



UPMT010086642024

IN THE COURT OF SESSIONS JUDGE, MATHURA

Present: Sri Vikas Kumar-I, H.J.S.

Sessions Trial No. 1060 of 2024

State of Uttar Pradesh

Versus

1. Sandeep alias Kali, aged about 22 years, son of Vijendra,

2. Nitesh alias Pulli, aged about 22 years, S/o Raju

Residents of village Surir Vijau, P.S. Surir, District Mathura.

.....**Accused**

Crime No. 63/2024,
U/Ss. 302/34 IPC,
P.S. - Surir
District - Mathura

Counsel for Prosecution	: Mr. Shivram Singh Tarkar (DGC Criminal)
Counsel for Complainant	: Mr. Manish Kumar Gupta, Advocate
Counsel for Accused	: Mr. Uma Shankar Sharma, Advocate

JUDGMENT

1. The present Sessions Trial arises out of Case Crime No. 63 of 2024, registered under Sections 147, 148, 302 & 34 of Indian Penal Code, 1860 (hereinafter referred to as “IPC”), Police Station Surir, District Mathura.

2. The case of the accused Sandeep alias Kali and Nitesh alias Pulli was committed to the Court of Sessions by Chief Judicial Magistrate, Mathura, vide order dated 30.09.2024 for facing trial under Sections 302/34 of IPC, in connection with Case Crime No. 63/2024, P.S. Surir, District Mathura.

3. The prosecution case, in brief, is that the complainant, Bahori Singh, son of Pop Singh, resident of Village Surir Vijau, Police Station Surir, District Mathura, submitted a written complaint at Police Station Surir, District Mathura, on 16.03.2024. In the said complaint, it was alleged that his son, Hemant, had solemnized a court marriage with

Anjali, daughter of Vijendra, due to which Anjali's family members were unhappy with him. It was further alleged that on 15.03.2024, at about 9:00 p.m., accused Nitesh alias Pulli, son of Raju and a resident of Village Surir Vijau, called Hemant from his house and took him along. Thereafter, near Village Bhadanwara, due to previous enmity, accused Sandeep alias Kali, son of Vijendra, Nitesh alias Pulli, son of Raju, Vikram Singh alias Charan Singh, son of Mohan Singh, and three or four unknown persons, allegedly assaulted Hemant with a sharp-edged weapon and a Kussa (Suja), causing injuries which resulted in his death. It was also alleged that prior to the said incident, attempts had been made to cause harm to Hemant. According to the complaint, accused Nitesh alias Pulli and Sandeep alias Kali were apprehended at the spot by local villagers, while the remaining assailants managed to flee. The complainant further alleged that information regarding the incident was conveyed to him by the villagers.

On the basis of the said written complaint, the First Information Report was lodged on 16.03.2024, at 11.33 a.m., against the accused persons namely, Sandeep alias Kali, Neetesh alias Pulli, Vikram Singh alias Charan Singh and three or four unidentified persons, in connection with Case Crime No. 63/2024, under Sections 147, 148, 302 & 34 of I.P.C., P.S. Surir, District Mathura.

4. During the course of investigation, Sections 147 & 148 IPC were eliminated from the said case and the involvement of accused Vikram Singh alias Charan Singh was found wrong, so his name was also expunged from the said case. Subsequently, after completion of the investigation, the Investigating Officer submitted charge-sheet before the concerned Court, Mathura against the accused persons Sandeep alias Kali and Nitesh alias Pulli, under Sections 302/34 of IPC, P.S. Surir, District Mathura, on 08.06.2024, vide charge-sheet No. 100/2024.

5. Thereafter, learned Chief Judicial Magistrate, Mathura took cognizance on the said charge-sheet on 15.06.2024. Finding the matter exclusively triable by the Court of Sessions, the case against the accused Sandeep alias Kali and Nitesh alias Pulli was committed to the Court of Sessions on 30.09.2024.

6. Thereafter, the charge was framed against the accused Sandeep alias Kali and Nitesh alias Pulli on 08.01.2025, in connection with Case

Crime No. 63/2024, under Sections 302/34 I.P.C., P.S. Surir, District Mathura.

Charge was read over to the accused. Accused refuted the charge and asked for trial.

7. To prove the said charge against the accused Sandeep alias Kali and Nitsh alias Pulli, prosecution has produced and examined following witnesses:

P.W.1 Bahori Singh	Complainant (father of the deceased)
P.W.2 Kishan Singh	Brother of the deceased
P.W.3 Kuldeep	Nephew of the deceased
P.W.4 Omveer Singh	Fact witness
P.W.5 Lakhan Singh	Fact witness
P.W. 6 SI Vinod Yadav	Who conducted the inquest proceedings of the deceased
P.W.7 Dr. Devender Kumar Chaudhary	Who conducted the post-mortem examination of the deceased
P.W.8 H.M. Rajesh Kumar	FIR Scribe
P.W.9 Bheem Singh Jawla	Investigating Officer
P.W.10 Inspector Sanjeev Kant Mishra	Investigating Officer

8. In documentary evidence, following documents are produced on behalf of the prosecution:

Exhibit Ka-1	Written complaint
Exhibit Ka-2	Inquest report of the deceased
Exhibit Ka-3	Post-Mortem Report of the deceased
Exhibit Ka-4	Chik FIR
Exhibit Ka-5	General Diary
Exhibit Ka-6	Charge-sheet
Exhibit Ka-7	Recovery memo of Pen Drive

Exhibit Ka-8	65-B Certificate
Exhibit Ka-8A	Site Plan
Exhibit Ka-8B	Recovery Memo with regard to arrest as well as recovery
Exhibit Ka-9	F.S.L. Report

9. EVIDENCE OF THE PROSECUTION :

9.1 P.W.1/complainant/Bahori Singh has deposed in his examination-in-chief dated 20.02.2025 that his son's name is Hemant Kumar. His son Hemant had entered into a court marriage with Anjali, daughter of Vijendra S/o Girraj Singh, who is resident of his village. After this, Anjali's family was unhappy with Hemant. On 15.03.2024, at 9 p.m., Hemant was taken away from his home by Nitesh alias Pulli S/o Raju, resident of his village, and taken to Bhadanwara village. Sandeep alias Kali, son of Vijendra, Nitesh alias Pulli, son of Raju, Vikram Singh alias Charan Singh, son of Mohan Singh, and three or four other individuals, acting in collusion with each other, stabbed his son Hemant to death with a sharp edged weapon and a Kussa (Suaa) due to a previous enmity. Prior to this incident, the aforementioned individuals had attempted to kill Hemant, but were unsuccessful. Accused Sandeep alias Kali and Nitesh alias Pulli were caught by the people at the scene and others fled from the scene. Chetan alias Chintu, son of Arjun Singh, resident of Bhadanwara, Police Station Surir, Mathura, and Lokesh alias Gunga, son of Har Prasad alias Happu, resident of Mohammed Bhoj Garhi, village Surir Vijau, Police Station Surir, Mathura, etc. witnessed the incident. Upon receiving information, he came to the scene.

He further deposed that on 16.03.2024, he had someone else dictated the report of the incident and got it written, which he had read and signed. The same is paper number 3 A/3 on the file. He identified the same and it was marked as **Exhibit Ka-1**.

This witness further stated that the police arrived at the scene and conducted the inquest proceedings of the deceased Hemant. He was also appointed as one of the five Panchas. Daroga Ji consulted all of us regarding the cause of death. The Panchas concluded that Hemant's death

was caused by injuries to his neck. However, they recommended a post-mortem to determine the exact cause of death. Papers numbered 4 A/38 to 4A/40 on the file are the same Panchayatnama documents bearing his signature, which he identifies. Subsequently, the post-mortem examination of the deceased Hemant was conducted by the police. Daroga Ji had recorded his statement. The police inspected the scene at his instance and prepared site plan of the same.

9.2 P.W. 2 Kishan Singh has deposed in his examination-in-chief dated 01.04.2025 that Hemant was murdered in Bhadanwara on 15.03.2024. His brother Hemant's friend, Nitesh alias Pulli, son of Raju, who is from his village, deceived Hemant and took him away with him around 6:30-7:00 pm. It has come to his knowledge that Nitesh had given Hemant alcohol in Bhadanwara village, and Nitesh had informed Sandeep alias Kali about this. When Hemant was returning from Bhadanwara to Surir, at around 8:30 pm, Sandeep alias Kali and Nitesh, along with their associates Mohan, son of Girraj Singh, Vikram, son of Mohan, and Bhagwan Singh, son of Girraj Singh, conspired near the Devi temple in Bhadanwara and attacked Hemant with a Suja, seriously injuring him, and then killed him. Nitesh alias Pulli informed his nephew Kuldeep alias Bhola about this on his mobile number 9536584932. Upon receiving the information, Kuldeep alias Bhola and he arrived at the scene and found that dead body of Hemant was lying there, and a large crowd had gathered there. The police had also arrived there. Sandeep alias Kali and Nitesh alias Pulli were apprehended by the crowd present there. The remaining accused had fled.

He further deposed that the police brought his brother Hemant's body to Mathura. Hemant's Panchayatnama was conducted by the police at the Mathura mortuary on 16.03.2024. Daroga Ji appointed five Panchans, and he consulted with us regarding the cause of death. He was also appointed as a Panchan. They stated in our opinion that Hemant died due to the injuries on his body. However, to determine the exact cause of death, they recommended a post-mortem examination of the body. Papers numbered 4 A/38 to 4 A/39 are the same Panchayatnama prepared by Daroga Ji, which he identifies. He gave a pen drive containing the video of the incident to Daroga Ji.

We are four brothers, i.e. Girraj Singh, Kishan Singh, Hemant (the deceased), and himself. Hemant and Anjali were in a love relationship and they entered into a court marriage. Anjali is the sister of accused Sandeep alias Kali, so accused Sandeep alias Kali and his family held a grudge against Hemant. Hemant and Anjali studied together and were in love. After their marriage, Sandeep alias Kali and his family filed a case against Hemant, but Anjali gave statements in favor of Hemant to the police and Court, that's why the police to file an F.R. in the case. Thereafter, Hemant and Anjali started living in Bhiwani (Haryana). Subsequently, a panchayat was held by the village's elite and relatives. Following the panchayat, Anjali returned to her home in Surir Vijau village. In January 2024, Anjali's family arranged her marriage in Kosikhurd. After the marriage, Anjali moved to her in-laws' home, but his brother Hemant opposed this. Considering Anjali as his wife, Hemant had even sent her a legal notice, due to which Anjali's brother Sandeep alias Kali and his family members got annoyed.

About 5-6 months before this incident, Hemant was shot by Sandeep alias Kali and his associates in Chhatikara. Hemant was treated at the 100-bed hospital in Vrindavan, a report of which was filed at the Joint police station, but later a settlement was reached between them in a panchayat. Due to all these things, the accused murdered Hemant.

The case against the deceased Hemant and Anjali under Section 494 IPC is going on in the Court of J.M. 10.

9.3 P.W. 3 Kuldeep has deposed in his examination-in-chief dated 07.04.2025 that on 15.02.2024, after consulting, Nitesh alias Pulli, son of Raju, called his mobile phone at around 5:45 pm and asked about his uncle Hemant's whereabouts. He replied that his uncle Hemant was not with him. At that time, he was unloading rations near the Devi temple. He told him that his uncle Hemant would either be at home or playing cards on the plot behind the house. He then returned home. After this, Nitesh took his uncle Hemant away on his bike. He saw him from the corner of his street. When he was coming in the street, Nitesh was taking his uncle Hemant on his bike. After this, He received a call from Nitesh on his phone at around 8:30 pm and Nitesh said, "Your uncle has been killed by Sandeep alias Kali near the temple in Bhadanwara." He told his uncle

Kishan Singh, and he was accompanying him to the temple. On the way, we saw three men running near the college. We already knew them. Their names were Vikram alias Charan Singh, Mohan Singh, son of Girraj Singh, and Bhagwan Singh, son of Girraj Singh. We then reached the scene, where uncle Hemant lay in a pool of blood. A large crowd had gathered. The villagers had held Nitesh alias Pulli and Kali alias Sandeep. About five minutes later, the police arrived there. The police brought his uncle Hemant's body to the mortuary. The next day, on 16.03.2024, the police prepared a Panchayatnama. Daroga Ji had appointed five Panchan, including him. We all consulted us and in our opinion, Hemant had died due to head injuries. However, we recommended a post-mortem examination to determine the exact cause of death.

Papers numbered 4 A/38 to 4 A/39 on the file are the same Panchayatnama documents, which the Daroga Ji had prepared in his presence. These papers bear his signature, which he identifies. Afterward, we retrieved the body and performed uncle Hemant's last rites.

He further deposed that his uncle Hemant and Anjali, who lived in the neighborhood, studied together and fell in love. On 31.12.2022, they ran away from home, then Anjali's family filed a case against Hemant and his family members. After being caught, Anjali gave statements in favor of Hemant to the police and in court, leading to the police dropping the case. Hemant and Anjali subsequently moved to Haryana and settled there. Later, a panchayat was held by prominent figures of the village, and Anjali returned. Subsequently, Anjali's family arranged her marriage in Kosikhurd (Chhoti Kosi). His uncle was displeased with this. Due to this, Sandeep alias Kali harbored a grudge against Hemant. About five to six months prior to this incident, Sandeep shot Hemant in the Chhatikara area, due to which his uncle Hemant was injured. Hemant was treated at City Hospital, Highway, Mathura. His uncle didn't file a report about this incident. He had thought of settling the matter with the Panchayat. Because of this rivalry, Sandeep alias Kali and Nitesh alias Pulli stabbed his uncle Hemant to death with Suja (Suua). Daroga Ji recorded his statement.

9.4 P.W. 4 Omveer Singh has deposed in his examination-in-chief dated 14.05.2025 that he knows Hemant. Hemant was murdered on

15.03.2024 by Sandeep alias Kali, Nitesh alias Pulli and Vikram alias Charan Singh. Acting on this information, he, along with villagers Bahori Singh, Kuldeep, Kishan Singh, and Lalit, went to the mortuary in Mathura. Daroga Ji prepared the Panchayatnama of the deceased Hemant and appointed five panchans, including him. Daroga Ji sought our opinion regarding Hemant's death. They stated that Hemant's death was due to the injuries inflicted on him. However, they advised a post-mortem examination to find the exact cause of death. Papers numbered 4A/38 to 4A/39 on the file are the same Panchayatnama that Daroga Ji prepared in his presence. It bears his signature, which he identifies.

9.5 P.W. 5 Lakhan Singh has deposed in his examination-in-chief dated 15.07.2025 that his father, Amar Singh, has a liquor shop in village Badanwara. He drops his father off at the liquor shop and picks him up. On 15.03.2024, at about 9.00 p.m., near the Hanuman temple on the road in Badanwara village, Charan Singh, Bhagwan Singh, Nitesh, Sandeep alias Kali, and Mohan were fighting with Hemant. All of them were beating Hemant with rods and Suaa. Police arrived at the scene about ten minutes later. The accused Sandeep alias Kali and Nitesh had severely beaten Hemant to death. Villagers apprehended Sandeep alias Kali and Nitesh at the scene immediately after Hemant's murder, while Charan Singh, Bhagwan Singh, and Mohan fled. Because there was light at the scene, he recognized Nitesh alias pulli and Sandeep alias Kali in the light. Seeing the accused, Nitesh alias Pulli and Sandeep alias Kali, present in court today, the witness stated that these were the people who murdered Hemant.

9.6 P.W. 6 SI Vinod Yadav has deposed in his examination-in-chief dated 05.08.2025 that on 15.03.2024, he was posted as Sub-Inspector at Surir Police Station. When he received information over the phone from Surir Police Station that in Case Crime No. 63/2024, under Sections 147, 148, 302/34 of IPC, at Surir Police Station, the complainant Bahori Singh, son of Pop Singh, resident of Surirvijau, had informed that the accused had murdered his son Hemant by hitting him with a sharp weapon. After receiving the said information, he, along with Constable Pradeep Kumar and Home Guard Saudan Singh, went to the mortuary with the documents, Panchayatnama, etc., where the body of the deceased

Hemant was kept in the freezer of the mortuary. The family members and relatives of the deceased were also present there. He had appointed five Panchans, i.e. Bohri Singh, Kishan Singh, Kuldeep, Lalit Chauhan, and Omveer Singh, to initiate the inquest proceedings (Panchayatnama) for the deceased Hemant's body. He had sought their opinion regarding the cause of death. The Panchans stated that Hemant died due to injuries on his body. However, a post-mortem examination should be conducted to determine the exact cause of death. His opinion also concurred with the Panchans'. Hemant had marks of a sharp object on his neck and near his collar band. He was wearing a sando vest, blue jeans, and black jockey underwear. He was of average height and wheatish complexion. He had conducted the inquest proceedings for Hemant, son of Bahori Singh, a resident of Surirvijau, Police Station Surir, District Mathura, who was about 23 years old. Looking at paper numbered 4A/38 to 4A/39 on the file, the witness stated that this is the same Panchayatnama that he prepared and signed. He identifies the same. It was marked as **Exhibit Ka-2**. In addition to the Panchayatnama, the FIR, a copy of the report, RI report, report C.M.O., Challan Nash, Photo Nash, copy report etc. were sent along with the dead body, which are on file as paper no. 4 A/26 to 39, on which his signature is there, He identifies the same.

On 20.03.2024, Inspector-in-Charge Sanjeevkant Mishra arrested accused Sandeep alias Kali and Nitesh alias Pulli. The accused handed over a sharp edged weapon (Suja) from their motorcycle, and the motorcycle used in the incident was also recovered. Investigating officer Sanjeevkant Mishra prepared a recovery memo, which was signed by him and other police officers. These recovery memo reports are available on file as papers number 4A/10 to 4A/11. He identifies his signature.

9.7 P.W. 7 Dr. Devender Kumar Chaudhary has deposed in his examination-in-chief dated 28.08.2025 that on 16.03.2024, as per his duty roster, he was posted at Postmortem House, District Hospital, Mathura. On the said date, CP Pradeep Kumar and HG Saudan Singh had brought the dead body of deceased Hemant son of Bahori Singh, resident of Surir Vijau, District Mathura, aged about 23 years, from Surir Police Station. The dead body was identified by the deceased's brother Girraj Singh. He started the postmortem of the dead body of the said deceased Hemant at

05.00 PM on Postmortem Report No. 269/24. He found the dead body of the deceased on the postmortem table without sealed.

External examination of the dead body-

The deceased was of normal height. The height of the deceased was 172 cm, the length of the toes/soles of the deceased was 24 cm, the hair on the head was 12 cm black, the beard was 2 cm and the moustache was 1 cm black, the teeth were 16/16. Stiffness was present in the entire body and the eyes & mouth were half open.

Description of injuries on the body of the deceased-

1. Lacerated wound of 1cm x 1cm present right side of skull (3cm from right ear).
2. Multiple lacerated wound 3cm x 1cm present over left side clavicle region.
3. Multiple lacerated wound 5cm x 4cm present on left cheek.
4. Multiple abrasion 10cm x 1cm present on right clavicle region.

Internal examination of the body of the deceased:

Hyoid bone was not broken, left lung was ruptured, right lung was yellowish, first and second ribs on the left side were broken, rest of the ribs on both sides were normal, chest cavity was filled with blood, both the chambers of the heart were empty, pasty food was present in the stomach, gall bladder was completely full, liver was yellowish, spleen was yellowish and both the kidneys were yellowish. Genital organ was not circumcised and spine was not opened.

The time since death was about 3/4th day from the postmortem. The probable cause of death was due to shock and haemorrhage as a result of ante-mortem injuries.

Seeing paper number 4A/40 available on the file, the witness said that this is the same postmortem report which he had prepared himself. He identified the same and it was marked as **Exhibit Ka-3**. After conducting the postmortem, the dead body of the deceased, the original copy of the postmortem report and the relevant documents and the bundle of clothes found from the dead body (one vest, one pant, one under wear,

one Kalava, one pearl bracelet) were sealed and handed over to the police personnel who had come with the dead body.

The police personnel brought the papers No. 4A/25, 4A/26, 4A/27, 4A/28, 4A/29, 4A/30, 4A/31, 4A/32, 4A/33, 4A/38 & 4A/39, available on file, with the dead body of the deceased, which were inspected by the said witness, which he identifies. After conducting the post-mortem of the dead body, the body was handed over to the police personnel who brought the same at the post mortem house.

9.8 P.W. 8 HM Rajesh Kumar has deposed in his examination-in-chief dated 03.09.2025 that on 16.03.2024, he was posted as H.M. at Surir Police Station. On the said date, the complainant Bahori Singh, along with his son Kishan Singh, resident of village Surir Vijau, Police Station Surir, Mathura, came to the police station with a written complaint. On the oral orders of the Station House Officer, he registered a Chik FIR at Crime No. 63/2024, under Sections 147, 148, 302 & 34 of IPC against Sandeep alias Kali & others based on the said written complaint. He had the signature of the Station House Officer, Sanjeevkant Mishra, after seeing and reading it. Looking at paper no. 3A/1 to 3 on the file, the witness said that this is the same FIR. He identifies the signature of the said SHO. It was marked as **Exhibit Ka-4**. He disclosed the Chik FIR in GD No. 23, dated 16.03.2024, at 11:33 a.m. The said GD is on file as Paper No. 4A/114. After seeing and reading it, the witness stated that this is the same GD. He identified the signature of the said SHO and it was marked as **Exhibit Ka-5**.

9.9 P.W. 9 Bheem Singh Jawla has deposed in his examination-in-chief dated 11.09.2025 that on 25.04.2024, he was posted as Inspector in the Crime Branch, Mathura. On that day, the investigation of case crime number 63/2024, under Sections 147, 148, 302 & 34 IPC, versus Sandeep alias Kali & others, Police Station Surir, District Mathura, was taken up by him in compliance with letter no. R/A.P.S./61/24 dated 24.04.2024 of the Additional Superintendent of Police, Crime, District Mathura.

On 28.04.2024, he prepared Paper No. 18 in which after receiving the case diary from the office of Crime Branch, Mathura, Paper No. 1 to 16, which were prepared by the previous investigating officer, were

examined. On 29.04.2024, Parcha No. 19 was prepared, in which the statements of witnesses Bahori Singh and Kishan Singh were recorded.

On 13.05.2024, Parcha No. 20 was prepared, in which the remand of the accused was extended. On 27.05.2024, Parcha No. 21 was prepared, in which notices under Section 91/160 CrPC were issued to witnesses Bahori Singh, Vikam, Mohan, Bijendra, Bhagwan. On 30.05.2024, Parcha No. 22 was prepared, in which the statements of witnesses Lakhan Singh and Kuldeep were recorded. On 31.05.2024, Parcha No. 23 was prepared, in which the mobile phones of Mohan Singh, Bhagwan, Bijendra Singh and Charan Singh were sent for CDR. On 08.06.2024, Parcha No. 24 was prepared, in which the statement of Anjali was recorded and charge sheet No. 100/2024 was prepared and sent to the Hon'ble Court and investigation continued against the accused Vikram and three-four other persons.

After seeing and reading charge sheet papers number 4A/3 to 4A/8 on the file, the witness stated that this is the same charge sheet that bears his signature, which he identifies. It was marked as **Exhibit Ka-6**. On 05.07.2024, Parcha No. 25 was prepared by him in which the statement of an informer was recorded. On 09.07.2024, Parcha No. 26 was prepared, in which the statement of eyewitness Chetan alias Chintu was recorded. On 13.07.2024, Parcha No. 27 was prepared, in which mentioning the CDR, taking possession of the CCTV footage and a copy of the FIR, a pen drive was prepared with the police. The witness, after reading Paper No. 4A/90, stated that this was the same prepared by him, bearing his signature, and that he recognized it. It was marked as **Exhibit Ka-7**. The certificate obtained from Ganesh Kumar under Section 65B of the Indian Evidence Act is Paper No. 4A/89 on the file. Upon seeing it, the witness stated that Ganesh Kumar had prepared and signed this certificate in his presence. Since Ganesh Kumar had prepared this certificate in his own handwriting and signed it in his presence, he recognized his signature and handwriting and identified it. CDR Report file having Papers No. 4A/91 to 4A/109 are on file. On 24.07.2024, Parcha No. 28 was prepared, which recorded further statements from eyewitness Lokesh, independent witnesses Ashok Kumar, Dilip Kumar, and Tarun Kumar. Apart from the accused Sandeep alias Kali and Nitesh

alias Pulli, the named accused Vikam Singh alias Charan Singh, son of Mohan Singh, and three or four other accused were found wrong.

9.10 P.W. 10 Inspector Sanjeev Kant Mishra has deposed in his examination-in-chief dated 27.10.2025 that on 16.03.2024, he was posted as Inspector in Charge, Surir, District Mathura. On the same day, on the basis of written complaint of the complainant Bahori Singh, son of Pop Singh, resident of Surir Vijau, Police Station Surir, District Mathura, a Case Crime No. 63/2024, under Sections 147, 148, 302 & 34 of IPC was registered at Police Station Surir, Mathura, against the accused persons Sandeep alias Kali, son of Vijendra, Nitesh alias Pulli, son of Raju, Vikram Singh alias Charan Singh, son of Mohan Singh, residents of Surir Vijau, Mathura and three or four unknown persons. The investigation of which was taken up and conducted by him.

On 16.03.2024, Parcha No. 1 of the case diary was prepared by him, in which copy of Chik, statement of Chik Scribe H.M. Rajesh Kumar was recorded and with the help of Field Unit Mathura, samples of blood stained soil in a plastic box and plain soil in a plastic box were taken from the spot where the body of deceased Hemant was lying and they were sealed at the spot by SI Narendra Singh and after that the said samples were sent to Forensic Science Laboratory Agra for testing. After testing the material is available in the Hon'ble Court today, which is sealed in a white cloth bundle, on which the receipt of Forensic Science Laboratory is pasted, on which serial number 1341/SERO/51/24 dated 06.05.2025 and serial number 7 is mentioned and the said white cloth has the text related to the case written on it, the bundle was opened with the permission of the Hon'ble Court, from inside which two plastic boxes and one the murder weapon was found to be a “*Suja*”, in which plain soil was found in one plastic box and blood stained soil was found in the other box, on which details related to the case were written, on which **Material Exhibits 1, 2 and 3** were marked respectively and **Material Exhibit 4** was marked on the square plastic box. The Panchayatnama proceedings of the dead body of the deceased Hemant were completed by Sub Inspector Vinod Kumar posted at the police station and the post mortem of the body was conducted. The statement of the complainant was recorded and at the instance of the complainant and the witnesses related

to the case, the scene of the incident was inspected and a site plan was prepared. Seeing the paper number 4A/12 available on the file, the witness said that this is the same site plan which he had prepared in his own handwriting at the scene of the incident, which he identifies, on which **Exhibit Ka-8A** was marked. In the same paper, the statement of the eyewitness Chetan Singh alias Chintu was recorded.

On 17.03.2024, he prepared Parcha No. 2 of the Case Diary, in which he obtained and reviewed the post-mortem report of the deceased Hemant from the police station. In the same parcha, he also recorded the statement of eyewitness Lokesh Singh alias Gunga Singh, who stated that he was present at the scene and that the accused, Nitesh alias Pulli and Sandeep Singh, had murdered the deceased Hemant. After talking to numerous people and gathering confidential information regarding the cause of the incident, he came to know that accused Sandeep Singh's sister, Anjali, and the deceased Hemant were in love and had married against the wishes of their families. Later, on the basis of consent of both the families through Panchayat, Anjali was married elsewhere, but the deceased Hemant was continuously trying to get in touch with Anjali and in this regard, notices etc. were sent to Anjali's in-laws, due to which, being angry, as per a plan, Sandeep along with his friend Nitesh alias Putli murdered Hemant.

On 18.03.2024, he prepared Parcha No. 3 of the Case Diary, in which he recorded the statement of independent witness Ashok Kumar. Ashok Kumar admitted that on 15.03.2024, at around 8 p.m., he received a call informing him of a fight and he then called Chintu alias Chetan, informing him of the incident and asking him to immediately reach the scene. Chintu alias Chetan reached the scene and confirmed that Sandeep Singh and Nitesh alias Pulli had killed a boy named Hemant. In this paper, he recorded the statements of witnesses Kishan Singh, son of Bahori Singh, and Kuldeep Singh alias Bhola, son of the late Kripal Singh, and made efforts to thoroughly investigate other facts regarding the incident.

On 20.03.2024, Parcha No. 04 of Case Diary was prepared, in which, on the basis of information given by an informer, he and his companions Head Constable Surjesh Kumar, Constable Vikrant Sharma,

with the help of Sub-Inspector Vinod Yadav, Sub-Inspector Amit Kumar and Constables Pawan Kishore and Ankit Nagar, arrested the accused Sandeep alias Kali and Nitesh alias Pulli near Tehra underpass, and on the accused's indication, the murder weapon a Suja was recovered from the box of recovered motorcycle. It was sealed at the scene. He had prepared the recovery memo of the murder weapon by dictating it to Sub-Inspector Amit Kumar. All the concerned persons signed it, and he also signed it. After looking at papers number 4A/10 to 11 available on the file, the witness said that this is the same report prepared on the spot, which bears his signature, which he identifies, and on which **Exhibit Ka-8B** was marked. The murder weapon, a Suja, recovered from the scene has been marked as **Material Exhibit-3**. In this same paper, he had recorded the statements of the accused, Sandeep alias Kali and Nitesh alias Pulli, in which they had confessed to killing Hemant. On 20.03.2024, Parcha No. 05 of Case Diary was prepared, in which the accused Sandeep alias Kali and Nitesh alias Pulli were produced before the Hon'ble Court and their judicial remand was obtained. On 24.03.2024, Parcha No. 06 of Case Diary was prepared, in which the perusal of the Panchayatnama of the deceased and the statements of Sub-Inspector Vinod Kumar, Constable Pradeep Kumar, who had got the Panchayatnama done, and Home Guard Saudan Singh were recorded. On 29.03.2024, Parcha No. 07 of Case Diary Paper was prepared, in which the statement of Omveer Singh, witness of the Panchayatnama, was recorded. On 02.04.2024, Parcha No. 08 of Case Diary Paper was prepared, in which it was mentioned that a report has been sent to the Surveillance Cell for the call details of witness Ashok Kumar. On 02.04.2024, Parcha No. 09 of Case Diary was prepared, in which the Hon'ble Court was requested to extend the judicial remand of the accused. On 05.04.2024, Parcha No. 10 of Case Diary was prepared, in which the statements of independent witnesses Amit Kumar Vashney, Krishna Kumar Vashney and Umeshchand Vashney were recorded. On 07.04.2024, Parcha No. 11 of Case Diary was prepared, in which the statements of the witnesses Sub-Inspector Amit Kumar, Head Constable Surjesh Kumar, Constable Vikrant Sharma, Constable Ankit Nagar and Constable Pawan Kishore were recorded and the call details of the eyewitnesses Chetan Singh and Ashok Singh were recorded after perusal. On 12.04.2024, Parcha No. 12 of Case Diary 12 was prepared, in

which the statements of inquest witness Lalit Chauhan and Dr. Devender Kumar Chaudhary, who conducted the post-mortem of the deceased Hemant, were recorded. On 14.04.2024, Parcha No. 13 of Case Diary was prepared, in which the statements of independent witnesses Rohit Kumar and Daudyal were recorded. On 16.04.2024, Parcha No. 14 of Case Diary was prepared, in which a request was made to the Hon'ble Court to extend the judicial remand of the accused. On the said date, Parcha No. 15 of Case Diary was prepared, in which it is mentioned that the judicial remand of the accused has been approved till 30.04.2024. On 19.04.2024, Parcha No. 16 of Case Diary was prepared, in which it is mentioned that material related to the above case has been filed in the Forensic Science Laboratory, Agra and the order regarding transfer of investigation from Surir Police Station to Crime Branch, Mathura district has been observed.

At the time of postmortem, the doctor recovered a total of five items from the body of the deceased Hemant, i.e. a vest, a pant, an under-wear, a sacred thread and a pearl bracelet, which were sent to the Forensic Science Laboratory, Agra for testing. All the above items are available in the court today, the vest was shown as **Material Exhibit-5**, the pants as **Material Exhibit-6**, the under-wear as **Material Exhibit-7**, the sacred thread as **Material Exhibit-8** and the pearl bracelet as **Material Exhibit-9**. The report of the Forensic Science Laboratory, Agra has paper number 51 K/2, on which there is the seal and signature of the scientist of the Forensic Science Laboratory, Agra. In the test result of the Forensic Science Laboratory, it is mentioned that blood was found on items 1 to 7 and human blood was found on items 1 to 3.

10. After completion of prosecution evidence, statements of the accused Sandeep alias Kali and Nitesh alias Pulli were recorded under Section 313 Cr.P.C. While denying the truthfulness/veracity of the prosecution case & evidence led in support thereof; accused have stated that all the allegations are false.

Regarding the examination-in-chief of P.W. 1/the complainant, the accused Sandeep alias Kali and Nitesh alias Pulli have stated in their statements recorded under Section 313 Cr.P.C. that false report has been lodged. P.W. 1 has given false evidence.

Regarding the examination-in-chief of P.W. 2 Kishan Singh, P.W. 3 Kuldeep, P.W. 4 Omveer Singh and P.W. 5 Lakhan Singh, the accused have stated that false evidence has been given.

Regarding the examination-in-chief of P.W. 6 SI Vinod Yadav, the accused have stated that wrong inquest proceedings (Panchayatnama) was prepared.

Regarding the examination-in-chief of P.W. 7 Dr. Devender Kumar Chaudhary, the accused have stated that wrong post-mortem report has been prepared and false evidence has been given.

Regarding the examination-in-chief of P.W. 8 H.M. Rajesh Kumar, the accused have stated that false evidence has been given and report has been lodged against time.

Regarding the examination-in-chief of P.W. 9 Investigating Officer Bheem Singh Jawla, the accused have stated that false investigation has been conducted and false charge-sheet has been submitted.

Regarding the examination-in-chief of P.W. 10 Investigating Officer Sanjeev Kant Mishra, the accused have stated that false investigation has been conducted, false recovery of Suja has been shown. Neither any such recovery has been made from them nor the said items have been seized from them. Their signatures were made on a blank paper of recovery memo.

Both the accused further stated in their statements in connection with F.S.L. report, Agra dated 30.07.2025 that false report has been prepared. The said case has been lodged against them due to animosity.

The accused Nitesh alias Pulli has further stated in his statement recorded under Section 313 Cr.P.C. that he received an information regarding murder of Hemant in Surir. There was an uproar in the village. The Hemant was his friend. He immediately rushed to the scene by bike. Devkinandan, son of Shiv Singh, from his village, accompanied him. When we arrived at the scene, crowd had gathered. Chetan, Lokesh, and several people from Surir and Bhadanwara were present there. He provided an information about the said incident to Kuldeep alias Bhola over phone, but no one from his family came. The police then took Hemant's body to Mathura. He did not take Hemant from his home, nor did he accompany him that day.

11. D.W.1 Lokesh, aged about 19 years, son of Hariprasad, resident of village Surir, Mohalla Bhojgarhi, P.S. Surir, District Mathura, has been examined on behalf of the accused in support of their defence.

D.W. 1 Lokesh has deposed in his examination-in-chief dated 13.02.2026 that about two years ago in March, Hemant, son of Bahori of his village was murdered. The murder took place near Bhadanbara temple. When Hemant was murdered, there was chaos in the village and everyone came to know about it. He too got the information in the village itself. He took his motorcycle and went to see Hemant. He reached the place where the incident had happened and saw that there was a huge crowd there. He saw that Hemant was lying flat on the road. He did not see anyone hitting Hemant. He does not know whether Hemant was alive or dead at that time. He does not know who took him away and where. No one had recorded his statement.

12. Heard learned counsel for the parties at length and perused the matter on record.

13. ARGUMENTS:

13.1 Learned counsel for the complainant argued that the motive for the commission of the offence has been fully established. From the testimony of PW-1 Bahori Singh, PW-2 Kishan Singh and PW-3 Kuldeep, it is proved that deceased Hemant had solemnized a court marriage with Anjali, who is the sister of accused Sandeep alias Kali. The family members of Anjali were opposed to the said marriage and were harbouring deep resentment and hostility against the deceased. The evidence further shows that even prior to the present occurrence, attempts had been made upon the life of the deceased and serious disputes were continuing between the parties. Thus, there existed a strong and compelling motive for the accused persons to eliminate the deceased. He further contended that P.W.1 Bahori Singh, P.W.2 Kishan Singh and P.W.3 Kuldeep have specifically deposed that accused Nitesh alias Pulli had taken the Hemant (deceased) from his house shortly before the occurrence. Therefore, the deceased was last seen alive in the company of accused Nitesh. It is further argued that P.W.5 Lakhan Singh is an independent witness who has clearly stated that he saw accused Sandeep alias Kali and Nitesh alias Pulli assaulting the deceased along with other persons near Hanuman Temple, Bhadanwara. The testimony of P.W.5

inspires confidence and there is no reason to falsely implicate the accused persons. The recovery of the murder weapon (Suja) was made at the pointing out of the accused persons and the same stands proved by P.W.6 SI Vinod Yadav and P.W.10 Inspector Sanjeev Kant Mishra. The medical evidence of P.W.7 Dr. Devender Kumar Chaudhary completely supports the prosecution version. The doctor has opined that death occurred due to shock and haemorrhage resulting from ante-mortem injuries. The FSL report also corroborates the prosecution case by establishing the presence of blood upon the seized articles. It is further argued that minor discrepancies, omissions or variations in the statements of witnesses are natural and bound to occur due to lapse of time and differences in perception. Such minor inconsistencies do not affect the core of the prosecution case. The Hon'ble Supreme Court has repeatedly held that normal discrepancies which do not go to the root of the matter cannot be made a ground to reject otherwise reliable prosecution evidence. It is argued that the chain of circumstances is complete and points only towards the guilt of accused persons. He further submitted that motive, last seen evidence, recovery and medical evidence form a complete chain establishing the guilt of the accused beyond reasonable doubt. The prosecution has successfully proved the guilt of accused Sandeep alias Kali and Nitesh alias Pulli beyond all reasonable doubt.

13.2 Learned D.G.C.(Criminal) for the State has supported the aforesaid arguments advanced by learned counsel for the complainant and submitted that the evidence relating to the "last seen together" circumstance has been duly proved. PW-1 Bahori Singh has categorically deposed that on the date of occurrence accused Nitesh alias Pulli came to the house of the deceased and took him away. The testimony of PW-2 Kishan Singh and PW-3 Kuldeep also clearly establishes that accused Nitesh alias Pulli had taken deceased Hemant with him shortly before the occurrence. The evidence of PW-3 Kuldeep is particularly significant, as he personally saw accused Nitesh alias Pulli taking the deceased on his motorcycle. Thereafter, within a short span of time, the deceased was found murdered. It is next submitted that the motive for the commission of the offence has been fully established. From the testimony of PW-1 Bahori Singh, PW-2 Kishan Singh and PW-3 Kuldeep, it is proved that deceased Hemant had solemnized a court marriage with Anjali, who is

the sister of accused Sandeep alias Kali. The family members of Anjali were opposed to the said marriage and were harbouring deep resentment and hostility against the deceased. The evidence further shows that even prior to the present occurrence, attempts had been made upon the life of the deceased and serious disputes were continuing between the parties. Thus, there existed a strong and compelling motive for the accused persons to eliminate the deceased. It is next argued that the testimony of PW-5 Lakhan Singh is of great evidentiary value. PW-5 is an independent witness having no enmity or ill-will against the accused persons. He has categorically stated that on 15.03.2024, at about 9:00 p.m., he saw accused Sandeep alias Kali, Nitesh alias Pulli and their associates assaulting Hemant near Hanuman Temple, Bhadanwara. He specifically identified accused Sandeep alias Kali and Nitesh alias Pulli in Court and assigned active participation to them in the commission of the offence. His testimony has remained unshaken despite lengthy cross-examination and there is no reason to disbelieve his version. Ld. D.G.C.(Crl.) further submitted that the medical evidence completely supports the prosecution case. PW-7 Dr. Devender Kumar Chaudhary, who conducted the post-mortem examination, found multiple ante-mortem injuries on the person of the deceased and opined that death was caused due to shock and haemorrhage resulting from ante-mortem injuries. The post-mortem report clearly establishes that the death of Hemant was homicidal in nature. The injuries found upon the body of the deceased are fully consistent with the prosecution version regarding the assault made by the accused persons. It is further submitted that the recovery of the weapon of offence constitutes a strong incriminating circumstance against the accused. PW-6 SI Vinod Yadav and PW-10 Inspector Sanjeev Kant Mishra have proved that both accused persons were arrested and at their pointing out a Suja, which was used in the commission of the offence, was recovered from the motorcycle used in the incident. The recovery memo has been duly proved. It is next submitted that the Forensic Science Laboratory report also supports the prosecution case. Human blood was detected upon the seized articles connected with the occurrence. The scientific evidence thus lends assurance to the oral testimony adduced by the prosecution. Learned D.G.C. further submitted that the defence witness DW-1 Lokesh does not help the accused persons

in any manner. He merely stated that he reached the place of occurrence after receiving information and found a crowd assembled there. His testimony neither disproves the prosecution case nor creates any dent in the evidence led by the prosecution. Ld. D.G.C. contended that all the aforesaid circumstances form a complete and unbroken chain leading only to the conclusion that accused Sandeep alias Kali and Nitesh alias Pulli, in furtherance of their common intention, committed the murder of deceased Hemant. Accordingly, learned D.G.C. prayed that the prosecution has successfully proved the guilt of accused Sandeep alias Kali and Nitesh alias Pulli beyond all reasonable doubt and therefore both the accused persons are liable to be convicted for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

13.3 Per contra, learned counsel for the accused submitted that the First Information Report of the alleged incident has been lodged with a delay of about 14-15 hours, for which no reasonable explanation has been given by the prosecution. He further contended that there is no motive of the accused Nitesh alias Pulli in committing the alleged offence. Ld. counsel for the defence submitted that the alleged motive relied upon by the prosecution is a “double-edged weapon”. According to him, the previous hostility between the parties may furnish a motive for the commission of the offence, but it may equally constitute a reason for falsely implicating the accused persons. Hence, the prosecution cannot derive any substantial advantage merely from the proof of motive. Learned counsel for the defence next argued that there is a material contradiction in the prosecution evidence regarding the apprehension of the accused persons. According to the prosecution witnesses, both the accused were apprehended by the villagers at the place of occurrence on 15.03.2024 itself. However, PW-10, the Investigating Officer, has deposed that the accused persons were arrested on 20.03.2024 near the Tehra Underpass. It is, therefore, contended that the prosecution witnesses have made contradictory statements on a material aspect of the case, which casts serious doubt upon the veracity of the prosecution story. It is further submitted that P.W. 1 Bahori Singh, P.W. 2 Kishan Singh and P.W. 3 Kuldeep are closely related witnesses and therefore their testimony requires strict scrutiny. Learned defence counsel further argued that there is no eyewitness account in the FIR. It is submitted that P.W. 5 Lakhan

Singh is a chance witness whose presence at the place of occurrence is doubtful. The defence further contended that P.W.5 has introduced an altogether different version by stating that the deceased was beaten with rods and Suja, whereas the post-mortem report does not indicate injuries corresponding to repeated rod blows. It is further argued that there are material contradictions between oral evidence and medical evidence. Learned counsel further submitted that recovery of Suja is wholly doubtful. The alleged confession before police is inadmissible under Sections 25 and 26 of the Evidence Act. It is also argued that no independent witness of recovery has been produced. Learned counsel for the defence further submitted that the medical evidence does not support the prosecution case. It was argued that if the alleged recovered weapon, namely a "Suja", had in fact been used in the commission of the offence, the deceased would have sustained puncture wounds. However, no such puncture wound has been noted in the post-mortem report. Therefore, the prosecution version regarding the use of the alleged weapon is not corroborated by the medical evidence. It is next argued that, although the F.S.L. report indicates the presence of human blood on the articles seized during investigation, the report does not establish that the said blood belonged to the deceased. No blood grouping or DNA analysis has been brought on record to connect the detected blood with the deceased. Therefore, the F.S.L. report does not conclusively link the recovered articles with the alleged crime. Thus, the entire prosecution case is false and fabricated. The defence emphasized that the prosecution has failed to establish the complete chain of circumstances and therefore the accused are entitled to benefit of doubt.

13.4 Learned counsel for the accused has also relied upon the following legal propositions in support of his case:

- (i)** Mehraj Singh Vs. State of U.P., 1994 SCC(5) 188, JT 1994 (3) 440
- (ii)** Govind Vs. State of Haryana, 2025 INSC 1318
- (iii)** Mustkeem @ Sirajudeen vs State of Rajasthan, 2011 (3) SCC (CRI) 473
- (iv)** Thulia Kali Vs. The State of Tamil Nadu 1972 SCC(CRI)543,
- (v)** Jafarudheen & Ors. Vs. State of Kerala, decided on 22.04.2022 in Criminal Appeal Nos. 450-451 of 2015

14. It is established principle of law that the prosecution must prove its case against the accused beyond reasonable doubt. In view of charge framed against the accused, it will be relevant to go through with the provisions as follows:

Section 300 IPC

Murder.-Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or-

Secondly- If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or-

Thirdly- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or-

Fourthly- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Exception 1.-When culpable homicide is not murder.-Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos :-

First- That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly- That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly- That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation. Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Exception 2.-Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Exception 3.-Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.-Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation. It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.-Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Section 302 IPC. Punishment for murder.- Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.

Section 34 IPC. Acts done by several persons in furtherance of common intent ion: When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

DISCUSSION AND ANALYSIS

15. The present Sessions Trial arises out of Case Crime No. 63 of 2024, registered under Sections 147, 148, 302 & 34 of IPC, at Police Station Surir, District Mathura.

After investigation, charge-sheet under Sections 302/34 of IPC was submitted against accused Sandeep alias Kali and Nitesh alias Pulli. Cognizance was taken and the case was committed to the Court of Sessions.

Charge under Section 302/34 IPC was framed against accused Sandeep alias Kali and Nitesh alias Pulli on 08.01.2025. The accused denied the charges and claimed trial.

The prosecution, in order to prove its case, has examined ten witnesses and proved documentary evidence including written complaint, Chik FIR, General Diary, Inquest-report (Panchayatnama), Post-Mortem Report of the deceased Hemant, Charge-sheet, Site plan, Recovery memo and F.S.L. Report, etc.

The statement of accused under Section 313 Cr.P.C. was recorded, in which they denied the prosecution case and claimed false implication.

Defence has produced D.W. 1 Lokesh in support of its case.

APPRECIATION OF ARGUMENTS

15.1 Court carefully considered the rival submissions advanced by Ld. counsel for the complainant, learned D.G.C. (CrI.) for the State and Ld. counsel for the accused, and has also given its conscious thought and prolonged consideration to the material available on record as well as relevant provisions of law.

(i) The first contention of the defence is that the First Information Report was lodged after a delay of approximately 14–15 hours and no satisfactory explanation has been furnished by the prosecution.

In the case of **Ashok Kumar Chaudhary Vs. State of Bihar, 2008 (61) ACC 972 (SC)**, the Hon'ble Supreme Court held that delay in lodging of FIR- if causes are not attributable to any effort to concoct a version and the delay is satisfactorily explained by prosecution, no consequence shall be attached to mere delay in lodging FIR and the delay would not adversely affect the case of the prosecution.

The occurrence took place during the night of 15.03.2024 and the deceased suffered fatal injuries. The evidence on record reveals that immediately after the occurrence, the attention of the family members was naturally directed towards the deceased and the consequences of the incident. The informant was not an eyewitness of the actual assault and had received information regarding the occurrence subsequently. Mere delay in lodging the FIR cannot be treated as fatal unless it is shown that such delay was deliberate and intended to falsely implicate the accused after consultation and deliberation. In the present case, no material has been brought on record to demonstrate that the FIR was the result of concoction or afterthought. On the contrary, the FIR contains the essential features of the prosecution case and names the accused persons from the very inception.

Thus, the said argument has no force.

(ii) The next submission of the defence is that accused Nitesh alias Pulli had no motive to commit the alleged offence.

The prosecution case does not rest solely upon motive. Nevertheless, evidence of PW-2 Kishan Singh and PW-3 Kuldeep establishes that accused Nitesh alias Pulli was closely associated with co-accused Sandeep alias Kali and had taken deceased Hemant from his house shortly before the occurrence. The evidence further indicates his active participation in the commission of the crime. Once direct and circumstantial evidence establishing participation of an accused is available, absence of a separate personal motive becomes insignificant.

(iii) The defence has further argued that motive is a double-edged weapon and previous hostility may equally furnish a ground for false implication.

There can be no quarrel with the settled proposition that motive is a double-edged weapon. However, it is equally well settled that where motive is established and is supported by reliable evidence regarding the occurrence, the same strengthens the prosecution case.

In the present matter, evidence on record reveals that PW-1 Bahori Singh, father of the deceased, has deposed that his son Hemant had solemnized a court marriage with Anjali, daughter of Vijendra, and that Anjali's family members were unhappy with the said marriage. PW-2 Kishan Singh and PW-3 Kuldeep have also supported the prosecution case regarding the relationship between Hemant and Anjali and the hostility arising therefrom.

PW-2 Kishan Singh has categorically stated in his cross-examination that Hemant and Anjali had eloped on 31.12.2022. Thereafter, they solemnized marriage in Arya Samaj and subsequently contracted a court marriage. He further deposed that after their marriage, both of them started residing at Bhiwani (Haryana). PW-2 has further stated that about five to six days after Hemant had taken Anjali with him, the family members of accused Sandeep alias Kali assaulted his father.

Similarly, PW-3 Kuldeep has stated in his cross-examination that deceased Hemant had eloped with Anjali on 31.12.2022 and that they subsequently solemnized a court marriage. He further deposed that due to the said relationship and marriage, accused Sandeep alias Kali bore animosity towards Hemant.

The aforesaid testimonies clearly establish that the marriage between Hemant and Anjali was against the wishes of Anjali's family. The evidence further reveals that the relationship between the two families remained strained even after the marriage. Nothing substantial has emerged in their cross-examination to discredit this aspect of the prosecution case.

Thus, the said argument has no force.

(iv) The learned defence counsel has next contended that there is a material contradiction in the prosecution case regarding the apprehension of the accused persons. According to the prosecution witnesses, the accused Sandeep alias Kali and Nitesh alias Pulli were apprehended by the villagers at the place of occurrence on 15.03.2024 itself, whereas P.W.10 Inspector Sanjeev Kant Mishra has deposed that the accused

persons were arrested by the police on 20.03.2024 near Tehra Underpass. It is, therefore, argued that the prosecution version becomes doubtful and unreliable.

A careful appreciation of the evidence on record reveals that the alleged discrepancy relates only to the manner and stage of apprehension of the accused and not to the actual commission of the offence. It is settled law that every discrepancy in the prosecution evidence does not amount to a material contradiction. Only those contradictions which go to the root of the prosecution case and create a reasonable doubt regarding the occurrence itself can be treated as fatal.

In the present case, the prosecution witnesses have consistently maintained that the accused persons were present at the scene of occurrence and were involved in the assault upon the deceased. The alleged inconsistency pertains only to whether the accused were initially restrained or caught by villagers immediately after the incident or whether they were formally arrested by the police on 20.03.2024. Such discrepancy does not affect the core substratum of the prosecution case regarding the participation of the accused in the crime.

It is noteworthy that the expressions "caught", "apprehended" and "arrested" are not synonymous in criminal jurisprudence. A person may be restrained, surrounded, or temporarily detained by private individuals at the place of occurrence, but a lawful arrest is effected only by the police in accordance with law. Therefore, even if some witnesses stated that the accused were caught by villagers at the scene, while the Investigating Officer stated that they were arrested on 20.03.2024, both versions can reasonably coexist without creating any irreconcilable inconsistency.

Furthermore, the witnesses who referred to the accused being caught at the spot are rustic village witnesses. Their statements are required to be appreciated in a practical and commonsense manner and not with hyper-technical scrutiny. It is well settled that minor discrepancies arising from errors of observation, memory, or expression are natural and, in fact, lend assurance to the truthfulness of witnesses because a wholly uniform version would itself appear artificial.

Significantly, no suggestion has been put to the prosecution witnesses that some other persons had committed the offence or that the

accused were falsely implicated because of the alleged discrepancy regarding their apprehension. The defence has merely attempted to magnify a peripheral inconsistency while ignoring the consistent evidence regarding the actual occurrence.

It is also relevant that P.W.9 Bheem Singh Jawala and P.W.10 Inspector Sanjeev Kant Mishra have stated that the accused were ultimately arrested on 20.03.2024. The formal arrest of the accused on the said date stands duly supported by the arrest and recovery proceedings. Therefore, even if some prosecution witnesses were under the impression that the accused had been apprehended by villagers immediately after the incident, such belief cannot override the official record regarding the subsequent formal arrest by the police.

More importantly, the issue for determination before this Court is not the exact date or manner of arrest but whether the accused committed the murder of deceased Hemant.

Accordingly, this Court is of the considered opinion that the discrepancy regarding the apprehension/arrest of the accused persons is neither material nor fatal to the prosecution case. It does not strike at the root of the prosecution story and is merely a minor inconsistency relating to a collateral aspect of the investigation. Therefore, no benefit can accrue to the accused on this count.

(v) The defence has further contended that PW-1 Bahori Singh, PW-2 Kishan Singh and PW-3 Kuldeep are interested and related witnesses.

The Hon'ble Supreme Court has held in **Laltu Ghosh Vs. State of W.B., AIR 2019 SC 1058** that the testimony of a witness in criminal trial cannot be discarded merely because the witness is a relative or family member of the victim of the offence. In such a case, court has to adopt a careful approach in analyzing the evidence of such witness and if the testimony of the related witness is otherwise found credible accused can be convicted on the basis of testimony of such related witness.

Upon such scrutiny, this Court finds that the testimonies of PW-1, PW-2 and PW-3 are natural, consistent and substantially corroborated by surrounding circumstances. No material contradiction has been elicited in their cross-examination which may justify rejection of their testimony merely because of their relationship with the deceased.

Thus, the said argument loses its importance and has no force.

(vi) The defence has next argued that there is no eyewitness account mentioned in the FIR and PW-5 Lakhan Singh is a chance witness whose presence is doubtful.

In the case of **Prabhu Dayal Vs. State of Rajasthan, (2018) 8 SCC 127**, the Hon'ble Supreme Court held that *non-mentioning of name of witness in FIR not fatal: Testimony of witness cannot be disbelieved merely because of non-mentioning of his name in FIR.*

It is held by the Hon'ble Supreme Court in **Ramesh Vs. State of U.P., 2010 (68) ACC 219 (SC)** that *chance witness: It is not the rule of law that chance witness cannot be believed. The reason for a chance witness being present on the spot and his testimony requires close scrutiny and if the same is otherwise found reliable, his testimony cannot be discarded merely on the ground of his being a chance witness. Evidence of chance witness requires very cautious and close scrutiny.*

The FIR itself mentions that certain persons had witnessed the occurrence and informed the complainant. The FIR is not expected to contain an exhaustive narration of all details of evidence. PW-5 has satisfactorily explained his presence near the place of occurrence by stating that he had gone to bring his father from the liquor shop situated at Bhadanwara. His presence at the relevant time and place appears natural and probable. Merely because he is not named in the FIR does not render his testimony unreliable, particularly when his evidence withstands substantial cross-examination.

(vii) The defence has further contended that PW-5 stated that the deceased was assaulted by rods and Suja whereas corresponding injuries are not reflected in the post-mortem report.

The Court finds no material inconsistency between ocular and medical evidence. The post-mortem report records multiple external injuries and serious internal damage including rupture of the left lung, fracture of ribs and extensive haemorrhage. PW-7 Dr. Devender Kumar Chaudhary has specifically stated that the nature of injuries may vary depending upon the angle and manner of assault. It is settled law that where ocular evidence is trustworthy, minor variations between medical and ocular evidence do not render the prosecution case doubtful unless the medical evidence completely rules out the possibility of the occurrence as alleged. No such situation exists in the present case.

(viii) The defence has further challenged the recovery of Suja on the ground that the alleged confession before police is inadmissible as no independent witness of recovery has been examined.

The Hon'ble Supreme Court has held in **Sandeep Vs. State of UP, (2012) 6 SCC 107** that *if anything or weapons etc. are recovered at the instance of the accused (u/s 27, Evidence Act) only in the presence of police party and there is no public witness to such recovery or recovery memo, the testimony of the police personnel proving the recovery and the recovery memo cannot be disbelieved merely because there was no witness to the recovery proceedings or recovery memo from the public particularly when no witness from public could be found by the police party despite their efforts at the time of recovery. Seizure memo need not be attested by any independent witness and the evidence of police officer regarding recovery at the instance of the accused should ordinarily be believed. The ground realities cannot be lost sight of that even in normal circumstances, members of public are very reluctant to accompany a police party which is going to arrest a criminal or is embarking upon search of some premises.*

As regards the aforesaid contention, this Court finds that mere non-association of independent public witnesses is not by itself sufficient to discard the recovery proceedings, particularly when the testimony of the official witnesses is otherwise found reliable, cogent and trustworthy. There is no rule of law that the statement of police personnel cannot be relied upon unless corroborated by independent witnesses.

It is a matter of common experience that public persons generally hesitate to become witnesses in criminal investigations and avoid participation in police proceedings for various reasons, including inconvenience, fear of hostility and prolonged court proceedings. Therefore, non-availability or non-joining of independent witnesses in every case cannot be treated as fatal to the prosecution case.

The Court is conscious that any confession made before a police officer is inadmissible under Sections 25 and 26 of the Evidence Act. However, the prosecution is not relying upon the confessional part of the statement. The admissible portion is the discovery of a fact pursuant to information supplied by the accused, which is relevant under Section 27 of the Evidence Act. PW-6 and PW-10 have consistently deposed regarding the recovery of the weapon. Merely because no independent witness has been examined does not render the recovery inadmissible or unreliable when the official witnesses are otherwise found trustworthy and there is no evidence of animus against the accused.

(ix) The defence has further argued that if a Suja had been used, puncture wounds should have been found on the body of the deceased.

PW-7, the autopsy surgeon, has categorically stated in his cross-examination that a Suja may cause stab-type injuries and that the nature of the wound may vary depending upon the angle and manner of impact. The medical evidence does not completely rule out the possibility of the injuries being caused by the recovered weapon. Therefore, the contention advanced by the defence is not sufficient to discredit the prosecution case.

(x) The defence has lastly argued that the F.S.L. report merely indicates the presence of human blood and does not establish that the blood belonged to the deceased.

The Court finds substance in the submission only to the limited extent that the F.S.L. report does not identify the blood as belonging to deceased Hemant. However, this circumstance does not demolish the prosecution case. The F.S.L. report is corroborative in nature. It establishes the presence of blood on the seized articles and thereby supports the prosecution version regarding a violent occurrence. The prosecution case does not rest solely upon the F.S.L. report. The same has to be read along with the ocular evidence, medical evidence, motive, last-seen circumstance and recovery evidence available on record.

(xi) Ld. counsel for the accused argued that there are contradictions in the statements of prosecution witnesses.

With regard to the said contention, the Hon'ble Court has held in **Dharnidhar Vs. State of U.P., 2010 (6) SCJ 662** *that when witnesses are examined in the court after a considerable lapse of time, it is neither unnatural nor unexpected that there can be some minor variations in the statements of the prosecution witnesses.*

Thus, the said argument has no force.

Having considered the defence submissions individually and collectively, this Court finds that none of them create any reasonable doubt regarding the prosecution version. The discrepancies pointed out by the defence are either minor in nature and do not affect the core prosecution story. The defence has failed to establish any circumstance which may probabalise the innocence of the accused or render the prosecution evidence unreliable.

15.2 On the basis of the prosecution story mentioned in Para 3, the following points arise for determination:

POINTS FOR DETERMINATION:

(i) *Whether the death of Hemant was homicidal in nature?*

(ii) *Whether the prosecution has successfully proved beyond reasonable doubt that on 15.03.2024, accused Sandeep alias Kali and Nitesh alias Pulli, in furtherance of their common intention, committed the murder of deceased Hemant?*

(i) Whether the death of Hemant was homicidal in nature?

In order to determine the aforesaid point, this Court has carefully considered the inquest report of the deceased Hemant (Exhibit Ka-2), proved by P.W.6 SI Vinod Yadav & the post-mortem report of the deceased (Exhibit Ka-3), proved by P.W. 7 Dr. Devender Kumar Chaudhary, and the testimonies of PW-6 SI Vinod Yadav and PW-7 Dr. Devender Kumar Chaudhary.

On perusal of the inquest report of the deceased Hemant, it transpires that on 16.03.2024, P.W.6 conducted the inquest proceedings of the deceased Hemant. He appointed five Panchans for the said proceedings, i.e. Bahori Singh, Kishan Singh, Kuldeep, Lalit Chauhan, and Omveer Singh. He had sought their opinion regarding the cause of death. The Panchans stated in their opinion that Hemant died due to injuries on his body. However, they recommended for a post-mortem examination to determine the exact cause of death. His opinion also concurred with the Panchans'. Hemant had marks of a sharp object on his neck and near his collar band. He was wearing a sandoo vest, blue jeans, and black jockey underwear. He was of average height and wheatish complexion.

PW-6 SI Vinod Yadav, who conducted the inquest proceedings of the deceased Hemant on 16.03.2024, has categorically deposed in his examination-in-chief that he found injuries caused by a sharp object on the neck region of the deceased as well as near his collar band.

Further, he has deposed in his cross-examination that at the time of preparing inquest report, he found a sharp object injury on the right side of the deceased's neck. The injuries were just below the right side of the neck.

He further deposed that the Panch witnesses were of the opinion that the deceased had died on account of the injuries sustained by him on his body and recommended a post-mortem examination for ascertaining the exact cause of death. The inquest report (Exhibit Ka-2) corroborates the testimony of PW-6.

Subsequently, post-mortem of the deceased Hemant, i.e. Exhibit Ka-3, was conducted by P.W. 7/Dr. Devender Kumar Chaudhary on 16.03.2024, at 05.00 p.m.

On perusal of the post-mortem report of the deceased Hemant, it reflects that the said doctor conducted the postmortem of the dead body of the deceased at 05.00 PM and found **External examination** of the dead body as follows:

The deceased was of normal height. The height of the deceased was 172 cm, the length of the toes/soles of the deceased was 24 cm, the hair on the head was 12 cm black, the beard was 2 cm and the moustache was 1 cm black, the teeth were 16/16. Rigor Mortis was present in the entire body. The eyes & mouth were half open.

Internal examination of the body of the deceased:

Hyoid bone was intact, left lung was ruptured, right lung was pale, first and second ribs on the left side were fractured, rest of the ribs on both sides were normal, chest cavity was filled with blood, both the chambers of the heart were empty, pasty food was present in the stomach, gall bladder was completely full, liver was pale, spleen was pale and both the kidneys were pale. Genital organ was not circumcised and Spinal Cord was not opened.

He found following ante-mortem injuries on the person of the deceased:

- (i) Lacerated wound of 1cm x 1cm present right side of skull (3cm from right ear).
- (ii) Multiple lacerated wound 3cm x 1cm present over left side clavicle region.
- (iii) Multiple lacerated wound 5cm x 4cm present on left cheek.
- (iv) Multiple abrasion 10cm x 1cm present on right clavicle region.

The time since death was about 3/4th day. The cause of death was due to shock and haemorrhage as a result of ante-mortem injuries. The post-mortem was completed on 16.03.2024, at 05:30 p.m.

The most material evidence regarding the nature of death is the testimony of PW-7 Dr. Devender Kumar Chaudhary and the post-mortem report (Exhibit Ka-3). The doctor found multiple ante-mortem injuries on the person of the deceased. During internal examination, he noticed that the left lung was ruptured, the first and second ribs on the left side were fractured and the chest cavity was filled with blood. The doctor opined that the cause of death was shock and haemorrhage as a result of ante-mortem injuries.

The opinion of the doctor remains unshaken during cross-examination. Nothing has been brought on record to suggest that the injuries found on the body of the deceased could have been self-inflicted, accidental or natural in origin. On the contrary, the nature, location and extent of the injuries, particularly the ruptured lung, fractured ribs and accumulation of blood in the chest cavity, clearly indicate the use of external force resulting in fatal bodily injuries.

It is settled law that the medical expert is the most competent witness to opine regarding the cause of death. In **Sahebrao Mohan Berad v. State of Maharashtra, 2011 Cri LJ 2157 (SC)**, the Hon'ble Supreme Court observed that the medical opinion regarding the cause of death can be discarded only when it is shown to be inherently defective or contrary to the established facts of the case.

In the present case, no such circumstance exists.

The contention of the defence that the post-mortem report does not mention a puncture wound allegedly attributable to a "Suja" does not affect the determination of the present point. At this stage, the Court is only concerned with the nature of death and not with the identity of the assailant or the precise weapon used. Even otherwise, PW-7 has clarified in his cross-examination that the nature of a wound may vary depending upon the angle and manner of impact.

Thus, from the inquest report, post-mortem report and the unimpeached testimony of PW-7, it stands conclusively established that deceased Hemant died as a result of ante-mortem injuries causing shock and haemorrhage. The evidence completely rules out the possibility of

natural, accidental or suicidal death. Accordingly, this Court has no hesitation in holding that the death of Hemant was homicidal in nature.

Accordingly, the point for determination No. (i) is hereby disposed of.

(ii) Whether the prosecution has successfully proved beyond reasonable doubt that on 15.03.2024, accused Sandeep alias Kali and Nitesh alias Pulli, in furtherance of their common intention, committed the murder of deceased Hemant ?

The burden lies upon the prosecution to establish the guilt of the accused persons beyond reasonable doubt. The Court has carefully scrutinized the entire oral and documentary evidence available on record.

LAST SEEN TOGETHER

The incriminating circumstance raised by the prosecution is the evidence relating to the deceased having been last seen in the company of accused Nitesh alias Pulli.

In connection with the aforesaid point, PW-1 Bahori Singh has deposed in his examination-in-chief as well as cross-examination that on 15.03.2024, accused Nitesh alias Pulli came to his house in the evening and took deceased Hemant with him. P.W. 2 Kishan Singh has also reiterated the said version in his examination-in-chief and PW-3 Kuldeep has also stated in his examination-in-chief as well as cross-examination that he saw accused Nitesh alias Pulli taking Hemant on his motorcycle on the evening of the occurrence. Shortly thereafter, information was received that Hemant had been murdered near Hanuman Temple, Bhadanwara.

The evidence of PW-1, PW-2 and PW-3 consistently shows that deceased Hemant was last seen alive in the company of accused Nitesh alias Pulli shortly before the occurrence.

Thereafter, within a short span of time, the deceased was found lying dead near the temple at Bhadanwara. The proximity of time between the deceased being taken away by accused Nitesh and the recovery of his dead body is so small that the possibility of intervention by any third person stands considerably reduced.

The Hon'ble Supreme Court in **State of U.P. v. Satish, (2005) 3 SCC 114** and **Bodhraj v. State of Jammu & Kashmir, (2002) 8 SCC 45** has held that where the time gap between the deceased being last seen with the accused and the discovery of death is very small, the circumstance assumes great significance.

TIME SINCE DEATH

The Court has also considered the medical evidence regarding the time since death of the deceased Hemant.

PW-7 Dr. Devender Kumar Chaudhary, who conducted the post-mortem examination of the deceased Hemant on 16.03.2024, at 5:00 p.m., has opined in the post-mortem report (Exhibit Ka-3) that the time since death was about 3/4th day. The said opinion would indicate that the death had occurred approximately 18 hours prior to the post-mortem examination.

According to the prosecution case, the occurrence took place at about 9:00 p.m., on 15.03.2024 and the post-mortem examination commenced at 5:00 p.m., on 16.03.2024. Thus, the interval between the alleged time of occurrence and the commencement of post-mortem examination comes to approximately 20 hours.

It is well settled that the opinion regarding time since death is only an estimate and cannot be expected to be mathematically precise. Variations are bound to occur depending upon factors such as climatic conditions, physical condition of the deceased, environmental circumstances and the stage of decomposition.

In the present case, the medical opinion that the death had occurred about 3/4th day prior to the post-mortem substantially corresponds with the prosecution version regarding the time of occurrence. No material has been brought on record by the defence to demonstrate that the death had occurred at any other time or that the opinion of the doctor is erroneous. Therefore, the medical evidence relating to the time since death lends assurance and corroborates the prosecution case that deceased Hemant sustained fatal injuries during the night of 15.03.2024 and died shortly thereafter.

MOTIVE

The prosecution has alleged that the motive behind the occurrence was the strained relationship between the family of accused Sandeep alias Kali and the deceased Hemant on account of Hemant's marriage with Anjali, who is the sister of accused Sandeep alias Kali.

In this regard, PW-1 Bahori Singh, father of the deceased, has deposed that his son Hemant had solemnized a court marriage with Anjali, daughter of Vijendra, and that Anjali's family members were

unhappy with the said marriage. PW-2 Kishan Singh and PW-3 Kuldeep have also supported the prosecution case regarding the relationship between Hemant and Anjali and the hostility arising therefrom.

PW-2 Kishan Singh has categorically stated in his cross-examination that Hemant and Anjali had eloped on 31.12.2022. Thereafter, they solemnized marriage in Arya Samaj and subsequently contracted a court marriage. He further deposed that after their marriage, both of them started residing at Bhiwani (Haryana). PW-2 has further stated that about five to six days after Hemant had taken Anjali with him, the family members of accused Sandeep alias Kali assaulted his father.

Similarly, PW-3 Kuldeep has stated in his cross-examination that deceased Hemant had eloped with Anjali on 31.12.2022 and that they subsequently solemnized a court marriage. He further deposed that due to the said relationship and marriage, accused Sandeep alias Kali bore animosity towards Hemant.

The aforesaid testimonies clearly establish that the marriage between Hemant and Anjali was against the wishes of Anjali's family. The evidence further reveals that the relationship between the two families remained strained even after the marriage.

The defence has argued that motive is a double-edged circumstance and that the alleged enmity could equally be a ground for false implication. There can be no quarrel with the proposition that enmity is a double-edged weapon. However, in the facts of the present case, the evidence of PW-1, PW-2 and PW-3 consistently demonstrates the existence of hostility arising out of the marriage between Hemant and Anjali. Nothing substantial has emerged in their cross-examination to discredit this aspect of the prosecution case.

Accordingly, this Court is of the considered view that the prosecution has successfully established the existence of a strong motive for the commission of the offence, namely the resentment and hostility entertained by accused Sandeep alias Kali and his family members towards deceased Hemant on account of his marriage with Anjali.

EYE WITNESS

Apart from the aforesaid circumstance, PW-5 Lakhan Singh has categorically deposed that on 15.03.2024, at about 9:00 p.m., he witnessed accused Sandeep alias Kali and Nitesh alias Pulli assaulting the

deceased near Hanuman Temple, Bhadanwara. He identified both accused persons in Court and attributed active participation to them in the occurrence.

The testimony of PW-5 has been subjected to lengthy cross-examination. However, no material contradiction could be elicited so as to discredit his presence at the place of occurrence. Merely because PW-5 is related to the deceased would not render his testimony unreliable. It is settled law that evidence of a related witness cannot be discarded solely on the ground of relationship if it is otherwise trustworthy and inspires confidence.

The defence has emphasized that PW-5's statement was recorded by the Investigating Officer on 30.05.2024 and not immediately after the occurrence. It is true that there is some delay in recording his statement. However, such delay by itself is not sufficient to discard otherwise reliable testimony, particularly when no material has been brought on record to establish that the witness was deliberately introduced at a later stage to falsely implicate the accused.

The defence has further pointed out certain omissions regarding the specific weapons allegedly used by the accused.

In the case of **Ashok Kumar Chaudhary Vs. State of Bihar, 2008(61) ACC 972 (SC)**, the Hon'ble Supreme Court held that if the testimony of an eye witness is otherwise found trustworthy and reliable, the same cannot be disbelieved and rejected merely because certain insignificant, normal or natural contradictions have appeared into his testimony. If the inconsistencies, contradictions, exaggerations, embellishments and discrepancies in the testimony are only normal and not material in nature, then the testimony of an eye witness has to be accepted and acted upon. Distinctions between normal discrepancies and material discrepancies are that while normal discrepancies do not corrode the credibility of a party's case, material discrepancies do.

In this regard, it is noteworthy that omissions relating to minute details of the occurrence do not necessarily affect the core of the prosecution case. The substantive part of the testimony of PW-5, namely that accused Sandeep alias Kali and Nitesh alias Pulli were present at the scene and were participating in the assault upon the deceased, has remained intact.

It is also significant that PW-5 consistently maintained throughout his cross-examination that accused Sandeep alias Kali and Nitesh alias Pulli were apprehended at the place of occurrence itself and that he had witnessed the assault. Despite extensive cross-examination, no circumstance has emerged which may show that he had any reason to falsely implicate the accused while shielding the real offenders.

The testimony of PW-5 finds support from the medical evidence. PW-7 Dr. Devender Kumar Chaudhary found multiple ante-mortem injuries on the body of the deceased and opined that death occurred due to shock and haemorrhage resulting from ante-mortem injuries. The medical evidence clearly establishes that the deceased was subjected to a violent assault shortly before his death.

Therefore, this Court finds that the testimony of PW-5 is reliable to the extent that it establishes the presence and participation of accused Sandeep alias Kali and Nitesh alias Pulli in the assault upon deceased Hemant.

RECOVERY OF WEAPON OF OFFENCE

The prosecution has further relied upon the recovery of the weapon of offence, namely a “Suja”, at the instance of accused Sandeep alias Kali and Nitesh alias Pulli.

In this regard, PW-10 Inspector Sanjeev Kant Mishra, the Investigating Officer, has deposed that on 20.03.2024, acting upon information received from an informer, he, along with other police personnel, arrested accused Sandeep alias Kali and Nitesh alias Pulli near the Tehra Underpass. He has further stated that during interrogation, the accused persons disclosed that the weapon used in the commission of the offence had been concealed in the box of the motorcycle used by them. Pursuant to the information furnished by the accused persons, a Suja was recovered from the motorcycle and the same was seized and sealed at the spot. PW-10 has proved the recovery memo prepared in this regard, which has been exhibited as Exhibit Ka-8B. He has also identified the recovered “Suja” produced before the Court as Material Exhibit-3.

The testimony of PW-10 finds material corroboration from the statement of PW-6 SI Vinod Yadav, who was a member of the police team accompanying the Investigating Officer at the time of arrest and recovery. PW-6 has categorically deposed that the accused persons got recovered

the Suja from the motorcycle and that the recovery memo was prepared at the spot in his presence.

A perusal of Exhibit Ka-8B reveals that the recovery proceedings were made into writing contemporaneously and bear the signatures of the concerned police officials. The defence has not been able to elicit any material contradiction from the testimonies of PW-6 and PW-10 regarding the factum of recovery.

The accused persons, in their statements recorded under Section 313 Cr.P.C., have denied the recovery and alleged that their signatures were obtained on blank papers. However, no evidence whatsoever has been adduced by the defence to substantiate the said allegation. A mere bald denial is not sufficient to discard an otherwise duly proved recovery.

It is true that no independent public witness has been associated with the recovery proceedings.

The Hon'ble Supreme Court in **State Govt. of NCT of Delhi v. Sunil & others, 2001(1) SCC 652 & Sandeep Vs. State of UP, (2012) 6 SCC 107**, held that *evidence of police officer as witness to recovery not to be ordinarily disbelieved: If anything or weapons etc. are recovered at the instance of the accused (u/s 27, Evidence Act) only in the presence of police party and there is no public witness to such recovery or recovery memo, the testimony of the police personnel proving the recovery and the recovery memo cannot be disbelieved merely because there was no witness to the recovery proceedings or recovery memo from the public particularly when no witness from public could be found by the police party despite their efforts at the time of recovery. Seizure memo need not be attested by any independent witness and the evidence of police officer regarding recovery at the instance of the accused should ordinarily be believed. The ground realities cannot be lost sight of that even in normal circumstances, members of public are very reluctant to accompany a police party which is going to arrest a criminal or is embarking upon search of some premises.*

The defence has also argued that the medical evidence does not specifically disclose a puncture wound corresponding to a Suja. This argument does not completely negate the recovery. The evidentiary value of the recovery is that a weapon allegedly used in the commission of the offence was recovered pursuant to the information supplied by the

accused persons. The question whether every injury found on the body of the deceased exactly corresponds to the recovered weapon is a matter affecting the weight of the recovery and not its admissibility.

Furthermore, the recovered weapon was sent for forensic examination. The Forensic Science Laboratory report confirms the presence of human blood on the seized articles connected with the occurrence. Although the blood could not be conclusively linked to the deceased through blood grouping or DNA analysis, the report nevertheless lends corroboration to the prosecution version.

Upon an overall appreciation of the evidence of PW-6 and PW-10, the recovery memo (Exhibit Ka-8B), the production of Material Exhibit-3 before the Court and the forensic evidence on record, this Court finds that the prosecution has satisfactorily proved the recovery of the “Suja” at the instance of the accused persons. The said recovery constitutes an incriminating circumstance providing corroboration to the prosecution case.

The prosecution has also relied upon the report of the Forensic Science Laboratory, Agra (Exhibit Ka-9).

PW-10 Inspector Sanjeev Kant Mishra has deposed that during the course of investigation, blood-stained soil, plain soil, the recovered weapon of offence (Suja), and the articles recovered from the body of the deceased, namely vest, pant, underwear, sacred thread and pearl bracelet, were duly sealed and sent to the Forensic Science Laboratory, Agra for scientific examination.

The Forensic Science Laboratory Report (Exhibit Ka-9) forms part of the record. A perusal of the report reveals that blood was detected on the articles submitted for examination. The report further indicates that human blood was detected on certain exhibits examined by the laboratory.

The defence has argued that although blood was detected on the seized articles, the prosecution has failed to establish that the blood belonged to deceased Hemant, as neither blood grouping nor DNA profiling was conducted. Therefore, according to the defence, the F.S.L. report does not advance the prosecution case.

The aforesaid submission has been considered. It is true that the F.S.L. report does not specifically identify the blood found on the exhibits

as that of deceased Hemant. The report merely establishes the presence of blood and, in respect of certain exhibits, human blood. Therefore, the report by itself cannot conclusively establish that the blood detected on the recovered articles belonged to the deceased. However, the evidentiary value of the F.S.L. report cannot be ignored altogether. The recovery of blood-stained articles from the place of occurrence and the detection of blood thereon constitute relevant circumstances which lend assurance to the prosecution version regarding the occurrence of a violent assault at the place alleged by the prosecution.

The Hon'ble Supreme Court has repeatedly held that where the prosecution has otherwise established its case through reliable ocular and circumstantial evidence, the inability to determine the blood group or source of blood is not necessarily fatal to the prosecution case. The F.S.L. report is required to be appreciated along with the entire body of evidence and not in isolation.

In the present case, the medical evidence establishes that deceased Hemant died a homicidal death due to ante-mortem injuries accompanied by profuse bleeding. The recovery of blood-stained articles from the place of occurrence and the detection of blood thereon by the Forensic Science Laboratory are circumstances consistent with the prosecution version and furnish corroboration thereto.

At the same time, this Court is conscious of the fact that the F.S.L. report does not establish the identity of the blood. Therefore, the report is treated as a corroborative piece of evidence and not as an independent circumstance conclusively connecting the accused persons with the crime. Accordingly, this Court holds that Exhibit Ka-9 lends support to the prosecution case and corroborates the occurrence, though its evidentiary value is limited to that extent.

The accused persons, in their statements under Section 313 Cr.P.C., have merely pleaded false implication. No plausible explanation has been offered as to how the deceased, who was last seen with accused Nitesh alias Pulli shortly before the occurrence, met with homicidal death. The explanation furnished by the accused is neither convincing nor supported by any reliable evidence.

DW-1 Lokesh has merely stated that he reached the place of occurrence after receiving information and found a crowd assembled

there. His testimony does not discredit the prosecution evidence nor does it probabilize the defence version.

Upon an overall appreciation of the evidence, this Court holds that the prosecution has successfully proved beyond reasonable doubt that on 15.03.2024 accused Sandeep alias Kali and Nitesh alias Pulli, in furtherance of their common intention, committed the murder of deceased Hemant.

Accordingly, the point for determination No. (ii) is hereby disposed of.

In view of the findings recorded on Point for Determination Nos. (i) and (ii), this Court is of the considered opinion that the prosecution has successfully proved beyond reasonable doubt that on 15.03.2024, accused Sandeep alias Kali and Nitesh alias Pulli, in furtherance of their common intention, committed the murder of deceased Hemant. Thus, the accused Sandeep alias Kali and Nitesh alias Pulli are liable to be held guilty and convicted for the offences punishable under Sections 302 read with Section 34 of IPC.

ORDER

Accordingly, the accused Sandeep alias Kali and Nitesh alias Pulli are hereby held guilty and convicted under Sections 302 read with Section 34 of IPC, in connection with Case Crime No. 63/2024, P.S. Surir, District Mathura.

The accused Sandeep alias Kali and Nitesh alias Pulli, who are on bail, are present before the Court.

Let the said accused be taken into judicial custody.

Put up on 12.06.2026 for hearing on point of sentence.

Dated: 11.06.2026

**(Vikas Kumar-I)
Sessions Judge, Mathura
I.D. U.P.1910**

ORDER ON SENTENCE

(i) File put up today for hearing on sentence.

(ii) Accused Sandeep alias Kali and Nitesh alias Pulli are present before the Court from District Jail, Mathura in judicial custody.

(iii) Heard Ld. counsel for the complainant, Ld. D.G.C. (Crl.) for the State and Ld. counsel for the convicts on the question of sentence.

(iv) Learned D.G.C. (Criminal) as well as Ld. Counsel for the complainant submitted that the offence committed by the convicts is grave and heinous in nature. It is further argued that the convicts, acting in furtherance of their common intention, committed the murder of a young man, namely Hemant. The act of the convicts resulted in the loss of a precious human life and, therefore, they deserve to be awarded the maximum punishment prescribed under law.

(v) Per contra, the learned counsel for the convicts prayed for leniency in sentencing on the ground that the convicts have no previous criminal conviction and are the sole bread earners of their respective families. It was further submitted that they have remained in custody for a substantial period during the pendency of the trial.

(vi) This Court has considered the rival submissions and has carefully examined the circumstances of the case.

The convicts have been found guilty for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. The offence of murder is one of the gravest offences known to criminal law. Human life is of paramount value and any unlawful act resulting in its extinguishment deserves stern punishment.

At the same time, this Court has considered the mitigating circumstances pointed out on behalf of the convicts. However, having regard to the nature and gravity of the offence, the aggravating circumstances substantially outweigh the mitigating circumstances.

Upon consideration of all the facts and circumstances of the case, this Court is of the view that the convicts Sandeep alias Kali and Nitesh alias Pulli are hereby sentenced as follows:

ORDER

(i) For the offence punishable under Section 302 read with Section 34 of IPC, the convicts Sandeep alias Kali and Nitesh alias Pulli are hereby sentenced to rigorous imprisonment for life and a fine of

Rs. 50,000/- (Rupees Fifty Thousand Only) each. In default of payment of fine, each convict shall further undergo simple imprisonment for one year.

(ii) Having regard to the gravity of the offence, the loss suffered by the family members of the deceased and the need to provide some measure of restorative justice to the victim, this Court deems it appropriate to award compensation under Section 357 Cr.P.C.

Out of the total fine amount, a sum of Rs. 50,000/- (Rupees Fifty Thousand only) shall be paid to the legal heirs/dependents of deceased Hemant, in accordance with law.

(iii) The period already languished in jail by the accused in the said matter shall be set off in the period of sentence awarded to them.

(iv) The material exhibits have to be preserved in the period of appeal, if file any, otherwise they shall be disposed of in accordance with law after stipulated period.

(v) The office is directed to make necessary compliance regarding conviction warrant.

(vi) Let a copy of the judgment & order be provided to the convicts free of cost forthwith.

(vii) The present sessions trial is finally decided accordingly.

(viii) File be consigned to Record Room after due compliance.

(Vikas Kumar-I)
Sessions Judge, Mathura
I.D. U.P.1910

Dated : 12.06.2026

The judgment signed, dated and pronounced by me in open Court today.

(Vikas Kumar-I)
Sessions Judge, Mathura
I.D. U.P.1910

Dated : 12.06.2026

AJEET SINGH, STENO/-