



2026:DHC:4391-DB



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
**Reserved on: 02.04.2026**  
**Pronounced on: 18.05.2026**

+ CRL.A. 525/2002  
PARAS NATH & ORS. ....Appellants  
Through: Mr. M.L. Yadav, Advocate  
(DHCLSC) with Mr. Prashant  
and Mr. Piyush Saini,  
Advocates.

versus

STATE OF DELHI .....Respondent  
Through: Mr. Aman Usman, APP for the  
State with Mr. Manvendra  
Yadav, Advocate and Insp.  
Yunus Javed, PS Keshav  
Puram.

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

### **J U D G M E N T**

#### **RAVINDER DUDEJA, J.**

1. The present appeal is filed by the appellants against the judgment of conviction dated 27<sup>th</sup> May, 2002 and the order on sentence dated 28<sup>th</sup> May, 2002 passed by the learned Additional Sessions Judge, New Delhi [**“trial court”**], in Sessions Case No. 83/1999, arising out of FIR No. 167/1999 registered under Sections 302/307/34 of the Indian Penal Code [**“IPC”**] and Sections 25/27 of the Arms Act, 1959 at Police Station Keshav Puram.

2. At the outset, it is noted that appellant Paras Nath passed away during the pendency of the appeal, and accordingly, the appeal *qua* appellant Paras Nath stands abated.



### **Factual Matrix**

3. The prosecution case, in brief, is that on 21<sup>st</sup> May, 1999, at about 10:07 PM, an information was received at Police Station Keshav Puram that one person has been stabbed near Rasika Picket, Railway Staff Quarters, near railway line, Industrial Area, Lawrence Road, which was recorded *vide* DD No. 29-A (Ex. PW-4/A). SI Raj Singh along with Constable Dharambir proceeded to the spot, where they learnt that the injured persons had already been removed to Hindu Rao Hospital by a PCR van. Upon reaching the hospital, it was found that two persons namely Narinder and Simran were lying admitted in an injured condition. Their MLCs (Ex. PW13/A) and (Ex. PW9/A) were collected.

4. PW-2 Simran was declared fit for statement and his statement (Ex. PW2/A) was recorded, wherein, he stated that on 21<sup>st</sup> May, 1999, at about 10:00 PM, while he was sitting outside his quarter, he heard some noise of quarrel from some distance. He ran towards that place and saw that Narinder, who was earlier his neighbour, was caught hold of by Paras and his brother Ramu. Paras had an open knife in his hand. They both were threatening in a loud voice that they would not spare Narinder alive. When he tried to intervene, Paras gave knife blow on his face below the left eye. Then hurling abuses, Paras gave two knife blows in the abdomen of Narender, while Ramu continued holding him. Thereafter, Paras and Ramu ran towards railway track. He and Narender were rushed to the hospital by the police van. He further stated that in the past, altercations had taken place between Narender, Paras and Ramu, due to which Paras and Narender had become



inimical towards Narender.

5. On such statement of Simran, FIR was registered under Section 307/34 IPC.
6. On 22<sup>nd</sup> May, 1999, Narender died at the hospital. The post-mortem on his body was conducted. Both the accused were arrested, and on their pointing out, weapon of offence, that is, knife (*daggernuma*) was recovered from the bushes near railway crossing Industrial Area, Lawrence Road.
7. Upon completion of investigation, charge sheet was filed in court under Section 302/307/34 IPC.
8. Charge under Section 302/307/34 PC was framed against the accused Ramu on 15<sup>th</sup> October, 1999. Both accused pleaded not guilty and claimed trial.
9. In order to prove its case, prosecution examined 19 witnesses. Statements of both the accused were recorded under Section 313 Cr.P.C, wherein, they had denied all the incriminating evidence put to them. Accused Paras Nath stated that he was picked up from his house and falsely implicated, while accused Ramu claimed that he was falsely implicated on account of suspicion. They refused to lead any evidence in their defence.
10. Upon appreciation of evidence, the learned Trial Court found the recovery of knife to be doubtful, but still found that the statement of PW-2 was sufficient to come to the conclusion that both the accused persons, who were brothers, in furtherance of their common intention, caused hurt to Simran (PW2) and committed the murder of Narender by a sharp-edged weapon. In the opinion of the learned Trial



Court, neither of the accused could be convicted for the offence under Section 307/34 IPC, because the circumstances and the record of the case does not indicate that the accused persons wanted to commit murder of Simran also. Consequently, both the accused were held guilty for the offences punishable under Section 302/34 as far as murder of Narender is concerned, and Section 324/34 IPC for the injury caused to Simran, and were convicted accordingly.

11. *Vide* order on sentence dated 28th May, 2002, they were sentenced with life imprisonment with fine of Rs. 1000/-, in default, to undergo Rigorous Imprisonment for six months each, under Section 302/34 IPC. They were further sentenced to undergo Rigorous Imprisonment for six months each, under Section 324/34 IPC.

As noted above, Appellant Paras Nath expired during the pendency of the appeal, and accordingly, the appeal *qua* respondent No. 1 Paras Nath stands abated.

#### **Submissions on behalf of the Counsel for Appellant Ramu**

12. The learned counsel, who appeared for the appellant Ramu, submitted that even though PW-2 Simran is the injured eye witness, he gave varying versions regarding the sequence of occurrence, the exact role of appellant Ramu, the arrest of the appellants, and the recovery of the weapon. It was asserted that in cross examination, PW-2 denied or disowned substantial portion of the statement attributed to him by the investigating agency. It was also argued that even though PW-3 was cited as a witness, he was declared hostile and did not support the prosecution case.

13. The learned counsel contended that PW-2 Simran did not



support the recovery of weapon. Moreover, the recovery shown is pursuant to the joint disclosure statement of the two accused persons, and therefore, such recovery is inadmissible in evidence.

14. It was next argued that the role attributed to appellant Ramu is vague, uncorroborated and insufficient to establish common intention under Section 34 IPC. His mere presence at the scene, assuming to be true, cannot justify conviction under Section 302/34 IPC unless meeting of mind or participation in furtherance of common intention is clearly proved. It was urged that even as per the prosecution narrative, the actual knife blows were attributed only to appellant Paras Nath and there is no credible evidence of exhortation, pre-planning or shared intention on the part of appellant Ramu. The allegation that Ramu caught hold of Narender is itself shaky and not consistently proved.

15. It is argued that suspicion, howsoever grave, cannot take place of proof, and if two views are possible, the one favouring the accused, must prevail. It was therefore prayed that the conviction and sentence be set aside and the appellant Ramu be acquitted.

#### **Submissions on behalf of State**

16. *Per contra*, learned Additional Public Prosecutor (APP) for the State submitted that the learned Trial Court has given detailed and well-reasoned findings and convicted the appellants after a fair trial and upon proper appreciation of evidence.

17. While supporting the impugned judgment, the learned APP has submitted that the prosecution has succeeded in proving the case beyond reasonable doubt. He contended that PW-2 Simran is an



injured witness and the testimony of an injured witness carries high degree of reliability and weight. According to him, PW-2 has substantially supported the prosecution case and his testimony cannot be discarded only on account of certain minor contradictions or omissions. He submitted that the broad spectrum of the prosecution case has remained intact, namely that the appellants came together, quarrelled with the deceased and appellant Paras Nath inflicted fatal knife blows on the stomach of the deceased.

18. It was further contended that the ocular testimony of PW-2 finds corroboration from the medical evidence, which proves that the death of Narender was homicidal and was caused by a sharp-edged weapon, which is consistent with the prosecution version.

19. Learned APP further argued that the recovery of knife at the instance of both the appellants, coupled with the FSL result, furnish additional corroboration to the prosecution case. He argued that merely because PW-2 was declared hostile in part or did not support every minute detail of the incident, his testimony does not become wholly untrustworthy and can be relied upon to the extent it supports the prosecution version.

20. Learned APP, lastly submitted that the conduct of the accused persons of fleeing from the spot and being apprehended thereafter, also constitutes incriminating circumstance, which goes against them. It was thus prayed that the appeal be dismissed being devoid of merit.

### **Reasoning and Analysis**

21. The prosecution case was built around the statements of PW-2 Simran and PW-3 Arjun, Simran being the injured witness and Arjun



being the eye witness of the occurrence. Admittedly, PW-3 Arjun did not support the prosecution version at all. He categorically stated that he did not see the incident nor did he see anybody assaulting anybody. According to him, accused did not assault the injured in his presence and he only saw them after their arrest. He was declared hostile and was cross examined by the learned APP at some length, but his cross examination by the learned APP has not yielded anything fruitful in favour of the prosecution. His testimony, is therefore, of no help in establishing the guilt of the accused.

22. PW-2 Simran, thus, remains the only eye witness of the occurrence. He deposed that on 21<sup>st</sup> May, 1999, at 01.15 in the night, he was sitting at a stone lying outside his room with the deceased. In later part of his testimony, he clarified that the incident took place at 9.15 PM and not 1.15 in the night. He further deposed that Ramu, who was going from there, on seeing them, moved back to bring his brother Paras. Later on, both the accused came there and entered into an argument with Narender. He himself was near the place where the arguments were going on. Paras assaulted him on his left eye. Then, Ramu caught hold of Narender and Paras retorted that he would remove heat from his body (Narender). When he tried to save Narender, Paras assaulted him. Narender was then assaulted by Paras in the abdomen near private parts twice. Thereafter, both accused escaped from the spot.

23. During cross examination by the defence counsel, PW-2 was confronted with statement Ex. PW-2/A, where the fact that he was sitting on a stone outside the room with the deceased, is not recorded.





*“22. In our considered opinion, the “sterling witness” should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a “sterling witness” whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise,*



*the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”*

25. Appreciating the testimony of PW-2 Simran on the aforesaid principles, we find that his testimony is not consistent, straight forward and cogent. The prosecution itself declared him partly hostile. He was cross examined by the learned APP. In such cross examination, he stated that he did not make any statement before the police that photographs were taken on his arrival from the hospital. He further stated that the blood was not lifted by the IO in his presence nor sealed. He denied having given any statement that seal after use was handed over to the Head Constable or that the site plan was prepared in his presence.

26. PW-2 Simran was also hostile with regard to the manner of arrest of the accused and the recovery of weapon in his presence. If the prosecution version, as stated by Inspector Radha Raman (PW-19), is to be believed, PW-2 Simran was also present at the time of arrest of the accused. According to him, both accused had tried to hide themselves behind a tree after seeing Simran, and they both were apprehended on the pointing out of Simran. However, PW-2 deposed that accused were arrested from their room and the door of the room was lying closed. When cross examined by the learned APP on the aspect of manner of arrest of the accused, he denied having given any



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statement to the police that both accused had taken shelter under a tree and were waiting for their family members. He denied having stated before the police that he along with HC Umed Singh and Constable Surender, reached the place at the gate of Modern Bread Factory, Industrial area, Lawrence Road and found both the accused sitting behind a tree, and that on seeing the police, they became nervous and then on his pointing out, they were arrested.

27. PW-19 Inspector Radha Raman deposed that upon arrest, accused disclosed that they had concealed the knife (dagger) in the bushes near railway line and can get the same recovered, and thereafter, they both took them to the place where the weapon of offence was concealed and got recovered the dagger type knife from the bushes near the railway line. The recovery was allegedly made in the presence of PW-2 Simran, but PW-2 deposed that accused did not tell anything at the time of their arrest. According to him, accused did not tell anything about the knife and no weapon was got recovered by the accused. During cross examination by the learned APP, he denied that accused were interrogated in his presence. He reiterated that accused did not make any statement before him regarding throwing the knife in the bushes. He denied that accused made any statement in his presence that they can get the knife recovered from the bushes. He denied having given any statement that both accused while in police custody, took them to railway line near quarters and got recovered blood stained knife from the bushes. He denied having stated in his previous statement that blood was on the knife or that the sketch of the knife was prepared. He denied that the knife was sealed in a pullanda



in his presence. He denied having stated before the police that IO prepared the site plan of place of recovery of knife in his presence. He denied having given the statement that draftsman prepared scaled site plan on his pointing out.

28. It is manifest from the testimony of PW-2 that he has not only made material improvements from his previous statements made to the police, but also contradicted the prosecution narrative of the mode of arrest of accused and recovery of the knife (dagger) at their instance.

29. The incident had taken place on 21<sup>st</sup> May, 1999 and the statement of PW-2 was recorded before the Court on 22<sup>nd</sup> November, 1999, that is, within a period of almost six months. It is not one of such cases where the testimony of the witness was recorded after a long delay, which may result in contradictions/inconsistencies due to lapse of memory on account of long passage of time. As is evident, PW-2 has not supported the recovery of knife (dagger) at the instance of the accused. He is the only independent public witness of recovery, the other witnesses being police officials. The case would have been different if no public witness was available or was not part of the recovery proceedings. Since recovery of knife (dagger) pursuant to the joint disclosure statement of the accused persons is without any independent corroboration, the same is rendered doubtful.

30. PW-2 deposed that accused Paras assaulted him on his left eye and assaulted Narender in the abdomen near private parts twice. Nowhere in his examination in chief, PW-2 deposed that Narender was armed with knife (dagger) or that he and Narender were inflicted knife blows. Not only this, the testimony of PW-2 that Narender was



assaulted twice on his abdomen near private parts, is not corroborated by the medical evidence, inasmuch as, post-mortem report Ex. PW-5/A records the following four external injuries on the person of Narender:-

***“External Injuries:***

- 1. Scratch abrasion 2.5 X 0.2 cms over right side front of neck, reaching upto midline*
- 2. Superficial incised wound 2.5 X 0.2 cms on back of right wrist on ulner side,*
- 3. Incised wound 3.5 X 1.5 X 3 cm. deep under the skin, situated on left side of chest in lower part over costal margins. Outer angle is round and inner angle is acute. 101 cm. about left heel.*
- 4. One stab wound 3.5 X 2 cms over left abdomen on front part 2.5 cm. outer to midline and 6 cm. above and inner to left superior anterior iliac spine. 88 cm. about left heel. In loop of bowle is protruding out of wound. The margins were clean cut, inner angle is acute and outer angle is round.*

***Internal Examination:***

*Injury no.4 has penetrated into abdominal cavity and then cut thorough peritoneum, omentum, intenstinal misentry and made cuts in loops of small intestine and then severed the common iliac vessels on right side at level of L4 vertebre and ended here. Total Depth of injury is 14 cm and direction being from left to right obliquely and backwards.*

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***Opinion:***

*Death in this case was due to haemorrhage and shock consequent to injuries. Injury no.4 was sufficient to cause death in ordinary course of nature. All the injuries have been caused by sharp edged weapon and are antemortem and recent.”*



31. The post-mortem report does not indicate any injury on the private parts of Narender.

32. The FSL Result Ex. PW-19/E confirms the presence of blood on the knife (dagger), but the same was not shown to the doctor who conducted post-mortem, to confirm whether the injuries on the person of the victim were possible from the said knife (dagger). Thus, not only the recovery of knife (dagger) is doubtful, but there is no confirmation that it is the same weapon which was used in the commission of offence.

33. In cross examination, PW-2 stated that prior to this incident, accused had earlier injured the deceased on his head, and on the day of incident, there was some altercation initiated by Ramu and Paras with regard to the previous incident. He further stated that prior to the incident in question, there was also some quarrel between him and Paras also and Paras had tried to beat him near the *phatak* prior to the incident. It is thus apparent that both sides were not on cordial terms and were often involved in altercations. In such a situation, while prior enmity/ill-will may furnish motive for commission of offence, it equally also furnishes the motive for false implication. Therefore, the testimony of an inimical witness has to be scrutinized with greater caution and circumspection and the Court must, in such circumstances, seek dependable corroboration before basing a conviction for murder solely on such evidence. In the present case, we do not find any dependable corroboration on record. The only other cited eye witness PW-3 Arjun has not supported the prosecution case.

34. The learned Trial Court, in our considered view, did not



adequately appreciate the effect of the improvements, contradictions and omissions in testimony of PW-2 Simran. The learned Trial Court appears to have placed substantial reliance upon the broad inculpatory portions of the testimony of PW-2 Simran, without subjecting the same to the strict scrutiny required in a case resting on a solitary witness with admitted prior enmity and with material inconsistencies.

35. It is the cardinal principle of criminal jurisprudence that prosecution must prove its case against the accused beyond an iota of doubt and such burden never shifts. If on an overall appreciation of evidence two views are possible, the one favouring the accused needs to be accepted. We find that the evidence brought on record by the prosecution falls short of the standard required to sustain the conviction. The testimony of PW-2 Simran cannot be regarded to be of sterling quality and does not inspire the degree of confidence necessary for affirming the conviction.

36. We are therefore of the considered opinion that the prosecution has failed to prove its case against the appellant Ramu beyond reasonable doubt. The conviction under Section 302/34 IPC and under Section 324/34 IPC, and the consequent sentence imposed *vide* order dated 28<sup>th</sup> May, 2002, is set aside.

37. We again note that unfortunately, due to the passing away of appellant Paras Nath, the appeal *qua* him has abated.

38. The appeal *qua* appellant Ramu is accordingly allowed and disposed of.

39. The Bail Bond and Surety Bond furnished by appellant Ramu are cancelled and his surety stands discharged.

