

was informed by PW4 about the incident of Appellant beating his deceased daughter. However, PW 4 did not speak of any such incident of the Appellant beating the deceased on two occasions. Reliance cannot be placed on the sole testimony of PW1, on the basis of which the Appellant was convicted under Sections 498A, 114 and 323 as there is no corroboration by PW4 who is alleged to have given the information to him. Other than the above allegation, the Appellant stands on the same footing as of Accused Nos. 3, 4 and 5 who have been acquitted by the High Court. As the accusation of the physical assault by the appellant on the deceased is not proved, he is entitled to be acquitted.

6. In view of the aforesaid, the Appeal is allowed and the Appellant is acquitted of the charges under Sections 498A, 114 and 323 of the IPC. The Appellant is directed to be released forthwith if he is not required in any other case.

**Result:-** Appeal allowed.

**ABC 2020 (I) 4 SC**

**ACQUITTAL & BAIL CASES**

**SUPREME COURT OF INDIA**

(Deepak Gupta & Aniruddha Bose, JJ.)

Criminal Appeal No(S). 1560 of 2019 With

Criminal Appeal No(S). 1561 of 2019

(From Punjab & Haryana High Court)

Decided on 17 October 2019

**PREM SINGH**

**- Appellant(s).**

*Versus*

**SUKHDEV SINGH & OTHERS**

**- Respondent(s).**

**Law Covered:-** (A) Indian Penal Code, 1860 – Sections 302, 148 & 149 – Arms Act, 1959 – Section 25 – Acquittal by High Court – Appeal against – Assault by gun-fire & knives – allegation of – Injury attributed by knife were postmortem – Held, a major discrepancy in the statement of eyewitnesses – Medical evidence does not support the prosecution – Acquittal upheld. (Para 6 & 9)

(B) Indian Evidence Act, 1872 – Section 3 – Relevant fact – Conduct of close relatives of the victim – Place of occurrence – No attempt was made to take deceased inside the Hospital for treatment – The first reaction of close relatives would be to try & save their

a *relative rather than rush to the police station – This is especially so when the occurrence took place in the Hospital compound itself – conduct doubtful – fatal to prosecution. (Para 9)*

b (C) *Indian Evidence Act, 1872 – Section 3 – Relevant fact – Conduct of close Complainant – instead of going to the police station the witness went to the milk chilling centre to lodge the report – No reasonable explanation given – conduct doubtful – fatal to prosecution. (Para 9)*

c (D) *Indian Evidence Act, 1872 – Section 3 – Relevant fact – Fire arm – use of – Seized firearm were not sent to a ballistic expert – No forensic evidence to show that the seized guns were actually used during the occurrence. (Para 10)*

d (E) *Indian Evidence Act, 1872 – Section 27 – Recovery – Vehicle of crime – Not proved to be belonging to the accused– accused have not been linked to the vehicle – fatal to prosecution. (Para 11)*

e (F) *Criminal trial – Evidence of Eyewitness vis-à-vis Medical Evidence – Contradiction – Medical Officer did not support prosecution version – No request by the prosecution that his statement should not be relied upon – The prosecution did not pray that the doctor be declared a hostile witness – Held, we have to go by the statement of the medical expert. (Para 12)*

f **Facts:-** *It was alleged that the accused persons assaulted the deceased with the knife and firearms, in the hospital and all the accused ran away with their respective weapons after jumping over the boundary wall of the Hospital, leaving behind a Tata Sumo and one motorcycle. Allegedly, there was a land dispute and one of the accused wanted to take possession of the land of the complainant. FIR was got lodged at a milk chilling centre at, because according to the complainant the police was present there. Thereafter, the police came to the Hospital. The trial court convicted the accused. However,*  
 g *the High Court, in appeal acquitted them mainly on the ground that the medical version was totally different from that of the eyewitnesses and, therefore, reliance cannot be placed on the eyewitnesses. The present appeals were filed by the victim as well as by the State. The honourable Supreme Court*  
 h *upheld the judgment of the High Court and dismissed the appeals.*

**Law of relief:-** *The first reaction of close relatives would be to try & save their relative rather than rush to the police station.*

**Held:-** *The High Court held, and in our opinion rightly so, that the version of the eyewitnesses that knife blows were given by*

accused Sardul Singh is falsified by the testimony of the doctor, who clearly states that the injuries caused by a sharp edged weapon were postmortem. This is a major discrepancy in the statement of eyewitnesses because both the eyewitnesses claim that the knife blows were given first by Sardul Singh and, thereafter when Satinder Pal Singh (deceased) tried to run away, the other accused came out from the Tata Sumo with fire arms. (Para-6)

In the present case the medical evidence does not support the prosecution and we also find that there are other reasons to discredit the prosecution witnesses. No attempt was made by PW1 or 2 to take Satinder Pal Singh (deceased) inside the Hospital for treatment. The first reaction of close relatives would be to try and save their relative rather than rush to the police station. This is especially so when the occurrence took place in the Hospital compound itself. The second doubtful feature is that instead of going to the police station the witness went to the milk chilling centre to lodge the report. There is no reasonable explanation given except that since the police were present at the milk chilling centre when the elections took place, he went to the milk chilling centre. He himself admits that the elections were over at 3.30 P.M. and the occurrence is of 4.30 P.M. Why would he expect that the police would still be present there at the milk chilling centre even after one hour? (Para-9)

Another aspect is that though the licensed fire arms of the accused were seized but they were not sent to a ballistic expert and there is no forensic evidence to show that these were the guns actually used during the occurrence. (Para-10)

As far as the recovery of the Tata Sumo vehicle is concerned, it is not proved to be belonging to the accused. It belongs to some other person and the accused have not been linked to this. (Para-11)

According to the two eyewitnesses PW1 and 2, all the four fire arm shots hit the deceased on the head. According to the doctor there were only two entry wounds. This also belies the statement of the so called eyewitnesses according to whom the accused gave four fire arm injuries on the head of the deceased. The doctor was a prosecution witness and the prosecution cannot be heard to say that his statement should not be relied upon. The prosecution did not pray that the doctor be declared a hostile witness. Therefore, we have to go by the statement of the medical expert. (Para-12)

**Counsel:-** For Appellant(s): Mr. K.G. Bhagat, Ms. Archana  
a Midha, Mr. Vineet Bhagat, Adv.  
For Respondent(s): Mr. Chander Shekhar Ashri, Ms.  
Beena, Mr. Kamal Mohan Gupta, Adv.

### **JUDGMENT**

b **DEEPAK GUPTA, J.:** - 1. These appeals by the victim as well as by the  
State are directed against the judgment dated 24.07.2013 whereby the  
High Court allowed the appeal of the accused and set aside the  
judgment of the trial court whereby the respondents herein were  
c convicted for various offences punishable under Sections 148, 302/149  
of the Indian Penal Code (IPC for short) and Section 25 of the Arms  
Act, and sentenced to various terms including life imprisonment.

d 2. We do not intend to give detailed facts of the case. The gist  
of the case is that on 25.05.2005, accused Jagir Singh had caused  
injuries to Palwinder Kaur, who is the sister-in-law of Prem Singh  
(PW1). Prem Singh (PW1) had gone to the milk chilling centre at  
Lopoke, because his father was contesting election being contested  
there. At about 3.15 PM, Prem Singh (PW1), along with Major Singh  
(PW2) proceeded to Civil Hospital at Lopoke to see his sister-in-law,  
e Palwinder Kaur. Satinder Pal Singh (since deceased) was already  
there in the Hospital.

f 3. When these two witnesses reached the Hospital, they found  
a Tata Sumo vehicle bearing registration no. PB02AL5478 was parked  
outside the Hospital. Accused Sardul Singh alias Kalu came out of the  
Tata Sumo with a knife in his hand. Accused Sawinder Singh raised a  
*lalkara* (exhortation) that Satinder Pal Singh should be killed.  
Thereafter, Sardul Singh inflicted a knife blow on the person of  
Satinder Pal Singh which hit both sides of his abdomen and chest.  
g Satinder Pal Singh tried to run away, but in the meanwhile accused  
Sukhdev Singh, Resham Singh, Sawinder Singh and Swaran Singh,  
who were armed with rifles came out of the sumo vehicle and fired at  
Satinder Pal Singh, which hit him on the forehead, right ear, eye and  
back of the head. Thereafter, he fell down. Prem Singh (PW1) and  
h Major Singh (PW2) raised alarm. All the accused ran away with their  
respective weapons after jumping over the boundary wall of the  
Hospital, leaving behind the Tata Sumo and one motorcycle.

4. The case of the appellant is that there was a land dispute and  
Jagir Singh wanted to take possession of the land of the complainant

and hence the appeal. FIR was got lodged by Prem Singh (PW1), at the milk chilling centre at Lopoke, because according to him the police was present there. Thereafter, the police came to the Hospital. After investigation the accused were charged with committing murder of the deceased and other offences. The trial court convicted them. The High Court, in appeal acquitted them mainly on the ground that the medical version was totally different from that of the eyewitnesses and, therefore, reliance cannot be placed on the eyewitnesses.

5. We may now refer to the relevant portion of the statement of Dr. Deepak Walia (PW13), who found the following injuries on the deceased:

1. A lacerated wound with inverted margins 1 cm x 0.8 cm present center of upper eye lid, right abrasion collar around it, phtisis (*sic*) of right eye ball present subconjunctival hemorrhage on right side.

2. A lacerated wound with inverted margins 4 cm x 2.8 cm on right side of fore head 1 cm above the right 1/3rd of right eye brow. Clotted blood was present.

3. A lacerated wound 3.8 x 2.1 cm present on right temporo parietal region 2 cm above pinna of right ear. Margin were everted, brain matter coming out.

4. A lacerated wound 4.2 cm x 1.8 cm on right parieto occipital region with everted margins. Clotted blood was present at the site. Brain matter coming out.

5. An incised penetrating wound 1.5 cm x 0.5 cm on left side of chest just below nipple in anterior axillary line, muscle deep. No infiltration of blood and no clot was present in the wound.

6. An incised penetrating wound 1.5 x 0.5 cm on left side of abdomen in the left Lumber region. It communicated with peritoneal cavity. No infiltration of blood in the wound.

7. An incised penetrating wound 3 cm x 1 cm obliquely placed in right hyponchondric region, it communicated with peritonal cavity. No infiltration of below was present in the tissue.

He recovered a bullet from inside the brain and 12 pellets. According to him, injury nos. 3 and 4 are the exit wounds, corresponding to the entry wounds, which are injury nos. 1 and 2. He also states that injury 1 to 4 were antemortem and was a result of fire

arm, whereas injury nos. 5 to 7 were postmortem, as a result of injuries caused by sharp pointed weapon.

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6. The High Court held, and in our opinion rightly so, that the version of the eyewitnesses that knife blows were given by accused Sardul Singh is falsified by the testimony of the doctor, who clearly states that the injuries caused by a sharp edged weapon were postmortem. This is a major discrepancy in the statement of eyewitnesses because both the eyewitnesses claim that the knife blows were given first by Sardul Singh and, thereafter when Satinder Pal Singh (deceased) tried to run away, the other accused came out from the Tata Sumo with fire arms.

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7. It has been contended on behalf of the appellant that the FIR was lodged within two hours of the occurrence and all the accused were named in the FIR and, therefore, no chance of cooking up a false story arises. It is also urged that the doctor's statement is contradictory and according to learned counsel for the appellants injuries bore entry wounds.

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8. A number of authorities were cited to show that ocular evidence should be preferred to medical evidence. We are not referring to those, since in our view each case has to be decided in its own facts.

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9. In the present case the medical evidence does not support the prosecution and we also find that there are other reasons to discredit the prosecution witnesses. No attempt was made by PW1 or 2 to take Satinder Pal Singh (deceased) inside the Hospital for treatment. The first reaction of close relatives would be to try and save their relative rather than rush to the police station. This is especially so when the occurrence took place in the Hospital compound itself. The second doubtful feature is that instead of going to the police station the witness went to the milk chilling centre to lodge the report. There is no reasonable explanation given except that since the police were present at the milk chilling centre when the elections took place, he went to the milk chilling centre. He himself admits that the elections were over at 3.30 P.M. and the occurrence is of 4.30 P.M. Why would he expect that the police would still be present there at the milk chilling centre even after one hour?

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10. Another aspect is that though the licensed fire arms of the accused were seized but they were not sent to a ballistic expert and there is no forensic evidence to show that these were the guns actually used during the occurrence.

11. As far as the recovery of the Tata Sumo vehicle is concerned, it is not proved to be belonging to the accused. It belongs to some other person and the accused have not been linked to this. a

12. According to the two eyewitnesses PW1 and 2, all the four fire arm shots hit the deceased on the head. According to the doctor there were only two entry wounds. This also belies the statement of the so called eyewitnesses according to whom the accused gave four fire arm injuries on the head of the deceased. The doctor was a prosecution witness and the prosecution cannot be heard to say that his statement should not be relied upon. The prosecution did not pray that the doctor be declared a hostile witness. Therefore, we have to go by the statement of the medical expert. b c

13. In view of the above discussion, we find no merit in the aforesaid appeals and the same are dismissed. Pending application(s), if any, shall also stand dismissed. d

**Result:-** Appeals dismissed.

ABC 2020 (I) 10 SC  
ACQUITTAL & BAIL CASES  
SUPREME COURT OF INDIA  
(Indu Malhotra & R. Subhash Reddy, JJ.)  
Criminal Appeal No. 2181 of 2009  
(From Calcutta High Court)  
Decided on 18 October 2019 e f

STATE OF WEST BENGAL

- Appellant(s).

Versus

INDRAJIT KUNDU & ORS.

- Respondent(s). g

**Law Covered:-** Code of Criminal Procedure, 1973 – Sections 401/482 – Indian Penal Code, 1860 – Sections 306/34 – Abetment to suicide – Appeal against discharge – Suicide letters – Allegation that respondent Nos. 2 and 3 shouted at the deceased girl calling her a call-girl – Held, case does not present any picture of abetment – The suicide cannot be said to be the result of any action on part of accused – cannot be said that commission of suicide was the only course open to victim – No goading or solicitation or insinuation by any of the respondents to the victim to commit suicide – Appeal dismissed. (Para 11) h