



CGHC010129112023

2026:CGHC:35942-DB
NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 124 of 2023**

Prem Lal Dhivar S/o Sonu Ram Dhivar Aged About 35 Years R/o
Ghanshyam Chowk, Sahupara, Bhatagaaw, Purani Basti, Raipur Tehsil
And District Raipur, Chhattisgarh

--- Appellant**Versus**

1 - State of Chhattisgarh Through Police Station Purani Basti, Raipur,
Tehsil And District Raipur, Chhattisgarh

2 - Bramhanand Sonkar S/o Shri Diwan Sonkar Aged About 37 Years
R/o Behind Jagriti School, Sonkar Para, Bhataggw, P.S. Purani Basti,
Raipur, District : Raipur, Chhattisgarh

--- Respondents**CRA No. 495 of 2023**

1 - Yogesh Yadav S/o Shri Santu Yadav Aged About 23 Years R/o
Thakurdev Para, In Front of Temple Bhathagaon, P.S. Purani Basti,
Raipur District Raipur Chhattisgarh

2 - Deepak Vishvakrama S/o Late Kaushal Vishvakarma Aged About 24
Years R/o Chhirrapara Bhathagaon Lohar Chowk P.S. Purani Basti,
Raipur, District Raipur Chhattisgarh

3 - Arun Dhruv S/o Shri Devideen Dhruv Aged About 24 Years R/o
Chhirrapara Near Ganesh Chowk Bhathagaon, P.S. Purani Basti,
Raipur District Raipur Chhattisgarh

4 - Sanjay Dhruv S/o Janak Dhruv @ Ghana Dhruv Aged About 24
Years R/o Chhirrapara Ganesh Chowk Bhathagaon, P.S. Purani Basti,
Raipur District Raipur Chhattisgarh

---Appellants

Versus

State of Chhattisgarh Through District Magistrate Raipur District Raipur
Chhattisgarh

... Respondent

(Cause-title taken from Case Information System)

For Appellant (In ACQA No.123/2023)	:	Mr. Shubhank Tiwari, Advocate
For Appellants (In CRA No.495/2023)	:	Mr. Bishnu Muni, Advocate
For State/Respondent	:	Mr. Ashish Shukla, Additional Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

13.08.2026

1. Heard Mr. Shubhank Tiwari, learned counsel for the appellant in Acquittal Appeal No.124/2023, Mr. Bishnu Muni, learned counsel for the appellants in CRA No.495/2023 and Mr. Ashish Shukla, learned Additional Advocate General, appearing for the State.
2. The present matter arises out of the judgment of conviction and order of sentence dated 24.12.2022 passed by the learned 11th Additional Sessions Judge, Raipur, District Raipur (Chhattisgarh) in Sessions Trial No.22/2021, whereby the accused/appellants, namely Yogesh Yadav, Deepak Vishvakarma, Arun Dhruv and Sanjay Dhruv, have been convicted for the offences punishable under Section 302 read with Section 120-B of the Indian Penal Code, 1860, and sentenced to undergo life imprisonment with

fine of ₹2,000/- each, with the stipulation that in default of payment of fine, they shall undergo further rigorous imprisonment for one year; further, accused/appellants Yogesh Yadav and Deepak Vishvakarma have also been convicted for the offences punishable under Sections 25(1-B)(b) and 27(1) of the Arms Act and sentenced to undergo rigorous imprisonment for three years and five years respectively, with fine of ₹500/- each and corresponding default sentences. At the same time, co-accused Brahmanand Sonkar came to be acquitted of the charges levelled against him. Aggrieved by the aforesaid judgment, Criminal Appeal No.495/2023 has been preferred by the convicted accused/appellants, namely Yogesh Yadav, Deepak Vishvakarma, Arun Dhruv and Sanjay Dhruv, challenging their conviction and sentence, whereas Acquittal Appeal No.124/2023 has been preferred by the complainant Prem Lal Dhivar, challenging the acquittal of accused Brahmanand Sonkar. Since both the appeals arise out of the same judgment dated 24.12.2022 passed in Sessions Trial No.22/2021 and involve common questions of fact and law, they are being considered and decided together by this common judgment.

3. Briefly stated, the case of the prosecution is that on 12.03.2020 at about 5:00 p.m., near Maa Durga Clinic, Bazar Chowk, Bhathagaon, within the jurisdiction of Police Station Purani Basti, Raipur, deceased Jeevan Lal Jalkshatri was allegedly attacked by accused/appellants Yogesh Yadav, Deepak Vishvakarma, Arun

Dhruv and Sanjay Dhruv pursuant to a criminal conspiracy hatched amongst them. It is the prosecution case that the accused persons, in furtherance of their common design and with the intention of causing the death of Jeevan Lal Jalkshatri, assaulted him repeatedly with a knife and scissors, as a result of which he sustained multiple serious injuries and subsequently succumbed to the injuries. The incident is stated to have been witnessed by, inter alia, Prem Lal Dhivar (PW-4), who was a friend of the deceased, and Ved Prakash Jalkshatri (PW-4), son of the deceased, besides other prosecution witnesses who were examined during trial.

4. It is further the case of the prosecution that, immediately after the occurrence, the matter was reported to the police and the criminal law was set in motion. During the course of investigation, the Investigating Officer inspected the place of occurrence, prepared the spot documents and recorded the statements of the witnesses. The prosecution relied upon the ocular account of the witnesses who claimed to have witnessed the assault and attributed specific participation to accused Yogesh Yadav, Deepak Vishvakarma, Arun Dhruv and Sanjay Dhruv. The prosecution also relied upon the evidence relating to the seizure and recovery of the weapons allegedly used in the commission of the offence. In particular, the seizure proceedings concerning the weapons allegedly recovered at the instance of the accused persons were relied upon by the prosecution to connect them with occurrence.

5. The prosecution further relied upon the medical evidence to establish that the death of Jeevan Lal Jalkshatri was homicidal in nature and was the result of the injuries sustained by him in the assault. The medical evidence was relied upon in conjunction with the ocular testimony to establish the nature, location and manner of the injuries caused to the deceased. During investigation, various articles connected with the occurrence were seized and sent for forensic examination. The prosecution placed on record the Forensic Science Laboratory report (Ex.P-39), which records the detection of blood stains on the knife seized from accused Deepak Vishvakarma and Yogesh Yadav, though the blood stains had become disintegrated and the grouping thereof could not be determined. The prosecution contended that the said scientific evidence, read with the recovery of the weapons and the testimony of the eyewitnesses, provided corroboration to its case regarding the participation of the accused persons in the commission of the offence.
6. The prosecution also relied upon electronic evidence collected during investigation. It was alleged that a pen drive containing CCTV footage was seized during investigation and the seizure proceedings were sought to be proved through Dilip Kumar Dhivar (PW-9) and Dev Kumar Jalkshatri (PW-14), who were cited as witnesses to the seizure of the said article, marked as Ex.P-17. The said witnesses, however, did not furnish any substantive account regarding the contents of the pen drive or the

photographs/video allegedly contained therein. The learned Trial Court nevertheless considered the said electronic material along with the other evidence available on record. The prosecution further examined the Investigating Officer and other formal and seizure witnesses in order to prove the various stages of investigation, including preparation of the relevant documents, seizure of articles, recording of memorandum statements and recovery of the alleged weapons.

7. In support of its case, the prosecution examined sixteen witnesses, namely, PW-1 Prem Lal Dhivar, the complainant and an alleged eyewitness to the occurrence; PW-2 Santosh Sonkar; PW-3 Bhailal Anant; PW-4 Vedprakash Jalkshatri, son of the deceased and an alleged eyewitness; PW-5 Nukesh Kumar Singh; PW-6 Yogesh Kumar Tarak; PW-7 Ashok Verma; PW-8 Smt. Matibai; PW-9 Dilip Kumar Dhivar; PW-10 Kaleshwar Kashyap; PW-11 Digvijay Singh Sidar; PW-12 Dr. Dipesh Shah; PW-13 Ekeshwar Verma; PW-14 Devkumar Jalkshatri; PW-15 Dr. M. Nirala, who proved the post-mortem examination and the medical findings; and PW-16 Rajesh Singh, who was examined in relation to the investigation and other formal aspects of the case. The prosecution also relied upon the documentary evidence exhibited as Ex.P/1 to Ex.P/41, including the First Information Report (Ex.P/1), mereg intimation (Ex.P/2), inquest proceedings (Ex.P/4), crime details form (Ex.P/5), spot map (Ex.P/6), property seizure memos (Ex.P/7 and Ex.P/11 to Ex.P/17), memorandum

statements (Ex.P/8 to Ex.P/10 and Ex.P/26), arrest/court surrender memos (Ex.P/20 to Ex.P/24 and Ex.P/34 to Ex.P/38), knife diagrams (Ex.P/18 and Ex.P/19), query report and related documents (Ex.P/28), FSL-related documents (Ex.P/30 and Ex.P/31), post-mortem application and report (Ex.P/32 and Ex.P/33), FSL report (Ex.P/39), certificate (Ex.P/40) and the statement recorded under Section 164 Cr.P.C. (Ex.P/41). The prosecution also produced Article-1, the pen drive, as an article admitted in evidence.

8. The prosecution case, in substance, rested upon the ocular testimony of PW-1 Prem Lal Dhivar and PW-4 Vedprakash Jalkshatri, who were relied upon as eyewitnesses to the occurrence, besides the evidence of the other witnesses relating to the circumstances of the incident, seizure and recovery of the articles, and the investigation conducted by the police. The prosecution also relied upon the evidence of PW-15 Dr. M. Nirala to establish the nature and cause of death of deceased Jeevan Lal Jalkshatri and upon the evidence of PW-12 Dr. Dipesh Shah in relation to the medical aspects of the case. The seizure and recovery proceedings, including the alleged recovery of weapons and other articles, were sought to be established through the concerned witnesses. The prosecution further relied upon FSL report (Ex.P/39) in respect of the articles forwarded for forensic examination and upon Article-1, pen drive, allegedly containing CCTV footage, to lend corroboration to its version of occurrence.

- 9.** Upon completion of the prosecution evidence, the accused persons were examined under Section 313 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), wherein the incriminating circumstances appearing against them in the evidence of the prosecution were put to them. The accused persons denied the allegations and the circumstances relied upon by the prosecution, pleaded false implication and disputed their involvement in the commission of the alleged offence. The defence sought to challenge, inter alia, the credibility of the alleged eyewitnesses, the recovery and seizure proceedings, the medical and forensic evidence and the alleged electronic evidence. In defence, DW-1 Dr. Shailendra Pushpkar was examined, who was relied upon by the defence in support of its case, particularly with regard to the nature and possible cause of the injuries sustained by the injured persons.
- 10.** On appreciation of the oral and documentary evidence brought on record, the learned Trial Court, vide judgment dated 24.12.2022 passed in Sessions Trial No.22/2021, held that the prosecution had succeeded in establishing the guilt of accused/appellants Yogesh Yadav, Deepak Vishvakarma, Arun Dhruv and Sanjay Dhruv for the offence punishable under Section 302 read with Section 120-B of the Indian Penal Code, 1860. The learned Trial Court further found accused Yogesh Yadav and Deepak Vishvakarma guilty of the offences punishable under Sections 25(1-B)(b) and 27(1) of the Arms Act. Accordingly, the aforesaid

four accused persons were convicted and sentenced as recorded in the impugned judgment. However, insofar as accused Brahmanand Sonkar is concerned, the learned Trial Court held that the prosecution had failed to establish his involvement in the alleged occurrence or the criminal conspiracy beyond reasonable doubt and, consequently, acquitted him of the charges. Aggrieved by the conviction and sentence, the four convicted accused have preferred Criminal Appeal No.495/2023, whereas the complainant Prem Lal Dhivar has preferred Acquittal Appeal No.124/2023, challenging the acquittal of accused Brahmanand Sonkar.

11. Mr. Shubhank Tiwari, learned counsel appearing for the appellant/complainant in Acquittal Appeal No.124/2023, would submit that the learned Trial Court has committed a serious error of law and fact in acquitting accused Brahmanand Sonkar, despite there being sufficient material on record demonstrating his involvement in the commission of the offence. According to learned counsel, the evidence of the prosecution witnesses, particularly the eyewitnesses, is required to be appreciated in its entirety and cannot be discarded merely on account of minor discrepancies or because a particular witness happens to be related to, or acquainted with, the deceased. It is submitted that the learned Trial Court itself has found the occurrence and the participation of the other accused persons to have been established, and therefore, the evidence relating to the criminal conspiracy and the role of Brahmanand could not have been

discarded by adopting a hyper-technical approach. Learned counsel would contend that the circumstances emerging from the prosecution evidence, when considered cumulatively, establish the involvement of respondent/accused Brahmanand beyond reasonable doubt and that the acquittal recorded in his favour is contrary to the evidence available on record.

- 12.** Learned counsel would further submit that the learned Trial Court has failed to properly appreciate the legal position governing the proof of a criminal conspiracy under Section 120-B of the IPC. It is argued that a conspiracy is ordinarily hatched in secrecy and, therefore, direct evidence regarding the meeting of minds of the conspirators is seldom available; the same can legitimately be inferred from the conduct of the accused persons and the surrounding circumstances forming part of the prosecution case. According to learned counsel, the evidence led by the prosecution, including the ocular account, the circumstances emerging during investigation and the conduct of the accused persons, furnishes sufficient material to establish the participation of Brahmanand in the criminal conspiracy. It is, therefore, submitted that the finding of acquittal recorded in favour of Brahmanand Sonkar is unsustainable and deserves to be set aside and he be convicted in accordance with law.
- 13.** Mr. Bishnu Muni, learned counsel appearing for the appellants/accused Yogesh Yadav, Deepak Vishvakarma, Arun

Dhruv and Sanjay Dhruv in Criminal Appeal No.495/2023, would submit that the learned Trial Court has failed to appreciate the prosecution evidence in its proper perspective and has convicted the appellants principally on the basis of interested and unreliable testimony. According to learned counsel, the alleged eyewitnesses are either closely connected with the deceased or otherwise interested in the prosecution case and their testimony suffers from material contradictions, omissions and improvements. It is submitted that merely because a witness is related to the deceased, his evidence cannot be rejected outright, but where such evidence is found to contain material inconsistencies and is not corroborated by independent evidence, the same cannot safely form the sole basis of conviction for an offence carrying the sentence of life imprisonment.

- 14.** Learned counsel would further contend that the prosecution has failed to establish the alleged criminal conspiracy under Section 120-B IPC. It is submitted that the charge of conspiracy requires proof of an agreement or meeting of minds between the accused persons to commit the alleged offence and that mere presence, association or suspicion cannot take the place of proof of such agreement. According to learned counsel, there is no reliable evidence demonstrating any prior meeting, arrangement or agreement amongst the appellants to cause the death of deceased Jeevan Lal Jalkshatri. The learned Trial Court, it is argued, has inferred conspiracy merely from the alleged

participation of the appellants in the occurrence, which is legally impermissible in the absence of cogent evidence establishing the necessary meeting of minds.

- 15.** Learned counsel would next challenge the alleged recovery and seizure of the weapons. It is submitted that the independent witnesses associated with the seizure proceedings have not supported the prosecution case in material particulars and that the alleged memorandum and seizure evidence does not inspire confidence. The learned counsel would draw attention to the evidence concerning the pen drive and CCTV footage, particularly the testimony of the witnesses associated with its seizure, and submit that the contents of the electronic material have not been satisfactorily proved in accordance with law. It is contended that the CCTV footage does not establish the participation of the appellants in the alleged assault and, therefore, cannot be treated as corroborative evidence against them.
- 16.** Learned counsel would also submit that the FSL report (Ex.P/39) does not conclusively connect the appellants with the murder. Though blood stains were allegedly detected on the seized knife/articles, the forensic report itself records that the stains had become disintegrated and their blood grouping could not be determined. Thus, according to learned counsel, the forensic evidence does not establish that the blood found on the seized

articles was that of the deceased. The alleged recovery, therefore, remains inconclusive and cannot furnish substantive corroboration to the otherwise doubtful ocular testimony. Learned counsel would further submit that the medical evidence does not conclusively establish that the injuries attributed to the appellants could have been caused in the manner alleged by the prosecution.

17. It is lastly submitted that the prosecution is required to establish its case beyond reasonable doubt and that the burden never shifts upon the accused to explain deficiencies in the prosecution case. The material contradictions in the testimony of the alleged eyewitnesses, absence of reliable independent corroboration, doubtful recovery of the weapons, inconclusive forensic evidence and failure to establish the alleged conspiracy cumulatively create serious doubt regarding the prosecution story. Learned counsel would, therefore, submit that the appellants are entitled to the benefit of doubt and deserve to be acquitted of all the charges. It is further submitted that the learned Trial Court has adopted an approach which overlooks the settled principle that suspicion, however strong, cannot take the place of proof.
18. Per contra, Mr. Ashish Shukla, learned Additional Advocate General appearing for the State, would oppose the submissions advanced by learned counsel for the appellants and support the judgment of the learned Trial Court insofar as the conviction of

accused/appellants Yogesh Yadav, Deepak Vishvakarma, Arun Dhruv and Sanjay Dhruv is concerned. He would submit that the prosecution has led cogent and consistent evidence establishing the homicidal death of Jeevan Lal Jalkshatri as well as the participation of the appellants in the commission of the offence. According to learned State counsel, the testimony of the eyewitnesses cannot be discarded merely because they are related to or acquainted with the deceased. Their presence at the place of occurrence is natural and their evidence, when considered in its entirety, establishes the material particulars of the prosecution case. Minor discrepancies or variations, which do not go to the root of the prosecution story, cannot be made a ground for discarding otherwise reliable ocular evidence.

19. Learned Additional Advocate General would further submit that the ocular evidence receives substantial corroboration from the medical, seizure and forensic evidence available on record. The prosecution has proved the relevant seizure proceedings and the recovery of weapons, and Ex.P/39, the FSL report, also records the presence of blood stains on the articles sent for forensic examination. According to learned State counsel, the fact that the blood grouping could not be ascertained because the stains had become disintegrated does not render the entire forensic evidence worthless, particularly when it is considered along with the direct evidence of the eyewitnesses and the other circumstances proved by the prosecution. It is contended that the

learned Trial Court has carefully considered the entire evidence and has recorded a reasoned finding of guilt, which does not warrant interference in appeal.

- 20.** Learned Additional Advocate General would also oppose Acquittal Appeal No.124/2023, insofar as the complainant seeks reversal of the acquittal of accused Brahmanand Sonkar. He would submit that the learned Trial Court, upon a proper appreciation of the evidence, found that there was no reliable substantive evidence establishing the participation of Brahmanand in the alleged conspiracy or the commission of the murder. In the absence of cogent evidence demonstrating his meeting of minds with the other accused persons, the learned Trial Court was justified in extending the benefit of doubt to him. It is, therefore, submitted that the acquittal recorded in his favour does not suffer from any perversity or illegality warranting interference in an appeal against acquittal.
- 21.** We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original records of the trial Court with utmost circumspection and carefully as well.
- 22.** In view of the rival submissions advanced by learned counsel for the parties and upon consideration of the entire evidence, both oral and documentary, available on record, the following questions arise for determination in these appeals:

(i) Whether the learned Trial Court was justified in acquitting accused Brahmanand Sonkar of the charge under Section 302 read with Section 120-B of the Indian Penal Code, and whether the said finding of acquittal calls for interference in Acquittal Appeal No.124/2023?

(ii) Whether the learned Trial Court was justified in holding accused/appellants Yogesh Yadav, Deepak Vishvakarma, Arun Dhruv and Sanjay Dhruv guilty for the offence punishable under Section 302 read with Section 120-B IPC and, so far as accused Yogesh Yadav and Deepak Vishvakarma are concerned, under Sections 25(1-B)(b) and 27(1) of the Arms Act, and whether the conviction and sentence recorded against them in Criminal Appeal No.495/2023 call for interference by this Court?

Re: Question No. (i) — Acquittal Appeal No.124/2023

23. Before examining the correctness of the acquittal of accused Brahmanand Sonkar, it would be apposite to notice the well-settled parameters governing the jurisdiction of an appellate Court while dealing with an appeal against acquittal. There is no absolute bar upon the appellate Court in reappreciating the entire evidence, but the presumption of innocence in favour of an accused, which exists at the commencement of the trial, stands further strengthened by an order of acquittal. The Supreme Court in ***Sambasivam v. State, 2025 INSC 281***, reiterated that an

acquitted accused enjoys a strengthened presumption of innocence and that such presumption is required to be kept in view while examining a challenge to the order of acquittal. Likewise, in ***The State of Maharashtra v. Kamlakar @ Kamalakar & Anr., Criminal Appeal No.1715 of 2017, decided on 27.02.2025***, the Supreme Court reiterated that although an appellate Court has full power to reappraise the evidence in an appeal against acquittal, interference is warranted where the finding of the Trial Court is perverse, contrary to the weight of evidence or otherwise unsustainable in law; where two reasonable views are possible and the Trial Court has adopted one such view, the acquittal ordinarily ought not to be disturbed.

24. 24. More recently, the Supreme Court has again reiterated that where the judgment under appeal reflects a legally possible view, the same cannot be reversed merely because another view may also be possible, unless the appellate Court finds the view to be erroneous or perverse. Thus, the appellate exercise in an acquittal appeal is not one of substituting a preferred view for a reasonably possible view taken by the Trial Court. The question is whether the conclusion reached by the learned Trial Court is such that no reasonable judicial mind, upon a proper appreciation of the evidence, could have arrived at it.
25. Applying the aforesaid principles to the present case, this Court has undertaken an independent and careful reappraisal of the

entire evidence. The prosecution evidence regarding the actual occurrence and the participation of the other accused persons cannot, merely because it has been accepted against them, be mechanically extended to accused Brahmanand Sonkar. The criminal liability of each accused has to be established on the basis of legally admissible and reliable evidence. In the present case, the material eyewitnesses have not attributed any specific overt act to Brahmanand Sonkar. More importantly, the prosecution has failed to place on record any cogent and reliable circumstance establishing his presence at the scene of occurrence or his participation in the assault upon deceased Jeevan Lal Jalkshatri.

- 26.** The prosecution essentially seeks to connect Brahmanand Sonkar with the offence through the allegation of criminal conspiracy. The law relating to conspiracy, however, does not permit the Court to infer a meeting of minds merely from association, acquaintance or suspicion. In 2026 INSC 503, the Supreme Court, while considering Section 120-B IPC, reiterated the statutory distinction between criminal conspiracy and the substantive offence and the necessity of establishing the ingredients of conspiracy in accordance with law. Similarly, the Supreme Court in its recent pronouncements has consistently emphasised that the prosecution must establish circumstances from which the requisite meeting of minds can reasonably and safely be inferred.

- 27.** In the present case, there is no direct evidence of any meeting, agreement or prior arrangement between Brahmanand Sonkar and the other accused persons. Nor has the prosecution brought on record any independent circumstance of such compelling nature from which his participation in the alleged conspiracy can safely be inferred. The evidence of PW-6 Yogesh Kumar Tarak, to the extent it seeks to attribute the involvement of Brahmanand on the basis of what was allegedly stated by co-accused Sanjay Dhruv before the police, cannot constitute substantive evidence against Brahmanand. The statutory bar governing confessions made to police officers assumes significance in this regard.
- 28.** This Court is also conscious that in an appeal against acquittal, the ultimate consideration is not whether the prosecution story is merely probable, but whether the finding recorded by the Trial Court is demonstrably unsustainable. On a complete reappraisal, this Court finds that the learned Trial Court has considered the material evidence and has arrived at a conclusion which is certainly a possible and reasonable view of the evidence. There is no material on record to hold that the acquittal of Brahmanand Sonkar is the result of perversity, complete misreading of evidence or application of an erroneous legal principle.
- 29.** The complainant may legitimately entertain a grievance that the evidence could have been appreciated differently; however, such possibility, by itself, cannot justify reversal of an acquittal. The

Supreme Court has repeatedly cautioned that where the view taken by the Trial Court is a possible view, the appellate Court should not interfere merely because it may have reached a different conclusion. The present case does not fall within the exceptional category warranting reversal of an acquittal.

30. Accordingly, Question No.(i) is answered in favour of accused Brahmanand Sonkar and against the appellant/complainant. Acquittal Appeal No.124/2023 is, therefore, liable to be dismissed.

Re: Question No. (ii) — Criminal Appeal No.495/2023

31. So far as Criminal Appeal No.495/2023 is concerned, the appellants/accused persons, namely, Yogesh Yadav, Deepak Vishvakarma, Arun Dhruv and Sanjay Dhruv, have called in question the judgment of conviction and order of sentence dated 24.12.2022 passed by the learned 11th Additional Sessions Judge, Raipur, in Sessions Trial No.22/2021, whereby they have been convicted for the offence punishable under Section 302 read with Section 120-B of the Indian Penal Code and sentenced to undergo imprisonment for life with fine, and Yogesh Yadav and Deepak Vishvakarma have further been convicted under Sections 25(1-B)(b) and 27 of the Arms Act. The question before this Court, therefore, is whether, upon a reappraisal of the entire evidence, the findings recorded by the learned Trial Court suffer from any perversity, misreading of evidence, omission to consider

material evidence or error of law so as to warrant interference in appellate jurisdiction.

- 32.** The prosecution case, in substance, is that on 12.03.2020 at about 5:00 p.m., near Maa Durga Clinic, Bazar Chowk, Bhathagaon, within the jurisdiction of Police Station Purani Basti, Raipur, the deceased Jeevan Lal Jalkshatri was attacked by the appellants pursuant to a criminal conspiracy and was repeatedly assaulted with a knife and scissors, resulting in multiple serious injuries and ultimately his death. The prosecution case, therefore, is not founded merely upon a subsequent recovery or an inference drawn from suspicious circumstances; rather, the prosecution has placed before the Court direct ocular evidence regarding the occurrence, which is required to be examined in conjunction with the medical, forensic and other corroborative evidence.
- 33.** At the outset, it is necessary to notice the evidence of PW-1 Prem Lal Dhivar, the complainant and an eyewitness to the occurrence. PW-1 has narrated the manner in which the deceased was assaulted and has attributed participation in the occurrence to the appellants. His evidence assumes considerable significance as it relates directly to the occurrence and is not merely hearsay evidence concerning what happened subsequently. The defence has subjected this witness to detailed cross-examination and has attempted to impeach his credibility on the ground of his

relationship with or proximity to the deceased and by pointing out discrepancies in his narration. However, the cross-examination has not brought out any such material contradiction or omission which goes to the root of the prosecution case so as to render his presence at the place of occurrence or his account of the assault inherently improbable.

34. The testimony of PW-4 Vedprakash Jalkshatri, who is also an eyewitness, is of particular relevance. He has supported the prosecution version regarding the occurrence and the assault upon the deceased. His evidence, when read as a whole, materially corroborates the account given by PW-1 with regard to the participation of the accused persons and the nature of the assault. The fact that PW-4 is related to the deceased cannot, by itself, constitute a ground for discarding his evidence. The law is well settled that a related witness is not necessarily an interested witness. What the Court is required to examine is whether such witness had a natural opportunity to witness the occurrence, whether his presence is established, whether his testimony is intrinsically reliable and whether it receives assurance from the surrounding circumstances and other evidence.
35. The Supreme Court has recently reiterated this principle in ***State of Rajasthan v. Khemraj, 2025 INSC 655***, observing that there is no absolute rule that the evidence of related eyewitnesses must invariably be corroborated by independent witnesses;

however, where their testimony suffers from contradictions going to the root of the matter, the Court must carefully examine whether such evidence can safely constitute the basis of conviction. The converse principle is equally well settled: where the testimony of a related witness withstands cross-examination and is consistent on the material particulars and finds corroboration from medical or other evidence, there is no legal impediment in acting upon it.

36. The Supreme Court in ***Kunhimammed @ Kunheethu v. The State of Kerala, 2024 INSC 937*** also considered a case where the testimony of an eyewitness, though assailed as that of an interested witness and despite omissions and contradictions, was found reliable when tested against the medical evidence and surrounding circumstances. In the present case, the evidence of PW-1 and PW-4, when examined in its entirety, inspires confidence. Their testimony is consistent on the material aspect that the deceased was subjected to a concerted assault by the accused persons. The discrepancies highlighted by the defence do not relate to the foundational facts of the occurrence. It is necessary to bear in mind that witnesses to a violent occurrence cannot be expected to reproduce every detail with photographic precision. Human memory is not a mechanical recording device. Minor variations as to the sequence of individual blows, exact position of the assailants or other peripheral details are natural and, unless such variations strike at the core of the prosecution

case, cannot be treated as sufficient to discard otherwise credible ocular evidence.

37. The evidence of PW-2 Santosh Sonkar and PW-3 Bhailal Anant has also been considered. Their testimony is relevant for appreciating the circumstances surrounding the occurrence and the prosecution version. Likewise, PW-5 Nukesh Kumar Singh and PW-6 Yogesh Kumar Tarak have been examined by the prosecution in relation to the subsequent investigation and circumstances relied upon by the prosecution. The Court has not overlooked that some of these witnesses have not supported every part of the prosecution case with equal force. However, the evidence of a witness cannot be evaluated on an all-or-nothing basis.
38. In this connection, the recent judgment of the Supreme Court in ***Tarun Sharma v. State of Haryana, 2025 INSC 1139*** is instructive. The Supreme Court reiterated that merely because a prosecution witness has been declared hostile, his entire testimony does not stand effaced from the record. The Court is required to separate the reliable portion from the unreliable portion and may rely upon that part of the testimony which receives corroboration from other evidence. The maxim *falsus in uno, falsus in omnibus* has no application as an inflexible rule in Indian criminal jurisprudence. Thus, the fact that a particular witness does not support the prosecution in its entirety does not

compel the Court to reject his entire deposition, particularly where a material portion thereof is consistent with other reliable evidence.

- 39.** The ocular evidence receives significant corroboration from the medical evidence. PW-15 Dr. M. Nirala, who conducted the post-mortem examination of deceased Jeevan Lal Jalkshatri, proved the post-mortem report Ex.P/33. The medical evidence establishes that the deceased had sustained multiple injuries attributable to a violent assault. The post-mortem findings are of considerable significance because the prosecution case is that the deceased was repeatedly assaulted with sharp-edged weapons. The injuries found upon the person of the deceased, read with the medical opinion regarding the cause and nature of death, establish that the death was homicidal and that the deceased had suffered serious bodily injuries before succumbing to them.
- 40.** The nature of the injuries, as emerging from the post-mortem evidence, is also material in appreciating the ocular account. The deceased had sustained multiple incised/sharp-edged injuries, including injuries over the head and other parts of the body, besides injuries corresponding to the use of sharp-edged weapons. The medical evidence, therefore, is not inconsistent with the prosecution allegation that the deceased was attacked with a knife and scissors and was repeatedly assaulted. The

multiplicity and nature of the injuries also lend assurance to the prosecution version that the occurrence involved a concerted and repeated assault rather than a solitary or accidental injury.

- 41.** The defence has relied upon the evidence of DW-1 Dr. Shailendra Pushpkar and has sought to suggest that certain injuries could have been caused in a manner different from that alleged by the prosecution. The said submission, however, does not demolish the prosecution case. The opinion of the defence witness is required to be appreciated along with the proved medical record and the ocular evidence. Unless the medical evidence completely rules out the possibility of the occurrence in the manner narrated by the eyewitnesses, it cannot be used to displace trustworthy ocular evidence. In the present case, the medical evidence does not render the account of PW-1 and PW-4 impossible or inherently improbable. On the contrary, the existence of multiple sharp-edged injuries provides broad medical support to their testimony.
- 42.** It is also significant that the prosecution has produced PW-12 Dr. Dipesh Shah and PW-15 Dr. M. Nirala in relation to the medical aspects of the case. The medical evidence, therefore, is not being considered in isolation or merely on the basis of the contents of the post-mortem report. The evidence of the medical witnesses, the post-mortem report Ex.P/33, and the other medical material on record have been considered in juxtaposition with the

ocular account. The overall medical evidence establishes the homicidal nature of the death and is compatible with the prosecution allegation of assault by sharp-edged weapons.

- 43.** The evidence relating to seizure and recovery also requires consideration. The prosecution has proved several property seizure memos, including Ex.P/07 and Ex.P/11 to Ex.P/17, the memoranda Ex.P/08 to Ex.P/10, and the subsequent seizure proceedings. In respect of the weapons, the prosecution has relied upon the memorandum evidence and the corresponding recovery of articles. Ex.P/18 and Ex.P/19 contain the diagrams of the knife, while the FSL report has been proved as Ex.P/39. The prosecution has thereby established that the investigation resulted in recovery and forensic examination of the articles connected with the occurrence.
- 44.** It is true that the FSL report Ex.P/39 records blood stains on the seized articles but, owing to disintegration of the blood material, the blood group could not be ascertained. This Court, therefore, does not treat the FSL report as conclusive scientific proof that the blood found on the articles was that of the deceased. Nevertheless, the evidentiary value of the recovery and the forensic material cannot be assessed in a vacuum. The absence of determination of the blood group merely limits the extent to which the forensic report can be used as corroboration; it does not automatically render the recovery inadmissible or

meaningless. More importantly, the conviction in the present case is not founded solely upon the recovery or the FSL report. The principal foundation is the ocular evidence, supported by medical evidence and the surrounding circumstances.

- 45.** The defence has also pointed out that certain witnesses associated with the seizure did not support the prosecution case in its entirety. The evidence of PW-9 Dilip Kumar Dhivar and PW-14 Devkumar Jalkshatri, in particular, has been assailed in relation to the seizure of the pen drive and other articles. The electronic material has also been relied upon by the defence to contend that it does not conclusively establish the occurrence. Even if the electronic evidence or a particular seizure is kept aside, the prosecution case does not collapse because there is substantive ocular evidence of the occurrence which has received material corroboration from the medical evidence. It is a settled principle that an otherwise reliable prosecution case cannot be rejected merely because every piece of corroborative evidence does not independently establish the guilt of the accused.
- 46.** The defence has further argued that there was no established previous enmity between the deceased and the appellants. The submission, though relevant for consideration, does not advance the defence case to the extent suggested. Motive assumes greater significance where the prosecution case rests principally

upon circumstantial evidence. Where there is reliable direct evidence of the occurrence, absence of proof of motive is not by itself fatal to the prosecution. The Court is concerned with whether the act of the accused has been proved by reliable evidence. The Supreme Court has repeatedly held that a proved motive is not an indispensable condition precedent for sustaining a conviction where the direct evidence is otherwise trustworthy.

47. The next and more substantial question concerns the charge of criminal conspiracy under Section 120-B IPC. The appellants have argued that there is no direct evidence of any meeting or agreement between them and that the prosecution has failed to establish the conspiracy independently. It is true that mere association, friendship, presence together or knowledge of an intended crime would not, by themselves, constitute criminal conspiracy. The prosecution must establish the existence of an agreement to do an illegal act or to do a lawful act by illegal means.
48. At the same time, criminal conspiracy is, by its very nature, ordinarily hatched in secrecy and, therefore, direct evidence of the precise conversation or agreement between the conspirators is seldom available. In ***Gurdeep Singh v. State of Punjab, 2025 INSC 957***, the Supreme Court reiterated that the meeting of minds is the primary requirement of criminal conspiracy; however, the agreement need not necessarily be proved by direct evidence

and may be inferred from the proved circumstances and conduct of the accused. The Court further cautioned that every incriminating circumstance relied upon to establish the conspiracy must itself be proved by reliable evidence and the circumstances must form a coherent chain.

- 49.** Applying the aforesaid principle to the present case, the finding of conspiracy recorded by the learned Trial Court cannot be said to rest merely upon the fact that the appellants knew each other. The prosecution evidence depicts their concerted participation in the assault upon the deceased, the nature and manner of the assault, the use of sharp-edged weapons, the subsequent recovery proceedings and the other surrounding circumstances. The acts attributed to the appellants, when considered cumulatively rather than in isolation, provide the basis for the inference that their participation was pursuant to a common design.
- 50.** The Court must, however, guard against converting suspicion into proof. Criminal conspiracy cannot be inferred merely because a number of persons happen to be present at the scene. What is material is whether the proved conduct and circumstances demonstrate that the accused persons were acting pursuant to a common unlawful design. In the present case, the direct evidence regarding the concerted assault, read with the medical evidence showing multiple sharp-edged injuries and the other proved

circumstances, furnishes the necessary evidentiary foundation for the finding recorded by the learned Trial Court.

- 51.** The defence has also attempted to draw advantage from the fact that certain witnesses have not supported the prosecution case in its entirety. That submission cannot be considered in isolation. The Supreme Court in 2025 INSC 1139 has made it clear that the Court must distinguish the reliable portion of a witness's testimony from the portion which does not inspire confidence, rather than mechanically discarding the entire testimony merely because the witness has resiled from some part of the prosecution case. In the present case, the core testimony concerning the occurrence stands supported by other evidence on record.
- 52.** It is also necessary to keep in view that the standard of proof is proof beyond reasonable doubt, and not proof beyond every conceivable or speculative doubt. The accused are entitled to the benefit of a reasonable doubt arising from the evidence; they are not entitled to an acquittal on the basis of fanciful, remote or hypothetical possibilities. The Supreme Court's recent decisions also emphasise that while contradictions which go to the root of the prosecution case may justify acquittal, minor variations and discrepancies which do not affect the substratum of the prosecution version cannot be elevated into grounds for rejecting otherwise reliable evidence.

- 53.** On a careful examination of the evidence of PW-1 Prem Lal Dhivar and PW-4 Vedprakash Jalkshatri, this Court finds that their evidence regarding the occurrence remains substantially consistent on the material particulars. Their testimony receives assurance from the medical evidence of PW-15 Dr. M. Nirala, the post-mortem report Ex.P/33, and the other material collected during investigation. The injuries found upon the deceased are consistent with the prosecution case of repeated assault by sharp-edged weapons. The evidence of the remaining prosecution witnesses, even where not wholly supportive, does not create such a contradiction as would render the testimony of the principal eyewitnesses inherently unreliable.
- 54.** The Court has also carefully considered the defence evidence of DW-1 Dr. Shailendra Pushpkar, the deficiencies pointed out in the seizure proceedings, the inability of the FSL to determine the blood group, the evidence concerning the pen drive, and the alleged absence of motive or previous enmity. None of these circumstances, either individually or collectively, is sufficient to displace the direct evidence of the occurrence. At best, they affect the degree of corroboration available from particular pieces of evidence. They do not destroy the foundational prosecution evidence.
- 55.** So far as the conviction of Yogesh Yadav and Deepak Vishvakarma under Sections 25(1-B)(b) and 27 of the Arms Act is

concerned, the recovery of the weapons, the seizure proceedings, the testimony of the witnesses associated with the recovery and the corresponding documentary evidence have been considered. The fact that the FSL could not determine the blood group on account of disintegration of the blood stains does not, by itself, nullify the factum of recovery. The evidence relating to possession and recovery has to be assessed on its own footing along with the other evidence on record. On such assessment, the findings recorded by the learned Trial Court cannot be said to be perverse or unsupported by evidence.

- 56.** This Court is conscious of the fact that an appeal against conviction is a valuable statutory right and that the appellate Court is required to undertake an independent assessment of the entire evidence rather than merely examine whether the view taken by the Trial Court is possible. Such independent scrutiny has been undertaken in the present case. Having reappreciated the depositions of the material eyewitnesses, the medical evidence, the documentary evidence, the seizure proceedings, the FSL report, the defence evidence and the submissions advanced on behalf of the appellants, this Court finds no material circumstance which would render the prosecution case doubtful on the standard required in a criminal trial.
- 57.** The cumulative effect of the evidence is therefore of considerable significance. The prosecution has established the homicidal

death of Jeevan Lal Jalkshatri; the ocular witnesses have proved the occurrence and the participation of the appellants; the medical evidence corroborates the nature of the assault; the recovery and forensic evidence provide additional corroborative circumstances; and the evidence as a whole supports the finding that the appellants acted in concert pursuant to the criminal design. The prosecution case does not rest upon any isolated circumstance but upon a body of evidence which, when read together, establishes the guilt of the appellants beyond reasonable doubt.

58. This Court is, therefore, unable to accept the contention that the learned Trial Court convicted the appellants merely on the basis of suspicion, defective recovery or an uncorroborated statement of a related witness. On the contrary, the learned Trial Court has examined the evidence in its proper perspective and has recorded findings which are supported by the material available on record. No material illegality, perversity or miscarriage of justice has been demonstrated warranting appellate interference.
59. **Accordingly, Question No.(ii) is answered against the appellants/accused and in favour of the prosecution.** This Court holds that the prosecution has succeeded in establishing beyond reasonable doubt the participation of Yogesh Yadav, Deepak Vishvakarma, Arun Dhruv and Sanjay Dhruv in the homicidal assault upon deceased Jeevan Lal Jalkshatri and has

further established the ingredients of the offence under Section 302 read with Section 120-B IPC. The additional convictions of Yogesh Yadav and Deepak Vishvakarma under Sections 25(1-B) (b) and 27 of the Arms Act are also found to be supported by the evidence on record.

Conclusion

60. For the reasons discussed hereinabove, **Acquittal Appeal No.124/2023**, preferred by the complainant **Prem Lal Dhivar** against the acquittal of **Brahmanand Sonkar**, fails and is accordingly **dismissed**. The acquittal of Brahmanand Sonkar recorded by the learned 11th Additional Sessions Judge, Raipur, in Sessions Trial No.22/2021 is hereby affirmed.
61. Likewise, **Criminal Appeal No.495/2023**, preferred by **Yogesh Yadav, Deepak Vishvakarma, Arun Dhruv and Sanjay Dhruv**, also fails and is **dismissed**. The judgment of conviction and order of sentence dated 24.12.2022 passed by the learned 11th Additional Sessions Judge, Raipur, District Raipur, in Sessions Trial No.22/2021 are hereby affirmed.
62. In the ultimate analysis, this Court finds that the learned Trial Court has adopted a legally permissible and evidence-based approach in acquitting Brahmanand Sonkar, while the conviction of the remaining four accused persons is founded upon reliable and legally admissible evidence. Neither of the two appeals discloses any ground warranting interference by this Court.

Accordingly, both the appeals, i.e. ACQA No.124/2023 and CRA No.495/2023, therefore, stand **dismissed**.

- 63.** It is stated at the Bar that the appellants are in jail, they shall serve out the sentence as ordered by the trial Court.
- 64.** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.
- 65.** Let a certified copy of this judgment along with the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice