

**IN THE COURT OF SH. GURVINDER PAL SINGH
PRINCIPAL DISTRICT & SESSIONS JUDGE
SOUTH DISTRICT, SAKET COURT, NEW DELHI**

CNR No. DLST01-002737-2024
SC No. 202/2024

State versus

1. Deepak @ Golu

S/o Sh. Ramesh Kumar
R/o H. No. A-1st, 101, Madangir,
New Delhi

2. Ramesh

S/o Sh. Prabhudayal
R/o H. No. A-1st, 101, Madangir,
New Delhi

3. Lekhraj

S/o Sh. Sohan Lal
R/o H. No. A-1st, 266, Madangir,
New Delhi

4. Raghuraj

S/o Sh. Sohan Lal
R/o H. No. A-1st, 266, Madangir,
New Delhi

FIR No. : 91/2023
Police Station : Ambedkar Nagar
Under Sections : 325/506/34 IPC

Date of institution : 18.07.2023
Date of arguments : 14.03.2026
Date of pronouncement : 15.04.2026

Appearances:

Sh. Gurbhej Singh Guraya, Ld. Chief Public Prosecutor for State.
Sh. Rohit Kudiya, Ld. Counsel for accused persons.
Sh. Momin Faizal, Ld. Counsel for complainant.

JUDGMENT

Following is the brief factual matrix of the case of prosecution. Complainant Rahul, son of Mahavir, resident of A-1/154, Madangir, Doctor Ambedkar Nagar, New Delhi gave an application under Section 156(3) of The Code of Criminal Procedure (in short Cr.P.C) in the Court of Chief Metropolitan Magistrate, upon which the ATR was requisitioned. SI Ved Prakash made enquiries and found that Rajesh, brother of complainant had received injury in quarrel on 11/04/2022 and MLC of Rajesh was prepared, whereas the case FIR No. 239/2022, under Section 307/34 IPC was registered in the Police Station Ambedkar Nagar, wherein said Rajesh after arrest was sent to jail. SI Ved Prakash obtained the result on MLC of said Rajesh, which was opined as grievous and on the following complaint dated 04/08/2022 of Rahul, case FIR for offence under Section 325/34 IPC was registered. That applicant Rahul, son of Mahavir was residing at A-1/154, Madangir, Doctor Ambedkar Nagar, New Delhi with his family and was a peace loving citizen and having no adverse record with police. On 11/04/2022 at 9.30 pm Rajesh, brother of applicant Rahul after having meal had gone for walk in park, opposite his home. At that time in the park there were Deepak @ Golu, son of Ramesh and Ramesh, son of Prabhu; both resident of A-1/109, Madangir, New Delhi; Raghuraj, son of Sohan Lal, Lekhraj @ Vicky, son of Sohan Lal, both resident of A-1/266, Madangir, New Delhi; besides their other companions; who were consuming liquor and they had tried to snatch the mobile phone of Rajesh, brother of applicant Rahul but when they were not successful, then those persons had beaten Rajesh, brother of applicant Rahul with leg

and fist blows, stones and dandas. Rajesh fell down on the ground. Gold chain of Rajesh was snatched by those persons. Rajesh sustained injuries. PCR was called. Police came there. Rajesh made call to Rahul and police, after which Rajesh became unconscious. Police arrived at the place of incident and took Rajesh to Trauma Centre where he was operated and three stitches were put on the fingers of right hand of Rajesh, which were plastered and after preparing MLC, next day Rajesh was discharged from the hospital. Police did not take any action against aforesaid offenders and *per contra* registered case FIR No. 239/2022, under Section 308/34 IPC, Police Station Ambedkar Nagar against Rajesh as well as applicant Rahul. Rajesh was in jail since 21/04/2022 in aforesaid case and no one was listening the grievance of applicant Rahul, whereas applicant Rahul was on anticipatory bail, in terms of order dated 22/04/2022 of the Court. Since the time when Rajesh, brother of applicant Rahul was in jail, from that day aforesaid offenders and their companions were taking liquor daily in front of their home and threatened applicant Rahul and his family to kill them, besides hurling abuses to the ladies in the home of applicant Rahul, saying to abduct and rape them. On 04/08/2022 when applicant Rahul came to Saket Court for date of hearing, then on return, on the way, he met Raghuraj and Ramesh, who after seeing applicant Rahul said, '*25 June koe toe tera haath tudwaya hai abb ki baar tujhe jaan sei maar denge*'. IO SI Ved Prakash went to home of applicant Rahul and met injured Rajesh there, who was joined in investigation. At the instance of injured Rajesh, site plan was prepared after visit at the place of incident. Statement of injured Rajesh was recorded by the IO. Accused

persons were arrested and enlarged on police bail. Statements of witnesses were recorded. After completion of investigation, charge-sheet was filed for offences under Sections 325/506/34 IPC.

2. Copies of the charge-sheet and annexed material were supplied to accused persons, in compliance of the mandate of Section 207 Cr.P.C.

3. Vide order dated 23/02/2024, in *Transfer Petition (Criminal) No. 69/2023*, titled '*Rajesh @ Dholu vs State*'; my Ld. Predecessor transferred the present case to this Court to avoid conflicting opinions and conflicting judgments and for the fair trial; from the Court of Ld. CMM, South, Saket Courts, New Delhi as connected case *FIR No. 239/2022*, titled '*Rajesh @ Dholu @ Anr.*' between the parties was being tried by this Court.

4. On 27/03/2024, my Ld. Predecessor framed charge against accused persons for offences under Sections 325/34 IPC; 506/34 IPC; which was read over and explained to accused persons, who after understanding the same, pleaded not guilty and claimed trial.

5. In order to connect the accused persons with the offences charged, prosecution had examined in all five witnesses. Following are the (1) Chart for Witnesses Examined; (2) Chart for Exhibited Documents; with specified details:

Chart for Witnesses Examined

<u>Prosecution Witness No.</u>	<u>Name of Witness</u>	<u>Description</u>
PW1	Rajesh	Victim/Injured
PW2	Rahul	Complainant and brother of victim/injured
PW3	SI (now retired) Satbir Singh	Duty Officer
PW4	SI Ved Prakash	Investigating Officer
PW5	Dr. Trisha Tarunita Junior Resident Doctor at AIIMS Trauma Centre, New Delhi	Prepared MLC No. 500309145 dated 12/04/2022 of victim/injured Rajesh

Chart for Exhibited Documents

<u>Exhibit No.</u>	<u>Description of the Exhibit</u>	<u>Proved by/Attested by</u>
Ex PW1/A	Site plan	PW-1 PW-4
Ex PW2/A	Copy of complaint of complainant	PW-2
Ex PW3/A	Certificate under Section 65 of The Indian Evidence Act regarding recording of FIR in CCTNS and taking out its print out	PW-3
Ex PW3/B	Copy of FIR	
Ex PW4/A	Endorsement on the complaint of complainant/injured Rahul	PW-4
Ex PW4/B	Arrest memo of accused Lekhraj	
Ex PW4/C	Arrest memo of accused Raghuraj	
Ex PW4/D	Arrest memo of accused Deepak @ Golu	
Ex PW4/E	Arrest memo of accused Ramesh	

Ex PW4/F	Personal bond of accused Deepak @ Golu	
Ex PW4/G	Personal bond of accused Ramesh	
Ex PW4/H	Personal bond of accused Raghuraj	
Ex PW4/I	Personal bond of accused Lekhraj	
Ex PW4/J	Pabandinama for appearance of accused Raghuraj	
Ex PW4/K	Pabandinama for appearance of accused Lekhraj	
Ex PW4/L	Pabandinama for appearance of accused Ramesh	
Ex PW4/M	Pabandinama for appearance of accused Deepak @ Golu	
Ex PW5/A	MLC No. 500309145 of victim /injured Rajesh	PW-5
Ex PW5/B	Discharge summary of injured Rajesh	

6. All incriminating evidence and material was put in the form of questions to accused persons by my Ld. Predecessor in their recorded statements under Section 313 Cr.P.C, wherein accused persons pleaded innocence and false implication but they denied to lead defence evidence.

7. I have heard the arguments of Sh. Gurbhej Singh Guraya, Ld. Chief Public Prosecutor for State; Sh. Momin Faizal, Ld. Counsel for complainant; Sh. Rohit Kudiya, Ld. Counsel for accused persons and have perused the record including the charge sheet, documents, evidence, brief written submissions filed on behalf of accused persons as well as complainant and given my thoughtful consideration to the rival contentions put

forth.

8. Sh. Gurbhej Singh Guraya, Ld. Chief Public Prosecutor for State prayed for conviction of accused persons for the offences charged on the following premise/grounds. Both material witnesses injured PW1 Rajesh and PW2 Rahul have supported the case of prosecution and have identified the accused persons to be the offenders for the crime in question. Medical evidence in the form of MLC of injured/victim Rajesh fully supports the version of injured persons and the prosecution. Testimonies of injured persons inspire confidence, are reliable, cogent and trustworthy, whereas their testimonies do not have any material contradictions, severe infirmities and/or inherent improbabilities going to the root of the matter to check and shake the basic version and core of the prosecution case.

9. In support of the arguments of Ld. Chief Public Prosecutor for State, Ld. Counsel for complainant relied upon the following precedents:-

1. *State of Rajasthan vs Smt Kalki & Anr., 1981 SCR (3) 504;*
2. *State of UP vs Krishna Gopal & Anr., (1988) 4SCC 302;*
3. *State of UP vs Naresh & Ors., (2011) 4 SCC 324;*
4. *Krishna Govind Patil vs State of Maharashtra, AIR 1963 SC 1413;*
5. *State of Himachal Pradesh vs Gian Chand, (2001) 6 SCC 7;*
6. *Manik Taneja & Anr. Vs State of Karnataka &Anr. (2015) 7 SCC 423;*

10. Sh. Rohit Kudiya, Ld. Counsel for accused persons vehemently argued for acquittal of accused persons on the following premise/grounds. There is ordinate delay in lodging/

registration of FIR. Even complaint of date 04/08/2022 was given to police belatedly. The delay in lodging the report is unexplained and creates serious doubt about the genuineness of the entire prosecution story and the delay gives room for manipulation, deliberation, consultation and embellishment being product of after thought. Prosecution has failed to prove of meeting of minds, pre-planning or shared intention amongst accused persons. Testimonies of complainant and prosecution witnesses contain material contradictions and severe infirmities casting doubt on the reliability of the prosecution witnesses. Prosecution has failed to conclusively prove of accused having caused grievous hurt on the person of Rajesh, injured. No weapon of offence was recovered from or at the instance of accused. No scientific/forensic evidence is against the accused persons. Even alleged threats are vague and unsupported and it cannot be presumed that any alarm was caused to complainant. Ld. Defence Counsel prayed for acquittal of accused persons for the offences charged.

11. In the case of ***State of Rajasthan vs Smt Kalki & Anr. (supra)***; it was *inter alia* held that minor inconsistencies or contradictions do not demolish prosecution case.

12. In the case of ***State of UP vs Krishna Gopal & Anr. (supra)***; it was *inter alia* held that medical evidence lends assurance to the testimony of eye witnesses and where it supports the ocular version, the prosecution case stands proved beyond doubt.

13. In the case of ***State of UP vs Naresh & Ors. (supra)***; it was *inter alia* held that the evidence of an injured witness has greater evidentiary value and unless compelling reasons exist, his testimony should not be discarded.

14. In the case of ***Krishna Govind Patil vs State of Maharashtra (supra)***; it was *inter alia* held that common intention can be inferred from conduct, surrounding circumstances and manner of assault.

15. In the case of ***State of Himachal Pradesh vs Gian Chand (supra)***; it was *inter alia* held that delay in lodging FIR is not fatal if satisfactorily explained.

16. In the case of ***Manik Taneja & Anr. vs State of Karnataka & Anr. (supra)***; it was *inter alia* held that in order to constitute an offence under Section 506 IPC, the threat must be with intent to cause alarm to the victim, whether or not the alarm is actually caused.

17. PW2 Rahul, who had lodged complaint Ex PW2/A dated 04/08/2022; in cross examination by Defence Counsel elicited that he was not present in the park i.e., place of incident when the quarrel took place and the incident in question was told to him by his brother injured PW1 Rajesh. Said version of PW2 Rahul makes it abundant clear that his so narrated sequence of events of incident of 11/04/2022 at 9.30 pm allegedly of assault by arraigned accused on person of PW1 Rajesh was hearsay version. Accordingly, hearsay version of PW2 Rahul narrated in examination-in-chief of PW2 is inadmissible in evidence.

18. Investigation machinery had come into motion in the case in hand after calling of action taken report by Magisterial Court upon complaint of PW2 Rahul. Besides that PW2 also filed with SHO Police Station Ambedkar Nagar his complaint Ex PW2/A, dated 04/08/2022. In his deposition injured PW1 Rajesh testified that on 11/04/2022 at about 9.30 pm he was walking in the park situated in front of home of PW1 Rajesh after taking meal and there he met with accused Deepak @ Golu and Raghuraj, who were sitting there and consuming liquor and eating meat. Those accused Deepak @ Golu and Raghuraj were known to PW1 Rajesh prior to the incident and they asked to PW1 Rajesh as to why he was walking in the park and abused PW1 Rajesh. PW1 Rajesh told accused Deepak @ Golu and Raghuraj that he (Rajesh) used to walk on daily basis. Thereafter, accused Deepak @ Golu told PW1 Rajesh '*tu jyada hi banta hai*' and threatened PW1 Rajesh to kill him. Thereafter accused Deepak @ Golu and Raghuraj started grappling with PW1 Rajesh and gave beatings to PW1 Rajesh. During this quarrel noise took place and on hearing the noise accused Ramesh, father of accused Deepak @ Golu came there with danda. Accused Lekhraj also came there. Accused Ramesh told accused Deepak @ Golu that '*yeh kuch jyada hi banta hai, isse chordege nahi*' and threatened PW1 Rajesh to kill him. Then accused Deepak @ Golu took danda from accused Ramesh and hit the said danda on the person of PW1 Rajesh. PW1 Rajesh tried to save himself by raising his hands and in the process received injury on his right hand with said danda and fell down due to pain but was given beatings by danda, leg blows and fist blows and stones by all

accused persons. Gold chain of PW1 Rajesh was also snatched by accused Deepak @ Golu during beatings. Said gold chain of PW1 Rajesh broke and then it was in the hand of accused Deepak @ Golu. Somehow PW1 Rajesh saved himself and after taking out his mobile phone PW1 Rajesh made call to police. Police came at the spot and took PW1 Rajesh to AIIMS Trauma Centre where he received medical treatment but was discharged next day from the hospital. PW1 Rajesh sustained fracture on the fingers of his right hand and due to injury received at the place of incident even two fingers of right hand of PW1 Rajesh were not working properly on the day of his deposition. PW1 Rajesh further deposed that he had shown the place of incident to police and police prepared site plan Ex PW1/A at his instance.

19. Narration of sequence of events in complaint Ex PW2/A of date 04/08/2022 given by PW2 Rahul is entirely at variance and in material contradiction with the facts testified by PW1 Rajesh and elicited above. In Ex PW2/A dated 04/08/2022, PW2 Rahul complained to SHO Police Station Ambedkar Nagar that applicant Rahul, son of Mahavir was residing at A-1/154, Madangir, Doctor Ambedkar Nagar, New Delhi with his family and was a peace loving citizen and having no adverse record with police. Following is the sequence of events of incident narrated in complaint Ex PW2/A by PW2 Rahul. On 11/04/2022 at 9.30 pm Rajesh, brother of applicant Rahul after having meal had gone for walk in park, opposite his home. At that time in the park there were Deepak @ Golu, son of Ramesh and Ramesh, son of Prabhu; both resident of A-1/109, Madangir, New Delhi; Raghuraj, son of Sohan Lal, Lekhraj @ Vicky, son of Sohan Lal,

both resident of A-1/266, Madangir, New Delhi; besides their other companions; who were consuming liquor and they had tried to snatch the mobile phone of Rajesh, brother of applicant Rahul but when they were not successful, then those persons had beaten Rajesh, brother of applicant Rahul with leg and fist blows, stones and dandas. Rajesh fell down on the ground. Gold chain of Rajesh was snatched by those persons. Rajesh sustained injuries. PCR was called. Police came there. Rajesh made call to Rahul and police, after which Rajesh become unconscious. Police arrived at the place of incident and took Rajesh to Trauma Centre, where he was operated and three stitches were put on the fingers of right hand of Rajesh, which were plastered and after preparing MLC, next day Rajesh was discharged from the hospital. Police did not take any action against aforesaid offenders and *per contra* registered case FIR No. 239/2022, under Section 308/34 IPC, Police Station Ambedkar Nagar against Rajesh as well as applicant Rahul. Rajesh was in jail since 21/04/2022 in aforesaid case and no one was listening the grievance of applicant Rahul, whereas applicant Rahul was on anticipatory bail, in terms of order dated 22/04/2022 of the Court. Since the time when Rajesh, brother of applicant Rahul was in jail, from that day aforesaid offenders and their companions were taking liquor daily in front of their home and threatened applicant Rahul and his family to kill them, besides hurling abuses to the ladies in the home of applicant Rahul, saying to abduct and rape them. On 04/08/2022 when applicant Rahul came to Saket Court for date of hearing, then on return, on the way, he met Raghuraj and Ramesh, who after seeing applicant Rahul said, ‘25 June koe toe tera haath tudwaya hai abb ki baar tujhe jaan sei maar

denge'.

20. The narration of sequence of events in Ex PW2/A of date 04/08/2022 projects that at 9.30 pm on 11/04/2022 all arraigned accused viz., (i) Deepak @ Golu; (ii) Ramesh; (iii) Lekhraj and (iv) Raghuraj; all were present at around 9.30 pm on 11/04/2022 at the place of incident viz., Park at A-1st, Madangir, New Delhi and were consuming liquor and tried to snatch the mobile phone of PW1 Rajesh and when they could not succeed in doing so, then they had beaten PW1 Rajesh as well as PW2 Rahul with leg and fist blows, stones and dandas, whereby gold chain of PW1 Rajesh was also snatched by those persons. Ex PW2/A finds no mention of what sequence of events; as was so narrated by injured/victim PW1 Rajesh on 27/03/2024 before my Ld. Predecessor; which is entirely contradictory with the facts so mentioned in Ex PW2/A, complaint dated 04/08/2022 given by PW2 Rahul to SHO Police Station Ambedkar Nagar; as elicited herein above. Not only the sequence of events, but also the roles of each and every accused person; in commission of the offence of causing grievous hurt or criminal intimidation or sharing of common intention; all are stated differently in version of PW1 Rajesh; embodied in his testimony of date 27/03/2024 in Court as compared to the version narrated in the complaint Ex PW2/A of PW2 Rahul of date 04/08/2022.

21. On 12/04/2022 when PW1 Rajesh was medically examined by PW5 Dr. Trisha Tarunita at 01:55:22 hours, PW1 Rajesh narrated to PW5 of alleged history of assault by 3-4 known person in Madan Gir, which so finds mention in MLC Ex PW5/A prepared by Dr. Trisha Tarunita, Junior Resident at Jai

Prakash Narayan Apex Trauma Centre, AIIMS, New Delhi. Laceration on right hand second finger was observed as the injury sustained by PW1 Rajesh, as per Ex PW5/A. In Discharge Note Ex PW5/B there is *inter alia* mention of 'no obvious bony injury' at two locations and discharge of PW1 Rajesh from hospital took place at 9:33 hours on 12/04/2022. There is no record of any fracture sustained by PW1 in the treatment papers of PW1 Rajesh on record. Fact of the matter is that in the evidence of prosecution in testimony of injured, aforesaid; Doctor witness PW5, MLC Ex PW5/A and Discharge Note Ex PW5/B or other material placed on record; there is nothing to suggest that the said hurt suffered by PW1 Rajesh can be designated as grievous, in terms of Section 320 of IPC as it does not come in the ambit of any of those elicited eight kinds of hurt viz., (i) emasculation; (ii) permanent privation of the sight of either eye; (iii) permanent privation of the hearing of either ear; (iv) privation of any member or joint; (v) destruction or permanent impairing of the powers of any member or joint; (vi) permanent disfiguration of the head or face; (vii) fracture or dislocation of a bone or tooth; (viii) hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits. Accordingly, the hurt on the person of PW1 Rajesh was simple in nature.

22. Prosecution has not been able to prove that the injuries sustained by PW1 Rajesh were grievous in nature; though in MLC Ex PW5/A; examining Doctor PW5 termed said injury as grievous; since sustained injury by PW1 Rajesh does not fall in

any of the eight kinds of hurt referred in Section 320 of IPC.

23. In 2008 CRI. L. J. 3061, **Dalbir Singh v. State of Haryana**, Apex Court held that:

*“Coming to applicability of the principle of falsus in uno falsus in omnibus, even if major portion of evidence is found to be deficient, residue is sufficient to prove guilt of an accused, notwithstanding acquittal of large number of other co-accused persons, his conviction can be maintained. However, where large number of other persons are accused, the Court has to carefully screen the evidence. It is the duty of Court to separate grain from chaff. Where chaff can be separated from grain, it would be open to the Court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons. Falsity of particular material witness or material particular would not ruin it from the beginning to end. The maxim "falsus in uno falsus in omnibus" has no application in India and the witnesses cannot be branded as liar. The maxim "falsus in uno falsus in omnibus" (false in one thing, false in everything) has not received general acceptance in different jurisdiction in India, nor has this maxim come to occupy the status of rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be disregarded. The doctrine merely involves the question of weight of evidence which a Court may apply in a given set of circumstances, but it is not what may be called "a mandatory rule of evidence". (See **Nisar Alli v. The State of Uttar Pradesh**, AIR 1957 SC 366). Merely because some of the accused persons have been acquitted, though evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also*

be acquitted. It is always open to a Court to differentiate the accused who had been acquitted from those who were convicted. (See **Gurucharan Singh and another v. State of Punjab**, AIR 1956 SC 460). The doctrine is a dangerous one specially in India for if a whole body of the testimony were to be rejected, because witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead-stop. The witnesses just cannot help in giving embroidery to a story, however, true in the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the Court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. The evidence has to be sifted with care. The aforesaid dictum is not a sound rule for the reason that one hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment. (See **Sahrab s/s Belli Nayata and another v. The State of Madhya Pradesh**, (1972) 3 SCC 751, and **Ugar Ahir and others v. The State of Bihar**, AIR 1965 SC 277). An attempt has to be made to in terms of felicitous metaphor, separate grain from the chaff, truth from falsehood. Where it is not feasible to separate truth from falsehood, because grain and chaff are inextricably mixed up, and in the process of separation an absolutely new case has to be reconstructed by divorcing essential details presented by the prosecution completely from the context and the background against which they are made, the only available course to be made is discard the evidence in toto. (See **Zwieolae Ariel v. State of Madhya Pradesh**, AIR 1954 SC 15; and **Balaka Singh and others v. The State of Punjab**, AIR 1975 SC 1962). As observed by this

Court in State of Rajasthan v. Smt. Kalki and another, AIR 1981 SC 1390, normal discrepancies in evidence are those which are due to normal errors of observations, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and these are always there however honest and truthful a witness may be. Material discrepancies are those which are not normal and not expected of a normal person. Courts have to label the category to which a discrepancy may be categorized. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so.”

24. In the case of **Thulia Kali vs State of Tamil Nadu, A.I.R. 1973 SC 501; Hon'ble Supreme Court** *inter alia* held that:-

“First information report in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The importance of the above report can hardly be overestimated from the standpoint of the accused. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eye witnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay the report not only gets bereft of the advantage of spontaneity danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay in the lodging of the first information report should be

satisfactorily explained.”

25. There are two versions on record of this case; pertaining to the same incident of 11/04/2022 at 9.30 pm at Park 1st Madangir. First version is in terms of Ex PW2/A dated 04/08/2022 of PW2 Rahul to SHO Police Station Ambedkar Nagar and elicited in detail in preceding paragraphs. Second version is as per deposition of injured PW1 Rajesh as testified by him on 27/03/2024 before my Ld. Predecessor and elicited above in preceding paragraphs. Both these versions as elicited above are contradictory with each other; with respect to sequence of events; roles of each and every accused with respect to (a) sharing of common intention; (b) causing of hurt on the person of injured PW1 Rajesh and (c) criminal intimidation by advancing threat to kill PW1 Rajesh. Whereas PW2 Rahul testified that on 25/06/2022 when he was going somewhere by his scooty; then accused Ramesh and Raghuraj had pushed his scooty at some distance from Birla Vidya Mandir School; causing his fall and PW2 received injuries on his left side elbow and then accused Ramesh and Raghuraj threatened to PW2 Rahul '*abhi toe tera haath tudwaya hai, tujhe jaan se maar denge*'. Said version of PW2 of threat advanced by said accused Ramesh and Raghuraj to PW2 Rahul finds no mention in the deposition of PW1 Rajesh. PW1 Rajesh in his medical examination by PW5 vide MLC Ex PW5/A alleges that he was assaulted by 3-4 known persons; still strangely enough PW1 Rahul does not mention the names of those known persons to examining Doctor PW5.

26. When read as whole, the testimony of injured PW1 Rajesh can be classified in category of neither wholly reliable nor

wholly unreliable witness as per categorization of the witness in the case of ***Vadivelu Thevar v. The State of Madras, AIR 1957 SC 614.***

27. PW3 SI (now retired) Satbir Singh is the Duty Officer, who received *rukka* at 9.30 pm on 24/02/2023 from PW4 SI Ved Prakash and registered FIR Ex PW3/B and also issued certificate Ex PW3/A under Section 65-B of The Indian Evidence Act.

28. PW4 SI Ved Prakash is the Investigating Officer, who received the copy of complaint under Section 156(3) Cr.P.C from Magisterial Court for submitting ATR. PW4 collected MLC of PW1 Rajesh, made endorsement Ex PW4/A on complaint Ex PW2/A and got FIR Ex PW3/B registered. After registration of FIR PW4 went to the spot with PW1 Rajesh and prepared site plan Ex PW1/A. PW4 also recorded statements of PW1 Rajesh and PW2 Rahul. PW4 interrogated accused persons namely Lekhraj, Raghuraj, Deepak @ Golu and Ramesh and arrested them vide memos Ex PW4/B, Ex PW4/C, Ex PW4/D and Ex PW4/E respectively. Accused persons were enlarged on police bail vide memos Ex PW4/F, Ex PW4/G, Ex PW4/H and Ex PW4/I respectively. PW4 also prepared pabandinamas for appearance of accused persons vide memos Ex PW4/J, Ex PW4/K, Ex PW4/L and Ex PW4/M respectively. After completion of investigation, charge-sheet was prepared and filed by PW4.

29. Delay in lodging the First Information Report in the case in hand has resulted in embellishment. On account of delay the lodged report got bereft of the advantage of spontaneity and

danger crept in of the introduction of coloured version, exaggerated account and/or concocted story as a result of deliberation and consultation. If the officers of investigating agency did not record the version of injured PW1 Rajesh; there was no impediment in the way of PW1 Rajesh or even his brother PW2 Rahul for lodging of the report promptly in writing to senior police officials and/or to the Court within a reasonable span of time. Fact of the matter brings on record that testimony of sole interested material witness victim/injured PW1 Rajesh is embedded with material contradictions, severe infirmities and inherent improbabilities, as stated above. It is not feasible to separate truth from falsehood, because grain and chaff are inextricably mixed up and in the process of separation an absolutely new case has to be reconstructed by divorcing essential details presented by the prosecution completely from the context and the background against which they are made, the only available course to be made is discard the evidence of PW1 in *toto*. (See ***Zwieolae Ariel v. State of Madhya Pradesh, AIR 1954 SC 15; and Balaka Singh and others v. The State of Punjab, AIR 1975 SC 1962***).

30. The facts and circumstances embodied in the precedents relied upon by Ld. Counsel for complainant are entirely different and distinguishable to the facts and circumstances of the case in hand. Accordingly, the relied upon precedents are of no help to the case of complainant to secure conviction of accused persons for the offences charged.

31. Relying upon the law laid and elicited in the preceding

paragraphs, it would be extremely hazardous to base conviction of arraigned accused persons on the premise of neither wholly reliable nor wholly unreliable testimony of injured PW1 Rajesh; in absence of corroboration from any other cogent evidence; since such testimony of PW1 Rajesh is embedded with material contradictions, severe infirmities and inherent improbabilities going to the root of the matter to check and shake the basic version and core of the prosecution case. Prosecution has failed to prove its case against arraigned accused persons beyond reasonable doubt. Accused persons namely Deepak @ Golu, Ramesh, Lekhraj and Raghuraj are held not guilty and are acquitted for offences charged.

32. Bail bond of accused persons namely Deepak @ Golu, Ramesh, Lekhraj and Raghuraj stand cancelled and their sureties stand discharged. Original documents, if any, be released to the rightful owner(s) after getting the endorsement, if any, cancelled.

33. Accused persons namely Deepak @ Golu, Ramesh, Lekhraj and Raghuraj are directed to furnish bail bond under Section 437A Cr.P.C. in the sum of Rs.10,000/- each with each one surety in the like amount for a period of six months.

34. After due compliance, file be consigned to Record Room.

**Announced in the open Court
today i.e., 15th April, 2026**

**(Gurvinder Pal Singh)
Principal District & Sessions Judge
South District, Saket Court, New Delhi (DK)**