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

% ***Reserved on: 6th May, 2025***
Pronounced on: 16th March, 2026

\+ **CRL.REV.P.170/2005**

SMT. JAGWANTI
Wife of Shri Baljeet Singh,
R/o RZ-B, 14/1, Dabri Extension,
New Delhi-110045 .....Petitioner

Through: Mr. N.S. Dalal, Ms. Nidhi Dalal, Mr. Alok Kumar, Ms. Rachana Dalal and Mr. Karan Mann, Advocates.

versus

1. **MANJEET SINGH**
S/O SHRI RAI SINGH,
R/O VILL. DAULATABAD,
DISTT. GURGAON, HARYANA

2. **SMT. BHATERI,**
W/O SHRI ISHWAR SINGH,
R/O A-12, SEVAK PARK, DELHI.

3. **BHUPENDER SINGH,**
S/O SHRI ISHWAR SINGH,
R/O A-12, SEWAK PARK,
NEW DELHI-110059

4. **SATISH**
SON OF ATTAR SINGH,
R/O VILLAGE BHARTHAL, DELHI

5. **KAPOOR SINGH,**
SON OF SHRI SAMUNDER SINGH,
R/O VILL & P.O. K.P.S.
BHOPHIYA BAHADURGARH, JHAJJAR

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

6. **DEVENDER SINGH**,
S/O BALJEET SINGH,
R/O VILL. & P.O. K.P.S.
BHOPHIYA, BAHADUR6ARH, JHAJJAR
HARYANA

7. **BHUPENDER SINGH**,
S/O ISHWAR SINGH,
R/O A-12, SEWAK PARK,
NEW DELHI—110059

8. **ISHWAR SINGH**,
S/O LATE SH. DESH RAJ,
R/O VILL. & P.O. K.P.S.
BHOPHIYA, BAHADURGARH, JHAJJAR
HARYANA

9. **STATE** ....Respondents

Through: Mr. Utkarsh, APP for the State.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Criminal Revision Petition under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 *(hereinafter referred to as the "Cr.P.C.")* has been filed by the Complainant, Jagwanti, to challenge the common Judgment dated 13.01.2005 of the learned ASJ whereby the respondents have been acquitted in the Sessions Case bearing No. 46/2002 arising out of FIR No. 607/1996 under Sections 341/325/323/34 of the

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

Indian Penal Code, 1860 *(hereinafter referred to as "IPC")* registered at P.S. Dabri and in Sessions Case No. 5/2002 titled as arising out of FIR No. 258/1998 under Sections 147/148/452/354/427/325/323/341/395 IPC registered at P.S. Dabri.

2. The ***case of the Petitioner*** is that on 29.09.1996, she, her mother-in-law Smt. Chand Kaur, her devrani Smt. Birmati and her jethani Smt. Phoolwati were assaulted at her house in Dabri Extension, East, Delhi, by the Respondents and other persons acting in concert with them. All four women sustained injuries, and some of them were taken to DDU Hospital for treatment.

3. On 29.09.1996, on receiving information vide DD No. 22B, HC Satpal along with Ct. Rajinder reached the spot near RZ-B/153, Dabri Extension, where, on enquiry, he came to know that there had been a *maar-peet* of four women, and that they had been taken in the PCR to DDU Hospital. Bricks were found lying in the lane as well as on the roof of the house of Mehar Singh, and a photographer was called to the scene. HC Satpal thereafter reached the hospital, where Smt. Birmati, Smt. Chand Kaur and Smt. Phoolwati were found admitted. The statement of Smt. Phoolwati was recorded.

4. According to Smt. Phoolwati's statement, on 29.09.1996, she along with her devrani Smt. Birmati, and Smt. Chand Kaur, the *dadi* of her family, had gone to the house of Smt. Jagwanti for her medical treatment. While she was resting on a *charpai*, Smt. Jagwanti and Smt. Birmati were sitting on the roof of the house. At about 10:00 a.m., Bhupender Singh, brother of Smt. Jagwanti, his mother Smt. Bhateri Devi, and Manjeet Singh, his brother-in-law (*sala*) arrived at the house and an altercation took place, in the course of

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

which they began pelting bricks. When Smt. Phoolwati attempted to come out of the room, she was obstructed and thrown down. Bhupender and his mother, gave her beatings with a *danda*, while Manjeet kicked her, and all three abused her and caused her injuries.

5. Smt. Jagwanti, who was on the roof, began pelting bricks at the assailants, from above. The three accused, while dodging the bricks, climbed onto the roof, gave beatings to Smt. Jagwanti and Smt. Birmati, and dragged them down to the ground floor. Smt. Chand Kaur was then pulled out of the house and beaten as well.

6. On the aforesaid statement, first ***FIR No. 607/1996*** was registered under Sections 341/325/323/34 IPC, against Bhupender Singh, Smt. Bhateri Devi, Manjeet Singh and Satish.

7. The Petitioner aggrieved by the manner in which the said FIR had been recorded and the lesser Sections under which it had been registered. She made repeated representations to the higher police authorities; however, no action was taken; she was therefore constrained to file Criminal Writ Petition No. 677/1996 before this Court, pointing out the laxity of the local police and seeking, amongst other reliefs, registration of an FIR in respect of the offences actually committed. During the pendency of the Writ Petition, Vigilance Enquiry was conducted against certain police officials, and a statement was made by the learned State Counsel before this Court that an FIR under appropriate Sections, had been registered on the Petitioner's complaint, and that the investigation had been transferred to the Crime Branch.

8. Since the Petitioner's original complaint was not traceable, a fresh statement of Smt. Jagwanti, wife of Sh. Baljeet Singh, was recorded on

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

22.05.1998, on which a ***second FIR, being FIR No. 258/1998*** dated 22.05.1998, was registered under Sections 147/148/452/354/427/325/323/341/395 IPC, against Respondent Nos. 5 to 8.

9. In her fresh statement, Smt. Jagwanti stated that on 29.09.1996, at about 10:00 a.m., her brother Bhupender Singh and her father Ishwar Singh came to her house, with two tempos full of "*gundas*," accompanied by Kapoor Singh, the son of her real *chacha*, Samunder Singh. Truck No. DEG-1047, filled with bricks, one Maruti van bearing No. DLC-3C-6602, and one Tata Sumo and 4-5 motorcycles, carrying about 150 persons, also arrived at the spot.

10. The Petitioner, Smt. Jagwanti further stated that she was working in the house when Bhupender being armed with a knife and Ishwar Singh with an iron rod, began assaulting her. Her devrani Smt. Birmati and her jethani Smt. Phoolwati, who were resting in another room, were also assaulted and were thrown from the roof, sustaining serious injuries. In the course of the assault, they entered the room in which Smt. Birmati was present and tore her clothes in an attempt to outrage her modesty. Kapoor Singh exhorted Bhupender to assault all the women present. Ishwar Singh, while striking the Petitioner with the iron rod, exhorted others to do the same. The Petitioner was herself disrobed in the presence of about 200 persons, on which she fainted. Her mother-in-law Smt. Chand Kaur, then aged about 80 years and sitting under a tree in the adjoining lane, was severely beaten by Kapoor Singh and Devender Singh. The assailants also attempted to dispossess the family from the house and to demolish the *jhuggis* on the plot.

11. It is further the Petitioner's case that the assailants, while leaving, they also took away two cots, two chairs, one table, one table fan, two suitcases

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

containing clothes belonging to the Petitioner and her children, a sum of Rs. 17,500/- in cash, the gold *kundal* of the Petitioner, the ear-rings of Smt. Phoolwati and Smt. Birmati, the gold *bujni* of Smt. Chand Kaur, and the door-frames and doors of two rooms of her house.

12. The investigation in FIR No. 607/1996 was initially conducted by HC Satpal of P.S. Dabri; and pursuant to the transfer of investigation to the Crime Branch, the investigation in FIR No. 258/1998 was conducted by PW-20 Insp. Ved Prakash. In the course of the investigations, the statements of the witnesses were recorded and the MLCs were collected.

13. After completion of investigation, charge-sheet in FIR No. 607/1996 was filed under Sections 341/325/323/34 IPC against **Bhupender Singh, Smt. Bhateri Devi, Manjeet Singh and Satish.**

14. In Sessions Case No. 46/2002 arising out of FIR No. 607/1996, charges under Sections 325/34 and 323/34 IPC were framed against **Manjeet Singh, Smt. Bhateri Devi, Bhupender Singh and Satish** vide Order dated **08.04.1997 by the learned ASJ.**

15. Similarly, the charge-sheet in FIR No. 258/1998 was filed under Sections 147/148/452/354/427/325/323/341/395 IPC against **the Complainant's own father Ishwar Singh, her brother Bhupender Singh, her cousin Kapoor Singh and Devender Singh.**

16. In Sessions Case No. 5/2002 arising out of FIR No. 258/1998, charges under Sections 452/149, 307/149 and 395/149 IPC were framed against **Kapoor Singh, Devender Singh, Bhupender Singh and Ishwar Singh** *vide* Order dated 20.02.2002, to which all of them pleaded not guilty and claimed trial.

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

17. In **Sessions Case No. 46/2002** (arising out of first FIR No. 607/1996), **14 Prosecution Witnesses were examined**. PW-1 Smt. Chand Kaur, PW-2 Smt. Jagwanti, PW-5 Smt. Birmati **and PW-7 Smt. Phoolwati** were the **four** injured eye-witnesses who deposed about the incident.

18. PW-3 Dr. Amitabh Bhasin proved the X-ray report of Smt. Chand Kaur; PW-4 Dr. P.S. Sarangi proved her MLC, and the injury was certified to be simple.

19. PW-11 Dr. Mukesh Aggarwal had examined Smt. Chand Kaur and Smt. Phoolwati on 29.09.1996.

20. PW-8 Dr. Avdesh proved the MLC of Smt. Jagwanti, and the injury on the scalp was stated to be simple in nature, caused by a blunt object.

21. PW-6 Ct. Phool Kumar and PW-12 Ct. Rajender were the police officials, who had taken part in the investigation.

22. The statements of the four accused, namely, Manjeet Singh, Smt. Bhateri Devi, Bhupender Singh and Satish, were recorded under *Section 313 Cr.P.C., wherein they pleaded their innocence.*

23. In defence, they examined ***DW-1 Insp. R.S. Chauhan***, who deposed that on receiving the call from the PCR about a quarrel having taken place amongst some ladies who had sustained injuries, *HC Satpal proceeded for investigation; that the subsequent FIR No. 258/1998 had not superseded the earlier FIR No. 607/1996; and that independent investigations were carried out in both FIRs.*

24. **DW-2 Prem Singh** deposed that he was present at the spot at the time of the incident when bricks arrived in a truck and stopped at the plot of Satish; that some ladies present on the roof started pelting stones at the truck; that the driver ran away and the police arrived. The ladies, on seeing

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

the police, tried to climb down through a wooden ladder, slipped and fell, and were taken away by the police.

25. In second ***Sessions Case No. 5/2002 (arising out of second FIR No. 258/1998)***, **22 Prosecution Witnesses were examined.**

26. PW-4 Smt. Jagwanti, the author of FIR No. 258/1998, PW-7 Smt. Chand Kaur, PW-12 Smt. Birmati and PW-17 Smt. Phoolwati, the four injured ladies, deposed about the incident of 29.09.1996.

27. PW-1 Hari Singh, PW-2 Smt. Ramawati and PW-5 Ram Kumar, neighbours of Smt. Jagwanti, and PW-3 Smt. Reshma, a tenant of Smt. Jagwanti, broadly supported the testimony of the injured witnesses.

28. PW-14 Anil Kumar, the driver of the truck who had reached the plot on the day of the occurrence, deposed about the events at the spot as seen from his perspective.

29. The three eye-witnesses, PW-6 Rampal, PW-9 Sahib Singh and PW-11 Kaptan Singh did not support the case of the prosecution.

30. The remaining witnesses were police and medical witnesses who proved the investigation and the medical examination of the injured at different stages.

31. The statements of the four accused***, namely Kapoor Singh, Devender Singh, Bhupender Singh and Ishwar Singh, were recorded under Section 313 Cr.P.C., wherein they denied the entire prosecution evidence***.

32. The learned ASJ, in ***the common Judgment dated 13.01.2005***, considered the prosecution evidence in both Sessions Cases, together. It was observed that the four injured witnesses had deposed differently at different stages, and that their version in Court was at variance with their previous statements made before the police, as well as with their respective

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

Complaints filed before this Court. The contradictions noted by the learned ASJ pertained, amongst other things, to the number and description of the vehicles in which the assailants were said to have arrived, the location of the four women at the time of the attack, and the manner of the assault.

33. The learned ASJ further observed that the independent witnesses examined in Sessions Case No. 5/2002 had either not identified the accused persons or had not supported the case of the prosecution. Rather, PW-14 Anil Kumar, truck driver, had in fact, deposed in support of the defence version that the women had pelted stones on his truck.

34. ***The learned ASJ, on appreciation of evidence, held that the prosecution had not been able to prove its case beyond reasonable doubt, and acquitted all the accused persons, in both the cases.***

35. Since the incident gave rise to two separate FIRs, the two Sessions Cases were tried together and ***decided by the common Judgment dated 13.01.2005. Aggrieved by the said acquittal, it has been assailed by way of the present common Revision Petition by the Petitioner/Complainant, Jagwanti.***

36. The ***grounds of challenge of the impugned Judgment***, principally are that the learned ASJ failed to appreciate the indisputable fact that four women, including a lady aged about 80 years, sustained injuries, which was duly proved by unchallenged medical evidence, for which no explanation whatsoever has been offered by the Respondents. PW-8 Dr. Avdesh Kumar, in cross-examination, did not rule out the possibility of the injuries resulting in death, thereby making out an offence under Section 307 IPC. Moreover, the offence of dacoity stood established on the testimony of the injured witnesses, regarding their articles removed from the house.

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

37. It has further been stated that the connivance of the local police with the Respondents, is established on the record. The original FIR was recorded only for lesser offences, and the Petitioner had to invoke the writ jurisdiction of this Court in Criminal Writ Petition No. 677/1996, a Vigilance Enquiry was conducted wherein the the allegations of the Petitioner were found to be substantiated. Insp. R.S. Chauhan, the then SHO against whom such findings were recorded, appeared as a defence witness for the Respondents, an aspect that has been wholly overlooked in the impugned Judgment.

38. It has lastly been contended that the impugned Judgment proceeds on general observations without a meaningful discussion of the evidence; that the adverse inference have been drawn against the Petitioner, merely on the ground that the allegations were levelled against her own father and brother, which is unwarranted, inasmuch as the rarity of such complaints, is a measure of their credibility rather than otherwise. Moreover, the contradictions relied upon by the learned ASJ are minor and do not go to the root of the matter.

39. ***The Petitioner has also filed her Written Synopsis, wherein similar submissions have been made.***

40. ***Per contra, learned counsel for the Respondents*** has submitted that the present Revision Petition is an abuse of the process of Court; that registration of two separate FIRs for the same incident on the basis of two different complaints by the Petitioner, is impermissible in law; and that the entire case of the prosecution rests on the evidence of four closely related ladies, namely Smt. Jagwanti, Smt. Phoolwati, Smt. Chand Kaur and Smt. Birmati, who are interested witnesses and whose testimony is replete with inconsistencies.

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

41. It has further been stated that none of the independent witnesses identified the Respondents, and that the majority of them in fact, supported the defence version that the women on the adjacent plot, opened the attack first by pelting stones on the Respondents, who were carrying out brick-work on the plot owned by Sh. Satish (Accused No. 4 in Sessions Case No. 46/2002). The learned Sessions Judge has very cautiously and diligently dealt with the evidence of each witness. The scope of revisional jurisdiction against an acquittal is limited; and that no ground for interference is made out, and the Revision Petition is liable to be dismissed.

42. During the pendency of the proceedings, ***Respondent No. 2, Smt. Bhateri, and Respondent No. 8, Sh. Ishwar Singh, expired***, as is stated in the Status Report dated 17.08.2022 filed by the ACP, NR-II, Crime Branch

Submissions heard and record perused.

43. In light of the rival contentions and the material on record, the following aspects arise for the consideration of this Court:

I. Maintainability of the present Revision Petition and the Scope of Revisional Jurisdiction against an Order of Acquittal:

44. The preliminary objection raised on behalf of the Respondents is that the scope of revisional jurisdiction against an order of acquittal, is extremely limited and that no case for interference is made out on the grounds urged by the Petitioner. It is, therefore, apposite to first examine the contours of the revisional jurisdiction of this Court against an order of acquittal, before turning to the merits of the impugned Judgment.

45. The revisional jurisdiction of this Court is conferred by Section 397 read with Section 401 Cr.P.C. Sub-section (3) of Section 401 expressly provides that *nothing in the said section shall be deemed to authorise the*

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

High Court to convert a finding of acquittal into one of conviction. The position of law regarding the scope of revisional interference at the instance of a private party against an order of acquittal is well settled by a consistent line of decisions of the Apex Court, beginning with *D. Stephens v. Nosibolla*, AIR 1951 SC 196, and *Logendranath Jha v. Polailal Biswas*, AIR 1951 SC 316, and was authoritatively laid down in *K. Chinnaswamy Reddy v. State of Andhra Pradesh*, AIR 1962 SC 1788.

46. In K. Chinnaswamy Reddy *(supra)*, the Apex Court held that the revisional jurisdiction of the High Court at the instance of a private party against an order of acquittal, is to be exercised only in exceptional cases, where there is some glaring defect in the procedure or a manifest error on a point of law resulting in a flagrant miscarriage of justice. The relevant observations are extracted, as under:

> *"It is true that it is open to a High Court in revision to set aside an order of acquittal even at the instance of private parties, though the State may not have thought fit to appeal; but this jurisdiction should in our opinion be exercised by the High Court only in exceptional cases, when there is some glaring defect in the procedure or there is a manifest error on a point of law and consequently there has been a flagrant miscarriage of justice. Sub-section (4) of S.439 forbids a High Court from converting a finding of acquittal into one of conviction and that makes it all the more incumbent on the High Court to see that it does not convert the finding of acquittal into one of conviction by the indirect*

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

method of ordering retrial, when it cannot itself directly convert a finding of acquittal into a finding of conviction…"

47. While holding that an exhaustive list of circumstances in which revisional interference may be warranted cannot be drawn, the Apex Court further observed that certain categories of cases in which interference would be justified could nonetheless be identified, namely, (i) where the Trial Court has wrongly shut out evidence which the prosecution wished to produce; (ii) where the appellate Court has wrongly held evidence admitted by the Trial Court to be inadmissible; (iii) where material evidence has been overlooked either by the Trial Court or by the appellate Court; and (iv) where the acquittal is based on a compounding of the offence which is not legally permissible. It was clarified that the said categories were illustrative and not exhaustive, and that *revisional interference could not be founded on a mere re-appreciation of the evidence on the ground that another view was possible.*

48. The legal position has been reaffirmed by the three-Judge Bench of the Apex Court in *Joseph Stephen v. Santhanasamy*, (2022) 13 SCC 115, wherein it has been authoritatively settled that Sub-section (3) of Section 401 Cr.P.C. prohibits the High Court from converting a finding of acquittal into one of conviction. It has been held that where *an order of acquittal* has been passed by the Trial Court and the High Court, on examining the matter in Revision, *finds that there is a manifest error of law or procedure, it may set aside the order of acquittal and remit the matter to the Trial Court for retrial or fresh consideration,* ***but it cannot itself convert the acquittal into a conviction.***

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

49. From a conspectus of the aforesaid decisions, the legal position that emerges is that the revisional jurisdiction of this Court against an Order of acquittal is to be exercised only in exceptional cases, where the impugned order suffers from a glaring defect in procedure, a manifest error of law, or where material evidence has been overlooked, resulting in a flagrant miscarriage of justice. The revisional jurisdiction is not to be invoked merely because the Trial Court has taken a view which is not in consonance with the view that the revisional Court may be inclined to take; nor is it open to the revisional Court, under the guise of examining the legality of the order, to re-appreciate the evidence and substitute its own conclusions for those of the Trial Court.

50. The scope of the revisional jurisdiction having been noticed above, a further objection touching upon the very maintainability of the present Revision, at the instance of the Petitioner also requires to be addressed. The Respondents are not incorrect in contending that ordinarily the appropriate remedy for a party aggrieved by an order of acquittal lies elsewhere. It may be noted that after the amendment to Section 372 Cr.P.C. in the year 2009, a victim has been conferred a statutory right of appeal, against an Order of acquittal. The present Revision Petition, however, came to be filed in the year 2005, at a point in time when the said statutory right of Appeal was not available to the Petitioner, and when a Revision Petition under Section 397 read with Section 401 Cr.P.C. was the only remedy available to a private complainant aggrieved by an order of acquittal, the State not having preferred any Appeal.

51. The Petitioner cannot, therefore, be faulted for having availed the only remedy that was available to her, in law at the relevant time. Moreover,

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

the present matter arises out of an occurrence of the year 1996 and has remained pending on the file of this Court since the year 2005. The challenge to the impugned Judgment on its merits, may now be considered in the limited scope of the revisional jurisdiction, as delineated hereinabove.

II. Whether the impugned Judgment dated 13.01.2005 suffers from non-consideration of material evidence or from any manifest error of law, warranting interference in the exercise of revisional jurisdiction:

52. For the sake of clarity, the discussion is undertaken under Six broad heads, namely, *(i) the peculiarity of the registration of two FIRs in respect of the same occurrence and the procedural history of the matter; (ii) the medical evidence; (iii) the testimony of the four injured witnesses; (iv) the testimony of the independent witnesses; and (v) the offence under Sections 307. (vi) the offence under Sections 395 and 452 IPC.*

(i) The two FIRs and the procedural history of the matter:

53. The peculiarity of the matter, which is required to be addressed at the threshold, is that the occurrence in question has given rise to the registration of *two separate FIRs, namely,* ***FIR No. 607/1996*** *Ex. PW10 registered on 29.09.1996 under Sections 341/325/323/34 IPC, and* ***FIR No. 258/1998****, Ex. PW16/A in SC No. 5/2002, registered on 22.05.1998 under Sections 147/148/452/354/427/325/323/341/395 IPC,* both at P.S. Dabri.

54. It would be necessary to refer to the chequered history of the said two FIRs and the manner in which they were registered, in order to properly appreciate the challenge to the impugned Judgment.

55. On the date of the occurrence, i.e. on 29.09.1996, upon receipt of DD No. 22B ***Ex. PW9/B***, HC Satpal along with Ct. Rajender reached the spot

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

near RZ-B/153, Dabri Extension, and thereafter proceeded to DDU Hospital, where Smt. Chand Kaur, Smt. Birmati and Smt. Phoolwati ***were found admitted***. The statement of ***Smt. Phoolwati*** **Ex. PW7/A** was recorded, wherein she named **Bhupender Singh, Smt. Bhateri Devi, Manjeet Singh** as the assaulters. She stated that Bhupender Singh and Smt. Bhateri Devi had given her beatings with a danda, while Manjeet Singh had kicked her, and that beatings had also been given to *Smt. Jagwanti, Smt. Birmati and Smt. Chand Kaur***.** On the basis of her statement, the FIR No. 607/1996 was registered under Sections **341/325/323/34 IPC**, on the same date.

56. The Petitioner, Smt. Jagwanti, aggrieved by the manner in which the FIR had been recorded based on the statement of Smt. Phoolwati alone, and the omission of the graver offences in the FIR, which the Petitioner claimed had, in fact, been committed in the said incident as well as the omission of the names of certain individuals who had participated in the occurrence, but were not named in the FIR, made repeated representations to the higher police authorities. As no action was taken on the said representations, she filed ***Criminal Writ Petition No. 677/1996***.

57. In the said Writ Petition, the Petitioner contended that the local police, and in particular the then SHO of P.S. Dabri, Insp. R.S. Chauhan, and the Investigating Officer, HC Satpal, had been *hand-in-glove* with the accused persons and had deliberately registered the FIR only under the lesser sections, omitting the graver offences and names of additional accused. She *prayed, amongst other reliefs, for registration of an FIR in respect of the offences actually committed, and for a fair investigation to be conducted through an independent agency and not through the local police.*

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

58. During the pendency of the said Writ Petition, a ***Vigilance Enquiry was ordered*** into the conduct of the police officials concerned. The ***Vigilance Enquiry Report dated 25.04.1997*** was submitted, which *prima facie* substantiated the allegation of the Petitioner that the local police had been *hand-in-glove* with the accused, and recorded findings against Insp. R.S. Chauhan and HC Satpal.

59. On the strength of the said findings, *a statement was made before this Court by the learned State Counsel that an FIR under the appropriate provisions was being registered on the complaint of the Petitioner, and that the investigation was being transferred out from the local police to the Crime Branch.*

60. Since the statement made by the Petitioner in the first FIR in the year 1996, ***could not be traced***, a fresh statement of the Petitioner ***Ex. PW4/A in SC No. 5/2002*** was recorded on 22.05.1998, on which **second *FIR No. 258/1998*** *under Sections 147/148/452/354/427/325/323/341/395 IPC against* ***Kapoor Singh, Devender Singh, Bhupender Singh and Ishwar Singh,*** *was registered at P.S. Dabri. The investigations were thereafter carried out by the Crime Branch* and two separate Charge-Sheets were filed.

61. In *Sessions Case No. 46/2002* (arising out of first FIR No. 607/1996), charges under Sections 325/34 and 323/34 IPC against ***Manjeet Singh, Smt. Bhateri Devi, Bhupender Singh and Satish,*** were framed *vide* Order dated 08.04.1997.

62. In ***Sessions Case No. 5/2002*** (arising out of FIR No. 258/1998), **charges under Sections 452/149, 307/149 and 395/149 IPC** were framed

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

against ***Kapoor Singh, Devender Singh, Bhupender Singh and Ishwar Singh***, by the learned ASJ.

63. Since the two FIRs arose from the same occurrence dated 29.09.1996, *the two Sessions Cases were tried together and decided by the common Judgment dated 13.01.2005*, which is under challenge in the present Revision Petition. It is with this procedural background, that the merits of the impugned Judgment would be examined.

(ii) <u>The medical evidence in regard to the Injured persons</u>:

64. It emerged from the evidence of **PW-2/PW-4 Smt. Jagwanti, PW-1/PW-7 Smt. Chand Kaur, PW-7/PW-17 Smt. Phoolwati and PW-5/PW-12 Smt. Birmati**, the four victims, that they were assaulted by the accused persons in the incident, on 29.09.1996.

65. The MLC Ex. PW8/A and also Ex. PW19/A of Smt. Jagwanti, was proved by PW-8 Dr. Avdesh **in first case, who was also examined as PW-19 in second case**. He deposed that she had sustained a *cut mark on the scalp with a haematoma and an injury on the knee*. The nature of *injuries* was opined as **simple caused by a blunt object**.

66. The *MLC* Ex. PW4/A and Ex. PW10/A *of* ***Smt. Chand Kaur***, then aged about 80 years, was proved by ***PW-4 Dr. P.S. Sarangi*** in first Case and as PW-10 in Second Case, *who certified the injury to be simple*. Her X-ray report Ex. PW3/A, was proved by ***PW-3 Dr. Amitabh Bhasin***.

67. The MLC Ex. PW11/A of **Smt. Phoolwati**, reflected that she was suspected to have suffered a *fracture of the lateral malleolus of the left ankle joint*, was proved by ***PW-11 Dr. Mukesh Aggarwal***. She was referred to X-Ray Department. The X-ray was proved as Ex. PW3/B and Ex. PW15/B in the two cases, by *Dr. Amitabh Bhasin.* As per the X-ray report, she had no

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

fracture in her right forearm/wrist, **but had a fracture of ankle**. In the MLC, her injuries were certified ***as grievous.***

68. ***Smt. Birmati,*** as per her MLC dated 29.09.1996, Ex. PW11/B had sustained contusions on the elbow and the knee joint and was proved by ***PW-11 Dr. Mukesh Aggarwal***. The injuries were certified as **simple.**

69. What emerges from the medical evidence, is that the three ladies, namely Jagwanti, Birmati and Chand Kaur sustained *simple injuries*, whereas Smt. Phoolwati, *suffered fracture, in the incident which took place on* 29.09.1996.

(iii) <u>The testimony of the four injured witnesses</u>:

(a) Inherent inconsistency in the individual testimony of the four witnesses:

70. The medical record reflected the injuries to the aforesaid four ladies, but what is relevant is to ascertain the persons who inflicted the injuries, and also the manner of sustaining those injuries.

71. It would thus, be pertinent to refer to the testimony of the four injured as well as the eye-witnesses.

72. Smt. Jagwanti, the Petitioner and the complainant in FIR No. 258/1998, was examined as PW-4 in second Case No. 5/2002 and her statement was proved as Ex. PW-4/A. She was also examined as PW-2 in first Case No. 46/2002; and her statement was proved as Ex. PW-2/DA respectively.

73. As PW-4, Jagwanti deposed that on 29.09.1996 at about 10:00 a.m., a truck loaded with bricks, *driven by her brother Bhupender Singh* had arrived at her house, followed by a Tata 407 tempo with 30 to 40 persons armed with lathi and danda, a Tata Sumo with 8 to 10 persons and a Maruti van.

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

She closed the door of her house, but was followed inside by *Bhupender Singh, Kapoor Singh, Devinder Singh and others*; Bhupender Singh, being armed with a knife, hit her on the knee, and one of the assailants hit her on the head with a rod, whereafter she became unconscious. On regaining consciousness, she found *PW-5 Ram Kumar present at the spot*, who lifted her up, wrapped her in the sari of his wife, and arranged a TSR to take her to the DCP office.

74. In her cross-examination by the learned Prosecutor, she volunteered, in regard to the allegation of outrage of modesty upon Smt. Birmati, that she had not herself seen that part of the occurrence, and that she had been informed of it by Smt. Birmati after regaining consciousness. She was further confronted with her statement Ex. PW-4/A, wherein it was stated that *accused Bhupender Singh* had called upon the others to outrage the modesty of the women, and that accused Ishwar Singh had said the same. She however, denied having so stated to the police.

75. With regard to the removal of articles from the house, she stated that she had become unconscious, and that the removal of articles had been noticed and seen by her tenants and not by her; she was unable to say how her *gold Kundlas*, had been removed from her ears.

76. However, Jagwanti as PW-2 in Sessions Case No. 46/2002, deposed that about 150 or 200 persons had arrived at her house in a Maruti van and a Tata 407 tempo, whereupon they entered the house and began assaulting her, and that *Bhupender Singh, Ishwar Singh, Kapoor Singh and Devinder Singh* had run towards her. Of the accused persons facing trial, she identified only Bhupender Singh in Court, expressly stated that **she did not know accused**

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

Manjeet and Satish. She further stated that *Smt. Bhateri Devi, whom she did know, was not present at the time of the incident*.

77. *In her cross-examination*, she deposed that she was present in her room alone at the time of the incident, that there was no staircase leading to the roof of her house. She was confronted with her statement Ex. PW-2/DA on several material particulars which are:

(i) *She denied having stated to the police that accused Bhupender Singh, Kapoor Singh and Devinder Singh had committed rape upon her at the instance of her father Ishwar Singh.*

(ii) *She denied having stated that Bhupender Singh had inflicted a knife blow upon her and that Ishwar Singh had struck her on the head with a lathi; she denied having stated that the accused persons, while leaving, had carried away two door-frames, a suitcase, and cash of Rs. 17,500/-; and*

(iii) *she denied having stated that she and Smt. Birmati had thrown stones on Bhupender Singh and others.*

(iv) *She further stated that she had not told the doctor that she had been raped by three persons, and that no recovery of any of the articles allegedly removed had been effected by the police.*

78. The inconsistencies emerging from a comparison of the two depositions of the Petitioner, read together with the confrontations made to her previous statements Ex. PW-4/A and Ex. PW-2/DA, are not merely peripheral. They relate to material particulars of the prosecution case and go to its very substratum.

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

79. *On the number of persons and vehicles involved in the occurrence,* as PW-4 she spoke of 30 to 40 persons in a Tata 407 tempo, 8 to 10 persons in a Tata Sumo and a Maruti van; whereas, as PW-2, she deposed that about 150 to 200 persons had arrived in a Maruti van and a Tata 407 tempo. On the identity of the persons who entered her room, as PW-4 she named Bhupender Singh, Kapoor Singh and Devinder Singh. However, as PW-2 she identified only Bhupender Singh in Court, and stated that Smt. Bhateri Devi, though named in FIR No. 607/1996, was not present at the incident, and further deposed she did not know accused Manjeet and Satish.

80. On the allegation of *outrage of modesty*, she admitted in her cross-examination as PW-4, that she had not herself witnessed that part of the occurrence and had learnt of it only from Smt. Birmati, after regaining consciousness. She further denied, on being confronted with Ex. PW-4/A, that she had ever stated to the police *that any of the accused had exhorted the others to outrage the modesty of the women*. With regard to the allegation of rape, she denied, on confrontation with Ex. PW-2/DA, having stated to the police that the accused persons *had committed rape upon her*, at the instance of her father, and further confirmed that she had not made any such allegation before the doctor.

81. As regards the removal of articles, she admitted that she had not witnessed the removal herself, that it had been seen by her tenants, that she was unable to explain how her ear-ornaments had been removed, and that no recovery of the alleged stolen articles had been effected by the police.

82. Each inconsistency touches upon the very core of the prosecution case, being the identity and number of the assailants, the offences said to have been committed, and the removal of articles, to constitute the offence

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

of dacoity. The learned ASJ thus, regarded these inconsistences as material, thereby demolishing the reliability of the testimony of the Petitioner, Smt. Jagwanti.

83. The ***second injured Smt. Chand Kaur***, the mother-in-law of the Petitioner, was examined as *PW-1 in Sessions Case No. 46/2002* and as PW-7 in Sessions Case No. 5/2002.

84. Smt. Chand Kaur as PW-1 in first case, deposed that when she was sitting in the gali, *accused Ishwar Singh, Bhupender Singh, Kapoor Singh and Devinder Singh* arrived at the spot; that Jagwanti was standing outside her room and was dragged inside by the said accused. *Bhupender Singh, Kapoor Singh and Devinder Singh committed rape upon Jagwanti in her presence, while Ishwar Singh stood by their side*. She further deposed that the accused *took away two briefcases, one cooler and one doorframe*.

85. She stated in her cross-examination that she was 90 years old and her vision was not correct.

86. In her subsequent deposition as *PW-7 in second case No. 5/2002,* however, Smt. Chand Kaur deposed that about 100 to 150 persons had arrived at the spot in two four-wheelers along with a truck of bricks; and that the accused *took away the cooler, doorframes and suitcases containing clothes.*

87. *In her cross-examination,* she stated that Jagwanti was in her room when the quarrel took place.

88. **On the location of Jagwanti at the time of the assault,** *she deposed that Jagwanti was standing outside her room and was dragged inside by the accused;* while as PW-7 she deposed that Jagwanti was in her room, when the quarrel took place. On the articles said to have been taken

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

away, as PW-1 she named two briefcases, one cooler and one doorframe; whereas as PW-7 she named the cooler, doorframes and suitcases containing clothes.

89. She was further confronted with her statement Ex. PW-1/DA in the course of her deposition as PW-1, wherein it was recorded that she had not stated to the police that the rape was committed at the instance of Ishwar Singh, that the accused had taken away the doorframe and other articles, or that about 100 to 150 persons had come to quarrel with them.

90. These inconsistencies in the account of Smt. Chand Kaur, in her two depositions in the two cases in regard to the same incident, and also the contradictions from her earlier statement under S.161 Cr.P.C.Ex. PW-1/DA, were circumstances which rightly weighed with the the learned ASJ, to hold her testimony as unreliable.

91. ***The third injured, Smt. Birmati, devrani of the Petitioner***, was examined as PW-5 in first Case No. 46/2002 and as PW-12 in Second Case No. 5/2002; both depositions having been recorded on 30.07.2002. Her earlier statements under Section 161 Cr.P.C. were brought on record as Ex. PW-5/DA and Ex. PW-12/DA respectively.

92. **Smt. Birmati** as PW-5 in first Case, deposed that *she was present at the house of the Petitioner along with Smt. Chand Kaur*, having come there for her own medical treatment. She deposed that *Bhupender Singh and Kapoor Singh* gave beatings to Jagwanti as well as to herself. She further deposed that *Bhupender Singh and Kapoor Singh dragged Jagwanti inside the room. When she entered the room, she saw that they were grappling with her, in order to give her a beating*.

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

93. She identified the three accused in the Court, namely *Satish Kumar, Manjeet Singh and Bhupender Singh, as having caused injury on her person*, but stated that accused Smt. Bhateri Devi, though present in Court, was not present at the spot.

94. In her cross-examination by the defence, *she stated that the accused persons had attempted to commit rape upon the Petitioner, and volunteered that* ***since the accused persons were grappling with the Petitioner, they might have committed rape.***

95. Smt. Birmati as PW-12 in Second Case , however, deposed that ***she was present on the roof of the house of Smt. Jagwanti***, and that *Bhupender Singh and Kapoor Singh threw her from the roof and gave her beatings.* She further deposed that the accused persons also tried to molest her and tried to put off her clothes. She also deposed that *Bhupender Singh and Kapoor Singh dragged Jagwanti inside a room and committed rape upon her*. In her examination-in-chief, she stated that she could identify accused Kapoor Singh, *but stated that Kapoor Singh was not present in Court*. Although on being cross-examined by the learned Prosecutor, she volunteered that the said accused was in fact present, but due to lapse of time, she was unable to identify Kapoor Singh.

96. On material particulars, the two depositions of Smt. Birmati, recorded on the same day, are contradictory. As PW-5 she made no mention of having been on the roof or of having been thrown from it, and deposed that she entered the room and saw the accused grappling with Jagwanti in order to beat her.

97. However, as PW-12 she deposed that she was thrown from the roof, and that the accused committed rape upon Jagwanti in the room. Her

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

assertion of rape as PW-12 also stands qualified by her own statement as PW-5 that the accused were grappling with the Petitioner and might have committed rape, which is in the nature of an inference, rather than of a fact witnessed by her. Further, her averment as PW-12 that the accused had attempted to molest her, on confrontation with her statement under S.161 Cr.P.C. Ex. PW-5/DA, was not found recorded therein.

98. She was also confronted with Ex. PW-5/DA, wherein it was recorded that she was sitting in the plot of Med Singh, which she did not recollect having stated. She was confronted with Ex. PW-12/DA, portion A to A, wherein it was recorded that *she was sitting at the back side of the house on the ground floor at about 8:00 or 9:00 p.m.* when she heard some noise, which again she did not remember having stated. Her statement as PW-5 that *accused Smt. Bhateri Devi was not present* at the spot was likewise, confronted with the portion of her earlier statement, wherein it was recorded that *Smt. Bhateri Devi, along with the accused persons, had given beatings to her and Jagwanti on the roof.*

99. These are material inconsistencies on material particulars, including her own location at the time of the occurrence, the identity of the assailants and the very offences alleged; the circumstances which the learned ASJ, rightly held to have made her testimony totally unreliable.

100. ***The fourth injured, Smt. Phoolwati, the jethani of Jagwanti,*** *was the author of the statement* Ex. PW-7/A *recorded at the hospital on 29.09.1996, on which FIR No. 607/1996 came to be registered*. She was examined as PW-7 in first Case.

101. In her depositions in both the Sessions Cases, *Smt. Phoolwati deposed* that she and Smt. Birmati were present on the roof of the house, *while Smt.*

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

Jagwanti and Smt. Chand Kaur were present in the room situated at the ground floor. She deposed that about 200 to 250 persons arrived at the spot in a four-wheeler, a truck and a matador, and that they were armed with lathis and rods. She further deposed that accused *Ishwar Singh, Kapoor Singh, Bhupender Singh and Devinder Singh entered the house*, and that *Bhupender Singh and Kapoor Singh threw her from the roof, as a result of which she sustained injuries.* According to her, *Smt. Jagwanti* was taken into the room, where *Devinder Singh and Bhupender Singh* caught hold of her hand, *while Kapoor Singh committed rape upon her*, as witnessed by her by opening the door of the room.

102. Pertinently, her original statement Ex. PW-7/A, on which FIR No. 607/1996 was registered, had named only *three persons as the assailants, namely Bhupender Singh, Smt. Bhateri Devi and Manjeet Singh*. In her depositions in Court, however, she named *a different set of four persons as the assailants, namely Ishwar Singh, Kapoor Singh, Bhupender Singh* and Devinder Singh. *Smt. Bhateri Devi and Manjeet Singh, two of the three persons originally named by her, were not named by her as assailants at all.*

103. She was confronted with her statements under S.161 Cr.P.C. Ex. PW-7/DA and Ex. PW-17/DA, respectively, on the material particulars of her deposition. Her averment in Court that about 200 to 250 persons had arrived at the spot in vehicles was, not found recorded in her earlier statements.

104. Her averment that *Kapoor Singh had committed rape upon the Petitioner while the other accused held her*, and that she had opened the door and witnessed the same, was likewise *not found recorded*. Her averments that *the accused had robbed the goods of Smt. Jagwanti* and her

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

own ear-ring, and that I*shwar Singh was armed with a rod and Bhupender Singh with a knife,* were also not found recorded in her earlier statements.

105. Further, in her cross-examination as PW-17, she stated that she had told the police that she, Smt. Birmati and *Smt. Jagwanti* had all been sitting on the roof. This was at variance with her own examination-in-chief in both the Sessions Cases, wherein the presence of *Smt. Jagwanti* was stated to be in the room on the ground floor.

106. *These inconsistencies, between original statement Ex. PW-7/A, her statements under Section 161 Cr.P.C., and depositions in Court, were material particulars, and were circumstances which justified the learned ASJ to question the reliability of the testimony of Smt. Phoolwati.*

107. The aforesaid testimony of the four injured witnesses was found to be materially inconsistent, not merely inter se, but also as against their own previous statements and complaints.

(b) Inherent inconsistency in the *interse* testimony of the four witnesses.

108. Having examined the internal consistency of each injured witness individually, it becomes necessary to examine whether their versions corroborate each other on the material particulars of the occurrence. The evidence, when tested inter se, also discloses material inconsistencies affecting the prosecution case.

109. The ***first inconsistency concerns the location of each of the four women at the time of the occurrence.*** In the complaint on which FIR No. 607/1996 was registered, and in her fresh statement Ex. PW-4/A, Smt. Jagwanti is stated to have been on the roof of the house, pelting bricks upon the assailants. In her cross-examination, Smt. Jagwanti as PW-2 in Sessions Case No. 46/2002, however, deposed as under:

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

"At the time of incident, I was present in my room alone. The room has a roof of silli (sandstone). There is no staircase towards the roof."

110. The admission that there was no staircase leading to the roof, finds support in the deposition of Smt. Phoolwati as PW-17, who likewise stated that there was no staircase to go to the roof, the height whereof was 10 to 12 feet.

111. The accounts of the f***our witnesses as to their respective locations, do not converge.*** Smt. Phoolwati stated that Smt. Jagwanti and Smt. Chand Kaur were present in the room on the ground floor, and she herself and Smt. Birmati on the roof. Smt. Chand Kaur. However, she placed herself in the gali, and placed the Petitioner outside her room, in one deposition and inside her room in the other. Smt. Birmati placed herself on the roof in one deposition, while in her other deposition she made no mention of the roof and deposed to having entered the room during the assault. In an occurrence said to have been witnessed by all four women together, the want of a coherent account as to where each of them was, was a circumstance which the learned ASJ was entitled to regard as material.

112. ***The second inter-witness inconsistency concerns the allegation of rape and the identity of the persons said to be responsible thereof***.

113. ***Smt. Chand Kaur*** deposed that three persons, namely Bhupender Singh, Kapoor Singh and Devinder Singh, committed rape upon the Petitioner. ***Smt. Birmati*** attributed the act to two persons, namely Bhupender Singh and Kapoor Singh, and her assertion stood qualified by her own statement, as PW-5, that *the accused were grappling with Smt. Jagwanti and might have committed rape*. ***Smt. Phoolwati*** attributed the act to Kapoor

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

Singh alone, with Bhupender Singh and Devinder Singh holding the Petitioner's hands.

114. ***Smt. Jagwanti*** herself never alleged the commission of any such offence upon her person either in her statements recorded during the investigation or at her medical examination. Her allegation to this effect, were made for the first time, in her deposition as PW-2, was on confrontation not found recorded in her statement Ex. PW-2/DA, and as PW-4 she attributed the outrage only upon Smt. Birmati, on the basis of what Smt. Birmati had told her.

115. ***In this backdrop the Application under Section 216 Cr.P.C. for addition of a charge under Section 376 IPC, moved on the strength of the depositions of the said three witnesses recorded nearly six years after the occurrence, was declined by the learned ASJ by the detailed Order dated 25.11.2003.***

116. The **third inter-witness inconsistency concerns the identification of the accused persons in Court**.

117. *Smt. Jagwanti* identified only Bhupender Singh, stated that she did not know accused Manjeet and Satish, and stated that Smt. Bhateri Devi was not present at the incident.

118. *Smt. Birmati* stated in her examination-in-chief that accused Kapoor Singh was not present in Court, although he was in fact present, and volunteered that due to lapse of time she was unable to identify him.

119. *Smt. Chand Kaur* stated in both her depositions that she was unable to identify the accused persons, as her vision was not clear due to her age. ***These are material discrepancies in regard to the identification of the***

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

assailants, which raises serious question about the reliability of their testimony.

120. The **fourth inter-witness inconsistency concerns the number of persons, the vehicles, the time of the occurrence and the articles said to have been removed.**

121. ***Smt. Jagwanti*** as PW-4, spoke of a truck, a tempo with 30 to 40 persons, a Tata Sumo with 8 to 10 persons and a Maruti van, and, as PW-2, of 150 or 200 persons in a Maruti van and a tempo.

122. ***Smt. Chand Kaur*** spoke of 100 to 150 persons in two four-wheelers with a truck of bricks.

123. ***Smt. Phoolwati*** spoke of 200 to 250 persons in a four-wheeler, a truck and a matador. On the time, Smt. Phoolwati placed the occurrence at 8:00 a.m., while the Petitioner and Smt. Chand Kaur placed it at about 10:00 a.m.

124. ***On the articles removed***, Smt. Jagwanti enumerated cots, chairs, a table, a table fan, suitcases, cash of Rs. 17,500/- and ornaments; ***Smt. Chand Kaur*** named two briefcases, one cooler and one doorframe in one deposition, and a cooler, doorframes and suitcases in the other; and ***Smt. Phoolwati*** spoke of the ear-rings of the four ladies, the chokhat and money. The want of convergence on these aspects, in the accounts of witnesses to the same occurrence, was again a circumstance which the learned ASJ rightly considered to discredit their evidence.

125. Having regard to the nature and extent of the inconsistencies noticed hereinabove, extending both to the internal consistency of each witness's own account and the contradictions in the accounts of the four witnesses inter se, *the conclusion of the learned ASJ, that the testimony of the injured witnesses did not inspire confidence and that the prosecution had failed to*

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

prove its case beyond reasonable doubt, was founded upon the evidence and the record. **It cannot be said that the said conclusion was perverse or one which no reasonable Court could have reached.**

(iv) <u>The testimony of independent witnesses:</u>

126. PW-14 Anil Kumar Case No. 5/2002, the driver of the truck which had allegedly, brought the bricks to the plot, who was a completely independent witness having no relation with either Smt. Jagwanti or the Respondents, deposed that on his truck reaching the plot, *the women present on the roof of the adjacent property, had begun to pelt stones on the truck*, consequently, he had run away from the spot on the arrival of the police; and that he did not depose to any pre-planned assault by the Respondents upon the Petitioner or her household. He thus, denied being a witness to the entire occurence, having left the spot.

127. The other independent witnesses, **PW-6 Rampal and PW-11 Kaptan Singh (both in Sessions Case No. 5/2002)** did not support the case of the prosecution and were declared hostile.

128. PW-9 Sahib Singh (in Sessions Case No. 5/2002), was cross-examined by the learned Prosecutor, on the identity, but he was unable to identify the Respondents.

129. PW-1 Hari Singh and PW-2 Smt. Ramawati (Case No. 5/2002, whose statement under Section 161 Cr.P.C. is Ex. PW2/DA), though neighbours of the Petitioner, did not depose to any material particulars to establish the identity of the assailants or the specific role attributed by the prosecution to each of the Respondents.

130. Even **PW-3 Smt. Reshma (Case No. 5/2002)**, a tenant of the Petitioner, whose testimony was said to broadly support that of the injured

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

witnesses, did not carry the case of the prosecution significantly further, having regard to the aforesaid inconsistencies in the very testimony of the four injured, which she sought to corroborate.

131. Therefore, the independent witnesses also failed to support/prove the prosecution case.

The evidence of the Defence Witness:

132. As regards the testimony of ***DW-1 Insp. R.S. Chauhan*** as a defence witness, was sought to be discredited on the ground that he was indicted in the Vigilance Enquiry and was not reliable. However, even if the evidence of Defence evidence is discarded, prosecution has miserably failed to prove its case. The testimony of defence witness would have been relevant, had the prosecution been able to prove its case.

133. It may be observed that whatever be the findings recorded in the Vigilance Report as to the conduct of the local police, the same pertained to the manner in which the investigation was initially conducted, and to the alleged laxity or connivance of the police officials concerned at the initial stage. The guilt of the Respondents was required to be established on the strength of the evidence led at the trial, tested in accordance with law; and any laxity or default on the part of the investigating agency at the initial stage, however reprehensible, could not relieve the prosecution of the burden of proving its case beyond reasonable doubt against the Respondents.

134. The *testimony of the four injured witnesses was found to be materially inconsistent both inter se and as against their own earlier statements; that the medical evidence did not establish injuries of a nature likely to cause death; that no articles said to have been removed were ever recovered; and*

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

that the independent witnesses either did not identify the Respondents or supported the defence version.

135. On the said evidence, the conclusion of the learned ASJ that the prosecution had failed to prove its case beyond reasonable doubt, is justified and does not reflect any perversity.

(v) <u>The offences under Sections 307 IPC read with S.149 IPC against Kapoor Singh, Devender Singh, Bhupender Singh and Ishwar Singh:</u>

136. In **Sessions Case No. 5/2002**, charges under Sections 452/149, 307/149 and 395/149 IPC had been framed against the four Respondents, viz. **Kapoor Singh, Devender Singh, Bhupender Singh and Ishwar Singh**. The Petitioner has, in particular, argued that the learned ASJ ought to have returned a finding of guilt under Sections 307 and 395 IPC.

137. As regards the ***charge under Section 307 IPC***, the testimony of Jagwanti, Chand kaur and Birmati had received simple injuries, while Phoolmati received fracture, as per their respective MLC.

138. PW-8/PW-19 Dr. Avdesh, who examined the Petitioner (Ex. PW8/A in SC. No. 46/2002 and Ex. PW19/A in SC No. 5/2002), opined that the injury on her scalp was a simple injury caused by a blunt object; and his statement that such an injury "may be" dangerous, though simple, falls well short of an opinion that the injury was likely to cause death. **PW-11 Dr. Mukesh Aggarwal, who had examined Smt. Phoolwati (Ex. PW11/A) and Smt. Birmati (Ex. PW11/B), both in SC No. 46/2002**, opined that the injuries sustained by them were simple in nature and could not have caused danger to their lives. The injuries sustained by Smt. Chand Kaur, as certified

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

by **PW-4/PW-10 Dr. P.S. Sarangi (Ex. PW4/A in SC No. 46/2002 and Ex. PW10/A in SC No. 5/2002)**, were also simple.

139. The medical evidence *does not establish that any of the injuries sustained by the four women were of a nature sufficient, in the ordinary course, to cause death***.**

140. As already discussed above in detail, their testimony is not consistent about how they suffered injury and who was the accused who did so. There are material contradictions about the identity of the accused as well as the manner in which the injuries were inflicted. There is also no evidence to establish the requisite intention of inflicting injury, with an intent to cause death. There is also no cogent evidence in regard to the offence under S.149 IPC**.** ***The offence under Section 307/149 IPC is not proved and the benefit of doubt has been rightly granted to the Respondents, by the learned ASJ***.

(vi) The offences under Section 395 IPC read with S.149 and S.452 read with S.149 IPC against Kapoor Singh, Devender Singh, Bhupender Singh and Ishwar Singh:

141. As regards the charge under ***Section 452*** IPC, the prosecution was required to establish beyond reasonable doubt that the Respondents had committed house-trespass. As already discussed in detail hereinabove, there are material inconsistencies in the testimony of the four injured witnesses regarding the identity of the persons who allegedly entered the house, the manner in which they entered, and the role attributed to each of the accused. The independent witnesses have also failed to lend any meaningful corroboration to the prosecution version. *In the absence of cogent and reliable evidence establishing the unlawful entry into the house by the*

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

Respondents with the requisite intent, the learned ASJ rightly extended the benefit of doubt to the Respondents even in respect of the offence under Section 452 IPC.

142. Further, as regards the charge under Section 395 IPC, it is borne out from the testimony of **PW-20 Insp. Ved Prakash, the Investigating Officer of FIR No. 258/1998**, that none of the articles said to have been removed from the house, were ever recovered in the course of investigation, nor were the vehicles said to have been used ever traced.

143. In the absence of any cogent consistent evidence or any independent material corroborating the allegation of the articles having been removed along with no recovery whatsoever, the learned ASJ rightly gave the benefit of doubt to the Respondents, for the offence under Section 395 IPC.

144. In these circumstances, the learned ASJ cannot be said to have committed any manifest error of law in declining to convict the Respondents of the said offences.

Conclusion:

145. Upon a consideration of the aforesaid, this Court is unable to hold that the impugned Judgment ***suffers from any perversity, any glaring defect of procedure, any manifest error of law, or that any material evidence has been overlooked by the learned ASJ***.

146. In view of the foregoing discussion, this Court finds ***no ground to interfere*** *with the impugned Judgment* dated *13.01.2005, acquitting the Respondents.*

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01

147. Accordingly, the present Revision Petition, being devoid of merit, is ***dismissed***, and the impugned Judgment dated 13.01.2005 is upheld. Pending Applications, if any, also are disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 16, 2026
N

Signature Not Verified
Digitally Signed By:ANIL KUMAR BHATT
Signing Date:06.07.2026 17:05:01