



2026:DHC:7561-DB



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

Reserved on: 22.07.2026
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+ **CRL.A. 312/2003**
SATISH KUMAR

.....Appellant

Through: Mr.Anand Kr. Pandey,
Ms.Theepa Murugesan,
Ms.Sanya Bhatia, Ms.Sabina,
Mr.Kaushal Kishore, Ms.Pruna
Sehrawat, Advs. along with the
appellant in person.

versus

STATE OF DELHI

.....Respondent

Through: Mr.Aman Usman, APP with
Mr.Manvendra Yadav, Adv.
along with Insp. Prakash Chand
Mandiwal.

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

J U D G M E N T

NAVIN CHAWLA, J.

1. The present appeal has been filed by the appellant, challenging the judgment of conviction dated 05.04.2003 and the order of sentence dated 17.04.2003 passed by the learned Additional Sessions Judge (hereinafter referred to as the “*learned Trial Court*”) in Sessions Case No. 108/2000 arising out of FIR No. 410/2000; Police Station Malviya Nagar; under Section 302 of the Indian Penal Code, 1860 (hereinafter



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referred to as '*IPC*'), finding the appellant guilty of the offence under Section 302 of the IPC, while acquitting him of offence under Sections 323/201/34 of the IPC, and sentencing him to life imprisonment with a fine of Rs. 5,000/-, and in default of payment of fine, directing that the appellant shall undergo simple imprisonment for 15 days.

BRIEF CASE OF THE PROSECUTION:

2. The brief facts of the case of the prosecution are as under:
 - a. A complaint was lodged by one Smt. Shakuntala @ Darshna (PW-6) stating that, in the year 1983, she was married to Sh. Hanumant Singh (hereinafter referred to as the '*deceased*') and had three children from her wedlock, that is, two daughters and one son. The deceased used to stay at home and used to milch cows and buffalo and sell their milk. The deceased had three brothers. The eldest brother is named Krishan Kumar (PW-4), who worked in the Delhi Transport Corporation. PW-4/Krishan Kumar and his family resided in the ancestral house of his father in the middle of the village. The second brother, namely Ashok Kumar, was a driver of a Blue Line bus service and resided on the second floor of the house where the deceased used to reside. The wife of Ashok Kumar is Asha, who was also the real younger sister of PW-6/*Shakuntala*. The youngest brother of the deceased is Satish Kumar, the appellant herein, who also resided with his family on the ground floor of the house



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where the deceased used to reside. He was employed as a driver of a private vehicle. Shri Chhote Lal, father-in-law of PW-6/*Shakuntala*, resided along with the eldest son Krishan Kumar. The complaint alleged that he had a liking for his two sons, namely Krishan Kumar and the appellant, and always discriminated between the deceased and Ashok Kumar.

b. PW-6/*Shakuntala* further alleged that the deceased, on numerous occasions, had asked his father and brothers, Krishan Kumar and the appellant, to partition the property; however, the same was refused by Chhote Lal and the appellant.

c. She stated that outside the house of the deceased, there were three shops occupied by tenants, and the rent of all these shops was taken either by Chhote Lal or Krishan Kumar. She stated that she had not received any share in the rental income from the said shops.

d. She stated that on 27.05.2000, at about 8.30 PM, the deceased asked Chhote Lal and the appellant to partition the property in a fair manner and without delay. As a response to this, Chhote Lal and the appellant became furious and started abusing the deceased, who was standing on the main road outside his house. During this quarrel, Smt. Kamlesh, wife of the appellant, also came outside and started abusing the deceased. The deceased said that he would get the property partitioned so that the daily quarrel regarding the same would come to an end. On hearing this, the appellant, Smt. Kamlesh, and Chhote Lal



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became angry and said that ‘today they will put an end to the quarrel forever’ and started beating the deceased while also pushing him inside the house from the main road. She states that she tried to intervene to save the deceased and started shouting. Lots of persons gathered there, and at that time, the appellant threw the deceased on a cot lying outside and after that, the appellant, Smt. Kamlesh, and Chhote Lal pushed the deceased inside their house.

e. PW-6/*Shakuntala* states that while crying, she also entered the house to try and save her husband. In the meanwhile, the appellant went inside his bedroom and came out with a wooden bat/*thapki*. Thereafter, Chhote Lal and Smt. Kamlesh caught hold of the deceased while the appellant gave two blows with the said wooden bat on the head and face of the deceased, as a result of which the deceased fell on the ground inside the courtyard of the house.

f. PW-6/*Shakuntala* states that on seeing this, she also fell unconscious due to fear while shouting and crying, and when she regained consciousness, she found that the deceased had been taken to the hospital, where he died as a result of his injuries. She handed over the wooden bat/*thapki* to the police officials and, in her complaint, stated that Chhote Lal, the appellant, and Smt. Kamlesh had cleaned the blood spilled over at the courtyard and that they had injured the deceased with an intention to kill him. She also stated that even her body was aching with pain and she



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should also be sent for her medical check-up.

3. On this complaint, FIR bearing No. 410/2000 was registered at Police Station Malviya Nagar under Sections 302/323/201/34 of the IPC.
4. The accused persons were arrested from the house in question on 28.05.2000.
5. On completion of the investigation, a challan was filed naming the appellant, Chhote Lal and Smt. Kamlesh as the accused.
6. The learned Trial Court, *vide* order dated 12.01.2001, framed the following charges against the appellant and other accused persons:-

“That on 27.5.2000 at about 8/8.30 pm at H.No. 58A Village Adhchini New Delhi within the jurisdiction of P.S. Malviya Ngr. all of you in furtherance of your common intention committed murder of Hanumant Singh by intentionally causing his death and you all thereby committed an offence punishable U/s 302 read with section 34 IPC and within the cognizance of this court.

Secondly, afore-said date, time and place all of you in furtherance of your common intention voluntarily caused simple hurt by blunt object on the person of Mrs. Shakuntala Devi and thereby committed an offence punishable U/s 323 read with notion 34 IPC and within the cognizance of this court.

Thirdly, on the afore-said date, time and place all of you, knowing and having reasons to believe that an offence of murder has been committed by you cleaned the blood lying in the courtyard, and caused the evidence of the commission of murder to disappear with the intention of screening yourself from legal punishment and you all thus committed an



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offence punishable U/s 201 IPC and within the cognizance of this court.”

7. The appellant and others pleaded not guilty to the aforesaid charges and claimed trial.

8. In order to prove its case, the prosecution examined 19 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C., and they examined 3 witnesses in their defence.

IMPUGNED ORDER OF CONVICTION AND ORDER ON SENTENCE:

9. The learned Trial Court observed that the presence of the eyewitness, PW-6/*Shakuntala*, at the scene of the occurrence could not be doubted. The learned Trial Court also rejected the contention that her conduct was unnatural due to her failure to accompany the deceased to the hospital or raise immediate alarm.

10. The learned Trial Court held that the statement of PW-6/*Shakuntala* was corroborated by the testimonies of PW-5/*Ishwar Singh*, PW-7/Smt. Asha, and police officials present at the spot. PW-6/*Shakuntala*'s account that she fainted upon witnessing the brutal assault, and only regained consciousness after her husband had been rushed to the hospital, was found to be completely credible. Furthermore, the defence evidence adduced through DW-1/*Ashok Kumar* and DW-3/*Krishan Kumar* was discredited as DW-1 had departed prior to the incident and DW-3/*Krishan Kumar*'s assertions regarding the absence of PW-6/*Shakuntala* was held to be uncorroborated and as an afterthought.



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11. The learned Trial Court held that the minor delay in recording the FIR and transmitting the special report to the learned Metropolitan Magistrate, was neither fatal to the prosecution's case nor sufficient to cast doubt on its authenticity. It held that a brief delay in lodging an FIR is understandable when a spouse has suffered the extreme shock of witnessing a severe assault on her husband. It was held that since the special report was dispatched within eleven hours of the registration of the FIR and on the very same day, and the core testimonial evidence remained trustworthy and unshaken, the delay did not erode the foundation of the prosecution's case.

12. Regarding the exact spot of the incident, the learned Trial Court found that while PW-6/*Shakuntala* asserted that the deceased was dragged inside the house and beaten, this specific narrative was uncorroborated by medical and forensic evidence. The post-mortem report revealed an absence of dragging injuries or friction abrasions on the deceased, nor were any injuries found on PW-6/*Shakuntala*. Furthermore, the crime team's inspection, photographs, and blood-stain recoveries were strictly concentrated outside the house around a blood-stained cot. Treating PW-6/*Shakuntala*'s statement regarding the assault continuing inside the house as an exaggeration, the learned Trial Court extended the benefit of reasonable doubt to co-accused Chhote Lal and Smt. Kamlesh, thereby acquitting them of all charges, while finding the appellant guilty of the offence under Section 302 of the IPC.

13. The learned Trial Court emphasised that minor discrepancies,



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normal errors of perception by witnesses, do not warrant the complete rejection of their testimony.

14. The learned Trial Court held that the prosecution successfully proved motive arising out of an ongoing ancestral property dispute. The medical evidence (Ext. PW-1/A) established that the deceased sustained severe blunt-force trauma to vital organs, including scalp contusions, a fractured right mandible, and dislodged teeth caused by a heavy wooden bat/*thapki* (Ext. P-1) bearing AB group human blood matching the deceased.

15. The learned Trial Court opined that repeatedly striking a vital region like the head with extreme force demonstrated a clear determination to inflict injuries sufficient in the ordinary course of nature to cause death.

16. Lastly, the learned Trial Court rejected the plea of self-defence by the appellant seeking mitigation under Exception 4 to Section 300 of the IPC, and held that a "sudden fight" presupposes mutual combat between two parties. Given that the appellant suffered no injuries whatsoever, there was no record of mutual combat; rather, the appellant acted in a cruel and unusual manner against an unarmed victim.

17. Consequently, the learned Trial Court convicted the appellant under Section 302 of the IPC, while acquitting him of charges under Sections 323, 201, and 34 of the IPC.

18. Aggrieved by the conviction and the Order on Sentence passed by the learned Trial Court, the appellant has preferred the present



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appeal before this Court.

19. This Court, *vide* its order dated 27.04.2004, had suspended the sentence of the appellant during the pendency of the present appeal.

SUBMISSIONS MADE BY THE LEARNED COUNSEL FOR THE APPELLANT:

20. The learned counsel for the appellant submits that the appellant's conviction rests entirely on the ocular testimony of PW-6/*Shakuntala*, who falls into the category of a witness who is "neither wholly reliable nor wholly unreliable". Citing the principles in ***Vadivelu Thevar v. State of Madras***, 1957 SCC OnLine SC 13; and ***Joseph v. State of Kerala***, (2003) 1 SCC 465, the learned counsel for the appellant contends that a conviction cannot be sustained on the uncorroborated testimony of a single witness whose evidence is ridden with material exaggerations and contradictions. Given that the learned Trial Court explicitly disbelieved PW-6/*Shakuntala* regarding the involvement of co-accused Chhote Lal (A-2) and Smt. Kamlesh (A-3), the learned counsel for the appellant submits that the appellant is entitled to acquittal on the ground of parity, as the quality and nature of the ocular evidence against all three accused persons remains identical.

21. He submits that there is a major contradiction between the version of PW-6/*Shakuntala* and the objective physical evidence regarding the place of occurrence. While PW-6/*Shakuntala* asserted that all three accused persons dragged the deceased into the house and



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assaulted him there, the post-mortem report (PW-1/A) revealed a complete absence of injuries in form of friction abrasions, or bodily harm on the deceased caused by alleged dragging, other than facial and head trauma. Furthermore, PW-6/*Shakuntala* herself bore no injuries despite claiming to have intervened. The Crime Team inspection report (PW-11/A), photographic evidence (PW-12/1 to PW-12/5), and independent statements of spot witnesses, confirm that blood samples were found exclusively outside the house near a cot. He also contends that the finding of the learned Trial Court that the narrative of beating inside the house was an exaggeration, exposes the unreliability of PW-6/*Shakuntala* on a material aspect of the prosecution's case. He submits that neither PW-19/SI *K.P. Singh*/the Investigating Officer nor the Crime Team investigated the courtyard of the house, which is stated to be the place of the incident as per the Complainant/ PW-6/*Shakuntala*. He submits that PW-10/*Constable Ashok Kumar*, in his cross-examination, stated that when he reached the place of incident, there were many people at the spot who informed him that the incident took place where the cot was lying. PW-11/SI *Begha Ram*, who had inspected the spot of the incident and prepared a report (Ex. PW-11/A), in his statement under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.'), had stated that he was informed about the incident by the Investigating Officer. The statement further suggested that he was not informed of the exact spot of the crime and he did not inspect the premises of the house where the incident allegedly took place, which



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raises a doubt on the exact spot of the incident.

22. The learned counsel submits that the recovery and forensic link of the weapon of offence (*thapki*) are fundamentally flawed and fail to establish appellant's guilt beyond reasonable doubt. The weapon was not recovered pursuant to any disclosure statement or discovery made by the appellant; rather, as per the testimonies of PW-6/*Shakuntala*, PW-10/*Constable Ashok Kumar*, and PW-19/*SI K.P. Singh*, it was handed over to the police by PW-6/*Shakuntala* from a public place. The Seizure Memo (Ext. PW-6/B) fails to document that the '*thapki*' was blood-stained at the time of seizure, raising a strong probability of subsequent tampering or planting prior to its examination by the Forensic Science Laboratory. Moreover, the prosecution never submitted the weapon to the doctor who conducted the post-mortem (PW-1) to obtain an expert opinion as to whether the fatal injuries could have been caused by that specific object, rendering the forensic blood-group match of AB group to the blood group of the deceased, insufficient to connect the appellant to the crime.

23. He further submits that the prosecution failed to establish the essential element of motive or *mens rea*. While the prosecution relied on PW-7/*Smt. Asha* and PW-5/*Ishwar Singh*, to allege the ongoing enmity over ancestral property, this claim was directly contradicted by DW-1/*Ashok Kumar*, husband of PW-7/*Smt. Asha*, who confirmed that the property had already been divided by mutual agreement and that the deceased occupied a larger share, including a shop and a store. Furthermore, PW-5/*Ishwar Singh*, PW-6/*Shakuntala*, and PW-7/*Smt.*



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Asha are close blood relatives who stand to financially gain from the property distribution upon the appellant's conviction. Relying on **Anil Phukan v. State of Assam**, (1993) 3 SCC 282 and **Mohd. Rojali Ali v. State of Assam**, (2019) 19 SCC 567, the appellant argues that the testimony of such interested witnesses cannot be accepted without independent and neutral corroboration.

24. He also submits that PW-5/*Ishwar Singh* was examined as a witness only due to his relationship, being the father-in-law of the deceased, and for identifying the deceased's body (Ex. PW-5/A). His testimony does not address the motive or intention behind the deceased getting murdered.

25. He submits that the alleged incident occurred on a main road in a commercial area lined with shops at around 8:30 PM. The prosecution failed to examine a single independent public witness. PW-10/*Constable Ashok Kumar* admitted in cross-examination that approximately 25 to 30 people had assembled at the spot upon his arrival; however, none of these potential independent witnesses were examined. Relying upon the judgment of the Supreme Court in **State of Rajasthan v. Teja Singh**, (2001) 3 SCC 147, the learned counsel for the appellant submits that the deliberate non-examination of available independent witnesses from the neighbourhood warrants a strong adverse inference against the prosecution, as neutral testimony would have disproved the prosecution's version.

26. He submits that conviction cannot be based on mere suspicion; the prosecution must prove, beyond a reasonable doubt, that the



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accused alone committed the crime. The prosecution has failed to meet this burden, and the learned Trial Court should have considered other evidence before determining the appellant's guilt. Reliance in this regard is placed on the case of ***Mustkeem Alias Sirajudeen v. State of Rajasthan***, (2011) 11 SCC 724 and ***Raja Naykar v. State of Chhattisgarh***, (2024) 3 SCC 481.

27. He submits that even if the prosecution's version is accepted in its entirety, the offence does not attract Section 302 of the IPC and falls, at most, under Section 304 Part II of the IPC. The altercation arose spontaneously without premeditation, and during a sudden verbal dispute over property. The weapon used was an ordinary household wooden bat/*thapki*, rather than a conventional deadly weapon. The post-mortem report identified a single fatal impact zone on the head. The appellant himself took the deceased to AIIMS hospital, New Delhi for medical treatment immediately after the incident. Under these circumstances, the appellant lacked the requisite *mens rea* or intention to cause murder, entitling him to be acquitted of Section 302 of the IPC.

SUBMISSIONS MADE BY THE LEARNED ADDITIONAL PUBLIC PROSECUTOR:

28. *Per Contra*, Mr. Aman Usman, the learned APP, submits that the behaviour of the appellant following his brother's death and upon returning home, was to wash his own clothes rather than to inform his neighbours, perform rituals, or mourn his brother's death. He submits



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that the appellant failed to provide any explanation for the bloodstains on his clothes and, in fact, in his statement under Section 313 of the Cr.P.C., denied that these were his clothes. He submits that therefore, the explanation given by the counsel for the appellant during oral arguments, directly contradicts the statement of the appellant during trial and raises an adverse inference against the appellant.

29. He submits that the weapon (*thapki*) had light brown stains on it, which is evident from the FSL report (Parcel No. 6). He submits that the Investigating Officer had seized the weapon (*thapki*) at night and that is why the presence of bloodstains on it might have been missed by him visually. He submits that if the Investigating Officer intended to frame the appellant, then he would have noted in the Seizure Memo the presence of the bloodstains on the weapon from the start.

30. He submits that the chain of custody of the weapon remained intact, as it was transferred in a sealed condition to the MHCM and was delivered sealed to the FSL, eliminating any possibility of tampering or planting of evidence.

31. He submits that the minor discrepancies by the Investigating Officer in preparing the site plans are merely indicative of a "faulty investigation", which should not automatically benefit the appellant or undermine the core eyewitness testimony.

32. He submits that PW-6/*Shakuntala* is a natural eyewitness who resided at the scene of the crime. Arguments questioning her presence at the spot of offence cannot be accepted. He submits that during trial,



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the defence never directly challenged her presence at the spot.

33. Placing reliance on *State of Gujarat v. Bharwad Jakshibhai Nagribhai*, 1990 Cri LJ 2531 (Gujarat HC); *Ranjit Singh v. State of Punjab*, (2013) 16 SCC 752; *Gangadhar Behera v. State of Orissa*, (2002) 8 SCC 381; *Prabhu Dayal v. State of Rajasthan*, (2018) 8 SCC 127; and *Acchar Singh v. State of Himachal Pradesh*, (2021) 5 SCC 543, he submits that the testimony of PW-6/*Shakuntala* cannot be discarded merely because the learned Trial Court acquitted the co-accused. He submits that minor exaggerations or embellishments do not render the entire testimony unreliable, and the court must separate the credible portion from the exaggerated part unless both are inseparably intertwined.

34. He submits that the property dispute between the deceased, the appellant, his other brothers, and the father of the deceased, served as a strong motive to commit the murder of the deceased. He submits that the testimony of PW-7/*Smt. Asha* had proved the existence of long-standing enmity and property disputes between the parties.

35. He further submits that the appellant even tried to tamper with the evidence as the floor of the house where the deceased was killed had been washed before the arrival of the police. It is for this reason that the FIR was registered under Section 201 of the IPC.

36. He submits that PW-6/*Shakuntala* could not immediately report the matter to the police because she had fainted due to shock. She gave her statement to the police as soon as she regained consciousness and found that the deceased had been shifted to the hospital. The *Asal*



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Tehrir was prepared at 11:45 PM that same night, and the FIR was registered at 12:05 AM, ruling out any possibility of a false case being cooked up against the appellant.

37. He submits that the Appellate Court ought not to interfere with the findings of the learned Trial Court merely because another view is possible. He also submits that interference is warranted only where the findings are perverse, manifestly illegal or based on a misreading of the evidence, which is not the case herein.

38. He submits that the appellant has failed to establish his plea of alibi. He further submits that the burden to prove such plea rested upon the appellant, which remained undischarged, particularly when the testimony of PW-6 stood corroborated by the surrounding circumstances and the material collected during investigation.

ANALYSIS:

39. We have considered the submissions made by the counsels for the parties and perused the record of the learned Trial Court.

40. In the present case, the star witness for the prosecution is PW-6/*Shakuntala*, who is stated to be the eyewitness to the offence being committed by the appellant.

41. In a case where the prosecution sets out a sole eyewitness, the testimony of such witness must inspire confidence and must be ‘wholly reliable’ so as to record a conviction on that basis. It must also be tested on the touchstone of the evidence tendered by other witnesses and other circumstantial evidence proved on record by the



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prosecution. This is more so where the alleged eyewitness is an ‘interested witness’. To fortify this proposition, reliance may safely be placed upon the following decisions, which we shall be discussing hereinunder.

42. In **Vadivelu Thevar v. State of Madras**, 1957 SCC OnLine SC 13, the Supreme Court held that though conviction can be based even on the testimony of a single eyewitness; there being no necessity in law to have multiple witnesses to bring home the charge against the accused, at the same time, the testimony of such witness should be tested with caution and if the same is found by a court to be entirely reliable, there is no legal impediment to convict the accused on such testimony. Where such testimony is found to be wholly unreliable, the Court equally has no difficulty in disregarding such testimony. It is only where the testimony is neither wholly reliable nor wholly unreliable that the Court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. We quote from the judgment as under:

“11. In view of these considerations, we have no hesitation in holding that the contention that in a murder case, the court should insist upon plurality of witnesses, is much too broadly stated. Section 134 of the Indian Evidence Act, has categorically laid it down that “no particular number of witnesses shall, in any case, be required for the proof of any fact”. The legislature determined, as long ago as 1872, presumably after due consideration of the pros and cons, that it shall not be necessary for proof or disproof of a fact, to call any particular number of witnesses. In England, both before and after the passing of



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the Indian Evidence Act, 1872, there have been a number of statutes as set out in Sarkar's Law of Evidence — 9th Edn., at pp. 1100 and 1101, forbidding convictions on the testimony of a single witness. The Indian Legislature has not insisted on laying down any such exceptions to the general rule recognized in Section 134 quoted above. The section enshrines the well recognized maxim that “Evidence has to be weighed and not counted”. Our Legislature has given statutory recognition to the fact that administration of justice may be hampered if a particular number of witnesses were to be insisted upon. It is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of uncommon occurrence, where determination of guilt depends entirely on circumstantial evidence. If the legislature were to insist upon plurality of witnesses, cases where the testimony of a single witness only could be available in proof of the crime, would go unpunished. It is here that the discretion of the presiding judge comes into play. The matter thus must depend upon the circumstances of each case and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. Even as the guilt of an accused person may be proved by the testimony of a single witness, the innocence of an accused person may be established on the testimony of a single witness, even though a considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution. Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this



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context may be classified into three categories, namely:

- (1) Wholly reliable.*
- (2) Wholly unreliable.*
- (3) Neither wholly reliable nor wholly unreliable.*

12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way — it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. There is another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses. Situations may arise and do arise where only a single person is available to give evidence in support of a disputed fact. The court naturally has to weigh carefully such a testimony and if it is satisfied that the evidence is reliable and free from all taints which tend to render oral testimony open to suspicion, it becomes its duty to act upon such testimony. The law reports contain many precedents where the court had to depend and act upon the testimony of a single witness in support of the prosecution. There are exceptions to this rule, for example, in cases of sexual offences or of the testimony of an approver; both these are cases in which the oral testimony is, by its very nature, suspect, being that of a participator in crime. But, where there are no such exceptional reasons operating, it becomes the



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duty of the court to convict, if it is satisfied that the testimony of a single witness is entirely reliable. We have therefore, no reasons to refuse to act upon the testimony of the first witness, which is the only reliable evidence in support of the prosecution.”

43. In ***Joseph v. State of Kerala***, (2003) 1 SCC 465, the Court reiterated the above principles, and held that where there is a sole witness to the incident, the testimony of such witness has to be accepted with an amount of caution and after testing it on the touchstone of evidence tendered by other witnesses or evidence as recorded. While it is permissible for a Court to record and sustain a conviction on the evidence of a solitary eyewitness, however, at the same time, such a course can be adopted only if the evidence tendered by such witness is cogent, reliable, in tune with probabilities, and inspires implicit confidence. Where the prosecution case rests mainly on the sole testimony of an eyewitness, it should be wholly reliable. Even where the witness is an injured witness, and his presence may not be seriously doubted, when his evidence is in conflict with other evidence, it would be unsafe to convict the accused on his sole testimony. We quote from the judgment as under:

“13. To our mind, it appears that the High Court did not follow the aforesaid standard but went on to analyse evidence as if the material before them was given for the first time and not in appeal. Section 134 of the Indian Evidence Act provides that no particular number of witnesses shall in any case be required for the proof of any fact and, therefore, it is permissible for a court to record and sustain a conviction on the evidence of a solitary eyewitness. But, at the



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same time, such a course can be adopted only if the evidence tendered by such witness is cogent, reliable and in tune with probabilities and inspires implicit confidence. By this standard, when the prosecution case rests mainly on the sole testimony of an eyewitness, it should be wholly reliable. Even though such witness is an injured witness and his presence may not be seriously doubted, when his evidence is in conflict with other evidence, the view taken by the trial court that it would be unsafe to convict the accused on his sole testimony cannot be stated to be unreasonable.”

44. We now proceed to test the testimony of PW-6/*Shakuntala* on the above touchstone.

45. As noted hereinabove, PW-6/*Shakuntala* had stated that there was an ongoing property dispute between the deceased, his father and his brothers. Though the prosecution would allege that this is the motive for the crime, however, as held in ***Aslam @ Imran v. State of Madhya Pradesh***, 2025 SCC OnLine SC 670, motive is a double-edged weapon; while it can give a hint on why the crime was committed, it can also give a reason why the witness is falsely testifying and is wanting to implicate the accused in the crime. We therefore, have to scrutinise the statement of PW-6/*Shakuntala* with that caveat.

46. PW-6/*Shakuntala*, while narrating the incident, states that on a verbal duel originating between the deceased, his father, and the appellant on the distribution of the property, the father of the deceased and the appellant became furious and started abusing the deceased, and in the meantime, the wife of the appellant, namely Kamlesh, who



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was also an accused in the case along with the father of the deceased, became furious and started beating the deceased. She states that she tried to rescue the deceased from the assailants and also raised an alarm, due to which a crowd had gathered there, but the accused persons continued to beat the deceased.

47. We pause here again because, in spite of the above assertion of PW-6/*Shakuntala* that there was a large crowd which had gathered and who had witnessed the incident, and it being an admitted case of the prosecution that the incident had happened on the main road where there were many shops, there is no other independent eyewitness produced by the prosecution to sustain its case against the appellant.

48. Moving further, while PW-6/*Shakuntala* states that she tried to intervene and save her husband, her own MLC (Ex.PW-3/A) does not support this assertion.

49. Proceeding further with the testimony of PW-6/*Shakuntala*, she states that while beating the deceased, the appellant threw the deceased on a cot lying nearby, whereafter all the three accused persons dragged the deceased inside the house. Though she does not state that the deceased was taken into the house on the cot, the learned APP, when confronted with the submissions of the learned counsel for the appellant that there were no drag marks or injuries on the body of the deceased, sought to contend that the deceased was, in fact, taken into the house on the cot. In the absence of any such positive evidence, we find it hard to accept this explanation.

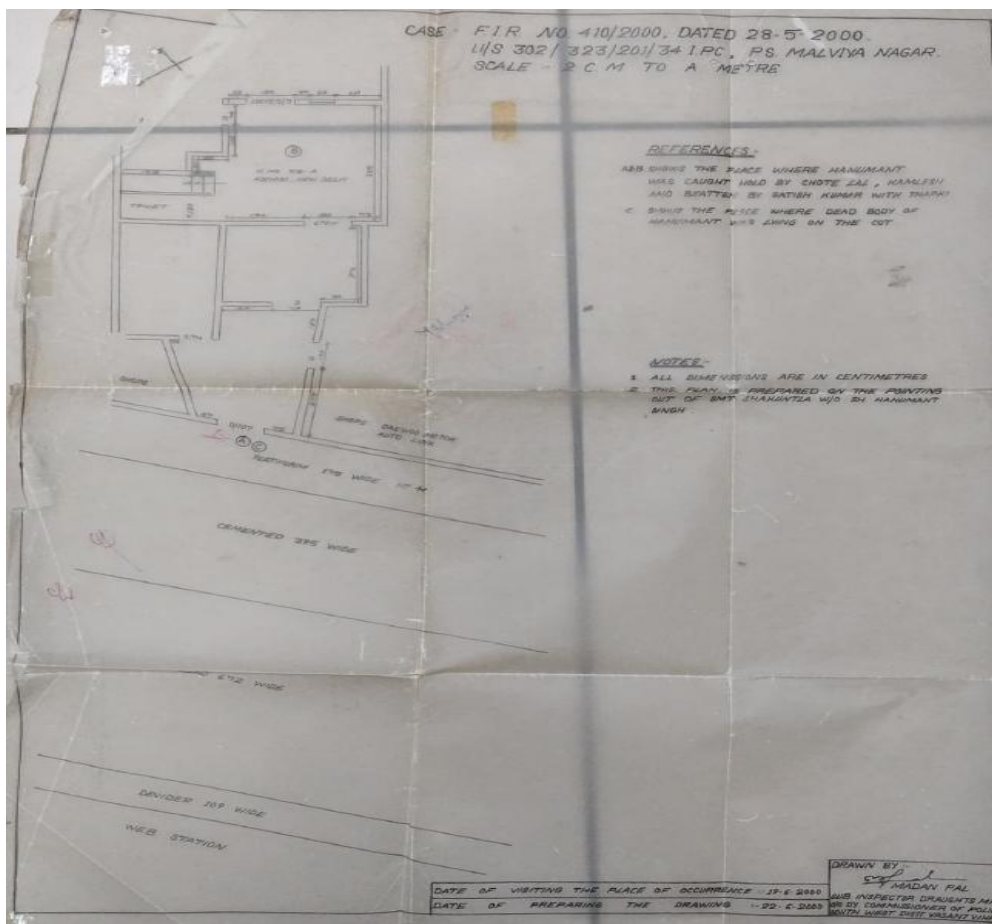
50. Still proceeding further with the testimony of PW-6/*Shakuntala*,



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she states that once inside the house and in the courtyard of the said house, the father of the deceased/Chhote Lal and the wife of the appellant/Kamlesh caught hold of the deceased while the appellant picked up a *thapki* and gave blows with the same on the head and face of the deceased due to which he sustained injuries and fell down. The place of the incident is, therefore, stated to be a courtyard inside the house. At this stage itself, we would note that interestingly there are two site plans before the learned Trial Court, one is scaled and the other is rough. To show the discrepancy, we would reproduce both hereinunder:





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51. The two site plans do not match at all. The place of beating the deceased inside the house is totally different in the two site plans, raising further doubt on the case of the prosecution.

52. More interestingly, according to the prosecution, PW-6/*Shakuntala* has given the above version even in her initial statement on the basis of which *rukka* is recorded, and *asal tehrir* was sent at 11:45 P.M. for registration of the F.I.R.; however, PW-11/SI *Begha Ram*, who is stated to have reached the spot between 1 A.M. and 2 A.M. along with a photographer, prepared a report (Ex.PW-11/A). The spot inspected by him is situated outside the main road and not in the courtyard where the actual offence is stated to have taken place. He states that he did not even know at that time what the mode of committing the crime was, though the IO PW-19/SI *K. P. Singh* was also present there and it is SI *K. P. Singh* who is stated to have recorded the *rukka*. On being asked, he confirms that he did not inspect the house from inside. He mentioned in his report the date of occurrence as 27.05.2000 and states that the time of occurrence was not known.

53. PW-19/SI *K. P. Singh*, the IO of the case, who claims to have recorded the statement of PW-6/*Shakuntala*, admitted that the site plan prepared by him did not mention that the floor inside the house was wet. It also did not show the presence of PW-6/*Shakuntala* or the accused persons. He also admitted that it did not show any trail of blood and admitted that, in fact, there was none.

54. For non-examination of any independent public person, he



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volunteered that all shops were closed. This contradicts the stand of PW-6/*Shakuntala* who has stated that many people had gathered at the spot when the commotion began.

55. He admitted that the crime team had taken the photographs of the scene of crime, however, all these photographs are from outside the house, and no photograph is taken from inside the house where the actual crime is stated to have been committed.

56. The above testimonies clearly cast a doubt not only on the version of PW-6/*Shakuntala* but also on the timing of her first complaint. If one is to believe the prosecution on the timing of the complaint and her statement, there is no possible explanation with the prosecution for the crime team or PW-19/*K. P. Singh* not investigating the inside of the house where the actual crime took place and confining all its investigation only to the outside of the house and the main road where allegedly the body of the deceased was found.

57. In fact, as far as PW-6/*Shakuntala* is concerned, for the other accused, namely Chhote Lal and Kamlesh, even the learned Trial Court has not believed her. The learned Trial Court had also not believed her version of the deceased being dragged inside the house.

We quote from the Impugned Judgment as under:

“49. It is pertinent to mention that deceased Hanumant Singh had no injury mark or not even a scratch mark on any other part of his body except injuries on his face and head. No dragging injuries on the person of deceased Hanumant Singh had been proved. If, statement of Shakuntala (PW6) is to be totally believed, deceased was beaten black and blue by accused Satish Kumar, with the aid of



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accused Chotey Lal and Smt. Kamlesh and was dragged inside house No. 58-A, village Adichini, New Delhi, then in such circumstances deceased must have had some injuries on other parts of his body or at least scratch marks. Interestingly Smt. Shakuntala (PW6) when medically examined, no external injury was found on her body. Even MLC Ext. PW 3/A do not show any bodily injury on the person of Smt. Shakuntala (PW6) though she was examined by a Doctor with alleged history of assault by punch on her back. Smt. Shakuntala Devi neither in her complaint Ext. PW 6/A nor in her statement as P.W 6 stated that she was beaten by accused persons. It cannot be believed that three persons, were dragging deceased Hanumant Singh inside their house beating and Shakuntala (PW 6) trying to save her husband, did not receive any beatings. Thus the allegation that all accused persons dragged deceased Hanumant Singh inside their room is not corroborated by medical evidence viz. PW 3/A and PW 1/A and other facts on record. Further S.I. Begha Ram (PW 11) Incharge Crime Team did not inspect the premises from inside house no. 58-A Adichini village, New Delhi in addition to inspecting the place outside the said house where a cot with blood stains was lying. S.I. Begha Ram (PW11) had also not mentioned in his report that he inspected the premises from inside. If the incident had taken place inside the premises then it was a pious duty of the investigating officer to inform Crime Team Incharge to inspect the place from inside the premises. Further Ct. Ajay Kumar (PW12) during his cross examination stated that he took photographs of the place outside house No. 58-A Adichini village, New Delhi where a cot with blood stains was lying. PW 12 further stated that many persons present at the spot, including family members and investigating officer, had informed him that incident took place at a spot where cot with blood stains



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was lying. Though scaled site plan Ext. PW 15/A show the place of alleged beating of Hanumant Singh at point B i.e. inside house No. 58-A Village Adichini, New Delhi but it cannot be ignored that the said site plan was prepared at the pointing out of Smt. Shakuntala (PW6). SI K.P.Singh (PW 19) also had deposed that Crime Team inspected the place of incident and prepared a report Ext. PW 11/A. Even photographer had taken photographs Ext. PW 12/1 to PW 12/5 of the place of incident outside house NO. 58-A, Adichini village, New Delhi. The blood was also lifted from floor near the place where a cot was lying. Thus, if the incident had taken place inside house of accused Satish Kumar then what had prevented the investigating officer to get the said room photographed or got it inspected by crime team or to seize exhibits from inside the room. Investigation shows that place of incident was outside house bearing No. 58-A village Adichini, New Delhi, and to that extent the statement of Smt. Shakuntala (PW 6) that beating continued inside the house No.58-A village Adichini can only be said to be an exaggerated statement.”

58. We have already examined the law relating to the acceptance of testimony of a sole eyewitness and have noted the distinction between a wholly reliable, wholly unreliable, and the witness who is neither wholly reliable nor wholly unreliable. As the learned Trial Court itself has found PW-6/Shakuntala to be not wholly reliable, she, at best, can fall in the category of neither wholly reliable nor wholly unreliable. Her testimony is, therefore, required to be subjected to further scrutiny and is to be corroborated by other circumstances. The very fact that the actual place of commission of crime is not inspected by the crime team or by the IO, leaves her testimony to be uncorroborated by any



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other piece of evidence. It is the scene of crime which would have lent support to her statement.

59. It is not a case of mere faulty investigation, but may also be a case where either the version of PW-6/*Shakuntala* was not found substantiated by the IO, because of which he did not pursue it further, or the version of PW-6/*Shakuntala* was set up later out of the soiled relationships between the accused and the deceased. Either way, it is sufficient to create a doubt on the case of the prosecution and in favour of the appellant.

60. The other important piece of evidence in the present case is the weapon of offence/*thapki*. It is the case of the prosecution that the same was handed over by PW-6/*Shakuntala* to PW-19/SI K. P. Singh, the IO at the time of recording of her initial statement. Though as per the FSL Report dated 12.01.2001 (Ex.PW-19/F), the *thapki* was found to have human blood of the blood group of the deceased, its Seizure Report (Ex.PW-6/B) did not mention the presence of blood on the same when it was seized. It only mentioned that it had some white colour stains. The IO, even if it was night, cannot miss out the blood stains on the weapon of offence while writing the Seizure Memo.

61. Even otherwise, it is now settled law that mere recovery of a blood-stained weapon, even bearing the same blood group of the deceased, would not be sufficient to prove the charge of murder. We may refer to the judgments of the Supreme Court in ***Raja Nayakar v. State of Chattisgarh***, (2024) 3 SCC 481; and ***State of Rajasthan v. Hanuman***, 2025 SCC OnLine SC 1387.



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62. This now further takes us to the recovery of the clothes of the appellant which had been washed and which, as per the FSL Report (Ex. PW19/F), did not contain human blood.

63. Though it is correct that the appellant, in his statement recorded under Section 313 of the Cr.P.C., denied that these were his clothes, however, the fact remains that the FSL Report (Ex. PW19/F) explicitly confirms that no human blood was detected on these garments. Therefore, the recovery of these clothes cannot be used to incriminate the appellant in the offence.

64. We therefore, have a case where the sole eye-witness does not inspire much confidence and has, in fact, been disbelieved to some parts by the learned Trial Court itself. We also do not find any corroboration to her testimony nor a complete chain of circumstantial evidence that would lead us to conclude that it could be appellant alone who could have and did cause the murder of the deceased. It is a settled position of law that the accused cannot be convicted only on the basis of a strong suspicion; the prosecution must travel the distance between 'strong suspicion' to a stage of 'beyond reasonable doubt', which, in the present case, the prosecution has failed to do. The appellant is therefore, entitled to the benefit of doubt.

65. We accordingly set aside the Order of Conviction dated 05.04.2003 and the Order of Sentence dated 17.04.2003 passed by the learned Trial Court.

66. The appellant shall stand acquitted of the charges framed against him.



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67. The appeal is allowed.
68. The bail bond and the sureties of the appellant shall remain valid for a period of six weeks from today in terms of Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 437A of the Cr.P.C.).
69. A copy of this judgment be sent to the learned Trial Court and Jail Superintendent for necessary information and compliance.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

SEPTEMBER 07, 2026/sg/as