appellant sought time to file an application for impleadment of the LRs of the deceased Appellant. Although it was submitted on 18th February, 2026 that such application had been filed, however, the same was not on record. Thereafter, on 9th March, 2026 and 18th March, 2026, the Id. Joint Registrar (Judicial) noted that the application was lying under objections and granted repeated opportunities, including a last and final opportunity, to remove the objections and have it placed on record.

23. On 1st April, 2009, it was recorded that despite the aforesaid opportunities, no steps had been taken to implead the LRs, and it appeared that they were not interested in pursuing the present appeal. It is also noted that PW-3 and PW-4, being the brothers of the victim, had been issued notice repeatedly, however, no one is appearing to pursue the appeal. Accordingly, the matter was directed to be placed before this Court on 24th April, 2026, with liberty granted to Id. Counsel for Respondent Nos. 2 to 8 to address arguments.

Submissions on Behalf of the Respondent/State

24. Mr. Bahri, Id. APP appearing for the State submits that the impugned judgment of acquittal is not tenable inasmuch as the two brothers of the deceased have supported the case of the Prosecution. Reliance is placed upon the testimony of PW-4 to contend that he had reached the spot and had assisted in shifting the injured, thereby establishing his presence at the relevant time. The relevant portion is reproduced as under:

“I cannot tell the number of the rooms in the house of Manju. It is wrong to suggest that I am not able to tell the street number, number of rooms and name of landlord of Manju as I have never visited her



house. It is further wrong to suggest that I did not visit her house on the day of incidence. I did not receive any telephonic call from Manju on the date of incident nor I made any call to her. It is correct that Danish did not tell me the address of the house and street number in front of which, the alleged incident had taken place. I cannot tell whether the restaurant of Kallu was vegetarian or non-vegetarian. Voluntarily, only snack and cold-drinks were served there. It was a couple restaurant, again said, family restaurant. I cannot tell the measurement of the restaurant of Kallu. The restaurant was the property of my partner. The name of the partner is Amit Bassatta. I did not give the partnership deed to the IO. Amit lives in street No. 3, Bhajanpura but I cannot tell the house number of Amit. The name of his father is probably Sh. Om Prakash. I nor my partner nor Arif @ Kallu had obtained the licence to run the restaurant from MCD and Delhi Police. The restaurant is running since last four years. Voluntarily, our stake has come to an end after the death of Kallu. I cannot tell address of the restaurant. Voluntarily, it is located in gali No. 2 near Vev Narain Dharamshala. It is wrong to suggest that there is no dharamshala in the name of Vev Narain Dharamshala. I had lifted Kalu at the sport in my lap and he remained in my lap for about 1 or 2 minutes.

Kalu was put in PCR van by me with the help of PCR van. Voluntarily, Kalu did not walk upto the PCR.”

25. Further reliance is also placed upon the FSL Report which rules out presence of any alcohol in the blood of the deceased. It is submitted that the findings in the FSL Report cast doubt on the reliability of the alleged dying declaration and the same could not have been relied upon in the manner done



by the Id. Trial Court.

26. The relevant portion of the FSL Report is reproduced hereinbelow for ease of reference:

Form No. FSL/DELHI/FM/03/23/24.12.2007

FORENSIC SCIENCE LABORATORY
GOVT. OF NCT OF DELHI
SECTOR 14, ROHINI, DELHI-110085.

REPORT No. FSL. 2009/C-2527 Dated 30.12.07

1. To quote the Report (Opinion) No. & Date in all future correspondence & Summons.
2. This Report is Per se admissible II/S,293 Cr.P.C.

To

The Station House Officer
Insp. Investigation
P.S. Khajuri Khas
Delhi

Your letter No. 3412/R-SHO/K.Khas Dated 25.06.09 regarding one parcel in connection with case FIR No. 84/09 Dated 12.04.09 U/S 302/34 IPC P.S Khajuri Khas duly received in this office on 26.06.09 through Ct. Naresh Pal, No. 576/NE.

DESCRIPTION OF PARCEL(S)

Sealed wooden box	: 01 (one)
Total	: 01 (one)

One sealed parcel, marked as '1'. Seals were intact and tallied with the specimen seals as per forwarding letter (FSL FORM).

DESCRIPTION OF ARTICLES CONTAINED IN THE PARCEL(S)/EXHIBIT(S)

Parcel-'1' : One wooden box sealed with the seal of "SR", labelled as PMR. No. 421/09 dated 12.04.09 viscera of Jegam Abbas @ Aarif @ Kallu. It was found to contain exhibits '1A', '1B', '1C' & '1D'.

Exhibit-'1A' : Stomach and piece of small intestine with contents, kept in a sealed jar.
Exhibit-'1B' : Pieces of liver, spleen and kidney, kept in a sealed jar.
Exhibit-'1C' : Blood sample volume approx. 10 ml., kept in a sealed vial.
Exhibit-'1D' : Preservative sample, saturated solution of common salt solid kept in a sealed vial.

RESULTS OF EXAMINATION

On Chemical and TLC examination, Metallic poisons, ethyl and methyl alcohol, cyanide, phosphide, alkaloids, barbiturates, tranquilizers and pesticides could not be detected in exhibits '1A', '1B', '1C' & '1D'.

NOTE: Case Exhibits / Remnants of Exhibits sent to this laboratory for examination have been sealed with the seal of "KG FSL DELHI".

(KAVITA GOYAL)
Senior Scientific Officer (Chemistry)
Forensic Science Laboratory
Cum-Ex Officio Chemical Examiner to the
Govt. of National Capital Territory of Delhi

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RESULTS OF EXAMINATION

“On Chemical and TLC examination, Metallic poisons, ethyl and methyl alcohol, cyanide, phosphide, alkaloids, barbiturates, tranquilizers



and pesticides could not be detected in exhibits '1A', '1B', '1C' & '1D'."

27. The alleged Dying Declaration which is stated to have been given by the deceased to PW-4 has been discussed by PW-4 in his testimony before the Id. Trial Court. The relevant portion of testimony of PW-4 in this regard reads as under:

"Kallu called me by giving signal to me and told me that I had gone to Soniya vihar where Rohtash made me drink alcohol and. when he feeling intoxicated Rohtash hit him with iron rod. Sonu@ Rohit hit him with Danda."

28. Reliance is also placed on the post-mortem report to submit that the deceased had sustained as many as 20 injuries, which are consistent with the Prosecution case. It is further submitted that the recovery of the iron rod and sticks at the instance of the Accused persons corroborates the Prosecution version.

Analysis and Findings

29. The Court has considered the matter.

30. None appears for the Appellant despite repeated opportunities having been afforded.

31. At the outset, it is necessary to advert to the settled legal position governing appeals against acquittal. It is well-established that while an Appellate court has the power to re-appreciate the entire evidence on record, it must bear in mind that an order of acquittal carries a presumption of innocence in favour of the Accused. The Appellate court ought not to interfere with an acquittal merely because another view is possible, interference is



warranted only where the findings of the Id. Trial Court are perverse, based on a misreading of evidence, or where the Id. Trial Court has ignored material evidence going to the root of the matter.

32. The Prosecution case, essentially rests upon, the alleged dying declaration attributed to the deceased, as recorded by PW-4, the oral testimony of PW-2, PW-3 and PW-4 regarding the alleged assault, the recovery of weapons at the instance of the Accused, the post-mortem report establishing the homicidal nature of the death.

33. The law with respect to appreciating the evidence in the nature of dying declaration has been the subject matter of various precedents and recently the Supreme Court in *Irfan @ Naka v. State of Uttar Pradesh, 2023 SCC OnLine SC 1060*, while discussing the importance and value of dying declaration has observed and held as under: -

“43. The juristic theory regarding the acceptability of a dying declaration is that such declaration is made in extremity, when the party is at the point of death and when every hope of this world is gone, when every motive to falsehood is silenced, and the man is induced by the most powerful consideration to speak only the truth. Notwithstanding the same, great caution must be exercised in considering the weight to be given to this species of evidence on account of the existence of many circumstances which may affect their truth. The situation in which a man is on the deathbed is so solemn and serene, is the reason in law to accept the veracity of his statement. It is for this reason, the requirements of oath and cross-examination are dispensed with. Since the accused has no power of cross-examination, the courts insist that the dying declaration should be of such a nature as to inspire full confidence of the court in its truthfulness and



correctness. The court, however, should always be on guard to see that the statement of the deceased was not as a result of either tutoring or prompting or a product of imagination. [See : Laxman v. State of Maharashtra, (2002) 6 SCC 710]

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48. The justification for the sanctity/presumption attached to a dying declaration, is two fold; (i) ethically and religiously it is presumed that a person while at the brink of death will not lie, whereas (ii) from a public policy perspective it is to tackle a situation where the only witness to the crime is not available.

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53. In India in the relevant provision of Section 32 of the Act, 1872, the first exception to the rule against admissibility of hearsay evidence, is as under:

“32(1). *When it relates to cause of death.— When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question. Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.*”

54. Jon R. Waltz, American Jurist observed that, “It has been thought, rightly or wrongly, that Dying Declarations have intrinsic assurances of trustworthiness, making cross examination unnecessary. The notion is that a person who is in the process of dying, and knows it, will be truthful immediately before departing to meet his Maker. (Of course, the validity of this hearsay exceptions is



open to some debate. What about the person who is not deeply religious? What of the person who, as his last act, seeks revenge by falsely naming a life-long enemy as his killer? How reliable is the perception and memory of a person who is dying?)” [See : Waltz, J.R. (1975) Criminal Evidence, Chicago : Nelson-Hall. pp.75-76]

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60. Since time immemorial, despite a general consensus of presuming that the dying declaration is true, they have not been stricto-sensu accepted, rather the general course of action has been that judge decides whether the essentials of a dying declaration are met and if it can be admissible, once done, it is upon the duty of the court to see the extent to which the dying declaration is entitled to credit.

61. In India too, a similar pattern is followed, where the Courts are first required to satisfy themselves that the dying declaration in question is reliable and truthful before placing any reliance upon it. Thus, dying declaration while carrying a presumption of being true must be wholly reliable and inspire confidence. Where there is any suspicion over the veracity of the same or the evidence on record shows that the dying declaration is not true it will only be considered as a piece of evidence but cannot be the basis for conviction alone.

62. There is no hard and fast rule for determining when a dying declaration should be accepted; the duty of the Court is to decide this question in the facts and surrounding circumstances of the case and be fully convinced of the truthfulness of the same. Certain factors below reproduced can be considered to determine the same, however, they will only affect the weight of the dying declaration and not its admissibility:—



(i) Whether the person making the statement was in expectation of death?

(ii) Whether the dying declaration was made at the earliest opportunity?

“Rule of First Opportunity”

(iii) Whether there is any reasonable suspicion to believe the dying declaration was put in the mouth of the dying person?

(iv) Whether the dying declaration was a product of prompting, tutoring or leading at the instance of police or any interested party?

(v) Whether the statement was not recorded properly?

(vi) Whether, the dying declarant had opportunity to clearly observe the incident?

(vii) Whether, the dying declaration has been consistent throughout?

(viii) Whether, the dying declaration in itself is a manifestation/fiction of the dying person's imagination of what he thinks transpired?

(ix) Whether, the dying declaration was itself voluntary?

(x) In case of multiple dying declarations, whether, the first one inspires truth and consistent with the other dying declaration?

(xi) Whether, as per the injuries, it would have been impossible for the deceased to make a dying declaration?

63. It is the duty of the prosecution to establish the charge against the accused beyond the reasonable doubt. The benefit of doubt must always go in favour of the accused. It is true that dying declaration is a substantive piece of evidence to be relied on provided it is proved that the same was voluntary and truthful and the victim was in a fit state of mind. It is just not enough for the court to say that the dying declaration is reliable as the accused is named in the dying declaration as the



assailant.

(emphasis supplied)

34. In the present case, the alleged dying declaration which is said to have been made by the deceased to PW-4 Danish at the gate of GTB Hospital does not inspire confidence. First, the alleged dying declaration does not bear any signature or thumb impression of the deceased. Second, there is nothing on record to establish that the deceased was in a fit physical or mental condition to make a coherent statement at that juncture, on the contrary, the MLC records that the injured was declared unfit for statement at 02:15 AM. Third, the MLC, being the earliest document prepared at the hospital, contains no reference to any allegation against the Accused persons. Fourth, PW-4 has not satisfactorily explained why this crucial disclosure was not brought to the notice of the Investigating Officer at the earliest opportunity. In these circumstances, the alleged dying declaration cannot be said to inspire confidence, and the Id. Trial Court rightly did not place reliance upon it.

35. The submission made by the Id. APP that the FSL Report itself casts doubt on the dying declaration, inasmuch as the FSL Report does not support the claim in the declaration that the deceased was in an intoxicated condition. The alleged dying declaration is stated to have recorded that the deceased was in an intoxicated condition. The FSL Report, however, does not corroborate the presence of any intoxicant. This does not support the Prosecution story. On the contrary, it is a material discrepancy between the oral account claimed by PW-4 and the scientific evidence, which further casts a doubt surrounding the reliability of the alleged declaration.

36. The oral testimony of PW-2, PW-3 and PW-4 is built on an SMS chain that begins with PW-1 Manju. PW-2 states that he received information from



PW-3 Nazish, PW-3 states that he received information from PW-4 Danish via PW-1's SMS, PW-4 states that he received the SMS from PW-1 Manju. This chain, however, collapses at its very foundation. PW-1 Manju, the stated originator of the information, has admitted only to the third SMS message, which reads: '*Gagan ke papa or mere papa bhi thane me gaye hain, jab sab theek ho jaye to message karke bata dena, please.*' This message makes no reference to any assault, any Accused, or any place of occurrence. PW-1 has disowned the first two messages entirely. She has not deposed that she witnessed the occurrence or that she had any knowledge of the alleged assault. It is thus inexplicable how PW-2, PW-3 and PW-4 claim to have derived knowledge of the assault and of the identity of the Accused from messages whose originator herself had no such knowledge. The inconsistencies of these witnesses are no less troubling. PW-2 stated that he called two boys from a marriage function, but did not name them, PW-3, however, named them as Bilal and Chhotu. No explanation has been offered for this discrepancy. PW-4, who claims to have been present at the spot, was unable in cross-examination to disclose basic details, *i.e.*, the address of the restaurant, the name of the street, the number of rooms in Manju's house, or the street in front of which the alleged incident took place. These omissions, when seen together, are unreliable with his claim of having been a witness to the events.

37. There is no dispute that Kallu @ Arif met with a homicidal death. He sustained 20 ante-mortem injuries caused by blunt force impact, all sufficient to cause death in the ordinary course of nature. The death of Kallu @ Arif is a tragic one. His father, the Appellant, fought to seek justice for his son, and did so until his own death. That his legal representatives have not stepped forward to continue this Appeal is a matter of regret. This Court must decide



the matter on the basis of the evidence as it stands which unfortunately does not support the case of the prosecution.

38. After careful consideration, this Court is of the view that the Prosecution has failed to prove its case beyond reasonable doubt. Viewing the evidence as a whole, none of the prosecution witnesses had direct and reliable knowledge of the occurrence. The case rests substantially on hearsay, a discredited SMS chain, and an undocumented oral dying declaration that is contradicted by the MLC and the FSL Report. The evidence does not form a complete and unbroken chain pointing exclusively to the guilt of the Accused persons. The Id. Trial Court has rightly given benefit of doubt to the Respondents. The view taken is reasonable and there is no perversity warranting interference.

Conclusion

39. In view of the above discussion, the impugned judgment of acquittal is hereby upheld and the Appeal is dismissed.

40. The Bail Bonds and Surety Bonds of Respondents are cancelled.

41. Pending applications, if any, are also disposed of.

**MADHU JAIN
JUDGE**

**PRATHIBA M. SINGH
JUDGE**

APRIL 24, 2026/ys/Av