



UPMT010110322019

**IN THE COURT OF SESSIONS JUDGE, MATHURA**

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

**Sessions Trial No. 386 of 2019**

State of Uttar Pradesh

**Versus**

Bachchu Singh, aged about 60 years, son of Harichand, a resident of Samola Teela, near Delhi Wali Boundary, Palikheda, P.S. Highway, District Mathura, Uttar Pradesh. ....**Accused**

**Case Crime No.** 214/2019,  
**U/Ss.** 302 & 342 IPC,  
**P.S.** - Highway  
**District** - Mathura

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Counsel for Prosecution : Mr. Shivram Singh Tarkar (DGC Criminal)  
Counsel for Complainant : Mr. Manmohan Sharma, Advocate  
Counsel for Accused : Mr. Shyam Babu Gautam, Advocate

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**JUDGMENT**

1. The present Sessions Trial arises out of Case Crime No. 214 of 2019, Police Station Highway, District Mathura, initially registered under Sections 147, 148, 149, 307 & 364 IPC, which, upon death of the injured Anil Kumar during treatment, was converted into Sections 302 & 342 of Indian Penal Code, 1860 (hereinafter referred to as IPC).
2. The case of the accused Bachchu Singh was committed to this Court by Chief Judicial Magistrate, Mathura vide order dated 03.07.2019 for facing trial under Sections 302 & 342 of Indian Penal Code (hereinafter referred to as IPC), in connection with Case Crime No. 214/2019, P.S. Highway, District Mathura.
3. The prosecution case, in a nutshell, is that the complainant Vinod Kumar made a written complaint at P.S. Highway, District Mathura on 12.03.2019 alleging therein that his brother Anil Kumar left on 11.03.2019, at 6.00 a.m. saying that Bachchu S/o Harichand, resident of Shambhunath Tila near Delhi Wali boundary, P.S. Highway has called him to Mandi Chauraha for some discussion and he will return after an

hour. When complainant's brother did not come till noon, he called on his brother's phone but the phone was switched off. The complainant kept waiting for his brother to return till evening, but his brother did not come. In the evening at around 8.00 p.m., a phone call came on the complainant's phone number 9627620512 from number 9536183352 that "his brother Anil Kumar has been kidnapped by Bachchu Singh S/o Harichand, Kapil S/o Bachchu, Ritu W/o Kapil, Surabhi D/o Bachchu, and Ballo, Bhagwan Singh, Rakesh, sons of Harichand, and their tenant. All of them have kidnapped Anil Kumar from Mandi Chauraha and after bringing him to their house and killed him. Police of P.S. Highway came and took away his brother's dead body from Bachchu's house. His brother's body was drenched in blood, Bachchu's entire house was also filled with blood. Police have also arrested Bachchu and his daughter Surabhi, you should go to P.S. Highway." The complainant reached Police Station Highway and came to know that Highway Police has admitted his brother in Bhaskar Hospital. Then, he reached Bhaskar Hospital and found that his brother's condition was very serious and worrisome. The doctor gave the complainant's brother verbally treatment and referred him to Sawai Mansingh Hospital, Jaipur. Where his brother is fighting between life and death and treatment is going on. It is further asserted that all these people have attacked his with iron rod, knife, sickle (Hasiya) & rope and hanged him with the intention of killing him. It is further mentioned that when his brother regained consciousness, his statement be recorded.

On the basis of the said written complaint, the First Information Report was lodged on 15.03.2019, at 23.28/23.40 hours, against 07 named accused persons, namely, Bachchu, Kapil, Ritu, Surabhi, Ballo, Bhagvan Singh, Rakesh and their unknown tenant, in connection with Case Crime No. 214/2019, under Sections 147, 148, 149, 307 & 364 IPC, P.S. Highway, District Mathura.

4. After completion of investigation, the Investigating Officer submitted charge-sheet before the concerned Court, Mathura against the accused Bachchu Singh S/o Harichand under Sections 302 & 342 IPC on 19.06.2019 vide charge-sheet No. 01/2019.

5. Thereafter, learned Chief Judicial Magistrate took cognizance on the said charge-sheet on 26.06.2019. Finding the matter exclusively

triable by the Court of Sessions, the case against the accused Bachchu Singh was committed to the Court of Sessions on 03.07.2019.

6. Thereafter, the charge was framed against the sole accused Bachchu Singh on 19.07.2019, in connection with Case Crime No. 214/2019, under Sections 302 & 342 IPC, P.S. Highway, District Mathura.

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

7. To prove the said charges against the accused Bachchu Singh, prosecution has examined following witnesses :

P.W.1 Vinod Kumar	Complainant (brother of the deceased)
P.W.2 Babli	Cousin of the deceased
P.W.3 Suneel Kumar	Brother of the deceased
P.W.4 H.C. Jitendra Kumar	FIR Scribe
P.W.5 Inspector Nitin Kasana	Investigating Officer
P.W. 6 Inspector Vipin Kumar	Who prepared the inquest report of the deceased
P.W.7 Cons. Rinku Kumar	One who admitted the injured/deceased Anil at Bhaskar Hospital and informed the police station regarding the said incident.
P.W.8 Dr. Anil Solanki	Who conducted the post-mortem of the deceased Anil on 17.03.2019
P.W.9 Cons. Krishna Kumar	Witness of the recovery of stick (Danda) & sickle

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

Exhibit Ka-1	Written complaint
Exhibit Ka-2	Chik FIR
Exhibit Ka-3	General Diary

Exhibit Ka-4	Charge-sheet
Exhibit Ka-5	Site Plan of Mandi Chauraha
Exhibit Ka-6	Site Plan of the place of occurrence, i.e. the house of the accused Bachchu
Exhibit Ka-7	Recovery Memo of a stick (Danda) and sickle (Daranti)
Exhibit Ka-8	Site plan of recovery of murder weapon, i.e. stick and sickle.
Exhibit Ka-9	Inquest report of the deceased
Exhibit Ka-10	Post-Mortem Report
Exhibit Ka-11	Forwarding memo for chemical analysis of cross matching of blood group.

**9. EVIDENCE OF THE PROSECUTION :**

**9.1** P.W.1/complainant/Vinod Kumar has deposed in his examination-in-chief dated 23.05.2022 that his brother Anil Kumar left the house on 11.03.2019, at 6.00 a.m. saying that Bachchu, son of Harichand, resident of Shambhunath Tila, near Delhi boundary, Police Station Highway has called him to Mandi Chauraha for some discussion and he will come in an hour. When his brother did not return till noon, he called him. When he called, the phone was switched off. He waited until evening for his return, but he never did. Around 8 p.m., he received a call on his mobile number 9627620512 from 9536183352, stating, "Your brother Anil Kumar has been kidnapped from Mandi Chauraha by Bachchu son of Harichand, Kapil son of Bachchu, Ritu wife of Kapil, Surabhi daughter of Bachchu, & Ballo, Bhagwan Singh, Rakesh, sons of Harichand, and their tenant. They have taken him to their house and killed him. The highway police have arrived and taken your brother's body from Bachchu's house. Your brother's body was drenched in blood, and Bachchu's house was also with blood. The police have also taken Bachchu and his daughter Surabhi. You should come to the highway police station." When he reached the Highway police station, he came to know that his brother had been admitted to Bhaskar Hospital by the

police. When he arrived at Bhaskar Hospital, his brother's condition was critical. The doctor administered verbal treatment and referred his brother to Sawai Man Singh Hospital. His brother was fighting for his life. The aforementioned individuals had strangled his brother with a rod, knife, sickle, and rope, strangulating him with intent to kill him. He further deposed that the written complaint of the alleged incident is on record as Paper No. 3A/3 to 3A/4. He had submitted the said typed written complaint to the C.O., Refinery, addressed to the Station House Officer, on 12.03.2019. He further deposed that his brother Anil died of injuries sustained while undergoing treatment at Sawai Man Singh Hospital, Jaipur, and the post-mortem was conducted in Jaipur. He identified the paper available on file, i.e. 3A/3 to 3A/4, it bears his signature. He identified the same and it was marked as Exhibit Ka-1.

**9.2** P.W. 2 Babli has deposed in her examination-in-chief dated 19.01.2023 that her father name is Rajan. The deceased Anil was her cousin brother. On 11.03.2019, it was Holi. There was a huge crowd around Bachchu's house. When she came out of her house & stopped seeing the crowd in front of Bachchu's house and peeped through the iron door of Bachchu's house that the accused Bachchu, Ballo, Bhagwan Singh, Rakesh, Kapil, Surabhi and Ritu were assaulting a man with stick, iron rod, axe and sickle with the intention of killing him. Inside, the hall was illuminated by a bulb. Someone in the crowd had informed the police over the phone, following which the police arrived at the scene. Seeing the police arrive, all the accused fled from the scene, leaving the man half dead. She entered inside the house with the police and saw that the man lying unconscious was her brother Anil. It was around 7:30-8:00 hours in the evening. She had called Anil's elder brother Vinod about the incident. The police had admitted her brother to Bhaskar Hospital, Mathura. As his condition was very serious, he was sent to Jaipur for treatment, where Anil died four to five days later. The above mentioned people had conspired to murder Anil. The police had questioned her regarding the incident. She lives in the same colony as the accused and is in danger from them.

**9.3** P.W. 3 Suneel Kumar, brother of the deceased, has deposed in his examination-in-chief dated 15.07.2024 that on 17.03.2019, a Panchayatnama was prepared of his brother, Anil Kumar, age 25, at the SMS Hospital mortuary in Jaipur. Daroga Ji had appointed Hari Singh,

Jagesh, Girraj, and Pramod as Panchas, along with him. The deceased's body was found lying face-up on a stretcher in the SMS Hospital mortuary. His legs were straight, his head facing east and his feet facing west. The deceased was wearing only yellow & white colour underwear. He was wheatish in complexion, 5.1/2 feet tall, and had a strong build. He had a stitched injury on the back right side of his head. The injury on his forehead and above his eyebrow was consistent with a sharp-edged weapon, which also had stitches. A contusion mark was visible below his right ear. A white bandage was tied around the injury on his left leg below the knee. A small injury on his right ankle, consistent with a sharp-edged weapon, was visible. During treatment, a drip was placed on his right hand. He had multiple injuries on his head caused by a sharp weapon, which required stitches. The Panchas believed that Anil Kumar's death appeared to be caused by the sharp-edged weapon and other injuries. However, they recommended a post-mortem to determine the exact cause of death. Their opinion matched that of the Daroga Ji. Thus, this witness identified his signature on the certified photocopies of Panchayatnama papers number 29-B/6 to 29-B/8 available on the file.

**9.4** P.W. 4 H.C. Jitendra Kumar has deposed in his examination-in-chief dated 16.08.2024 that on 15.03.2019, he was posted as C/C at Highway Police Station. On the same day, in compliance with the order of SSI, he had lodged a Chik FIR against the accused Bachchu & others in connection with Case Crime No. 214/2019, under Sections 147, 148, 149, 307 & 364 IPC on the basis of typed written complaint, and the same was disclosed in GD Report No. 65, at 23.23 hours. He proved the said Chik FIR as Exhibit Ka-2 and GD as Exhibit Ka-3, which are available on file as Papers No. 3A/1-3A/2 and 4A/11, respectively.

**9.5** P.W. 5 Inspector Nitin Kasana has deposed in his examination-in-chief dated 18.09.2024 that in the year 2019, he was posted as Inspector in-charge at Police Station Highway. On 11.03.2019, the investigation of Case Crime No. 214/2019 was being conducted by Sub-Inspector Vipin Kumar. During the investigation, after the complainant's brother injured Anil Kumar S/o Raghuveer Singh, resident of Nagla Pohpi, Police Station Refinery died during treatment at SMS Hospital, Jaipur, Section 302 IPC was added to the investigation. Thereafter, the said investigation was taken up by him on 18.03.2019. During the investigation, CD No. 3 to 14 were prepared by him. After inspecting the

spot of incident, collecting statements of witnesses and other physical & documentary evidence, after all the proceedings carried out during the investigation, the charge sheet was submitted before the concerned Court against the accused Bachchu Singh S/o Harichand, resident of Samola Tila near Delhi Wali boundary, P.S. Highway, District Mathura under Sections 302 & 342 IPC through Charge-sheet No. 214/2019 on 18.06.2019. He further deposed that the Papers No. 4A/2 to 4A/8, available on file, are the charge-sheet. It bears his signature. He identified the same as Exhibit Ka-4. He also identified the site plan Paper No. 4A/23 as Exhibit Ka-5. He also identified the site plan with regard to the house of the accused Paper No. 4A/24 as Exhibit Ka-6. He further deposed that Papers No. 4A/25 to 4A/34 are the CDR, which is the location of the mobile of the accused. It discloses the places where the deceased visited and individuals he called with on the day of the incident. To verify the authenticity of this information, the Call Detail Records of the deceased's mobile number 7983494775 were obtained, which are available on file. He also identified the Paper No. 4A/35, recovery memo of murder weapon stick and sickle, as Exhibit Ka-7. He also identified Paper No. 4A/36, the site plan of the place of recovery memo of murder weapon stick and sickle, as Exhibit Ka-8.

**9.6** P.W. 6 Inspector Vipin Kumar has deposed in his examination-in-chief dated 16.10.2024 that on 15.03.2019, he was posted as outpost in-charge Mandi Samiti, P.S. Highway. On the same day, he received the investigation of Case Crime No. 214/2019, under Sections 147, 148, 149, 307 & 364 IPC. On the same day, he prepared C.D.-I, in which copy of Chik, Copy of Report & the statement of FIR Scribe were mentioned. On 17.03.2019, C.D.-II was prepared, wherein it is mentioned that after getting the information that the injured Anil Kumar has died during treatment in S.M.S. Hospital, Jaipur, Rajasthan, he reached S.M.S. Hospital, Jaipur and conducted the inquest proceedings of the deceased and prepared the report of the same. Thereafter, on the same day, Section 302 IPC was added to the said case and its investigation was handed over to the Inspector In-charge. Further investigation in the said case was conducted by the Inspector In-charge Nitin Kasana. This witness further deposed that he conducted the inquest proceedings of the deceased on 17.03.2019, before 8.00 in the morning. He appointed five Panchas, i.e. Suneel, Hari Singh, Jagesh, Giriraj and Pramod. The deceased's body was

found lying face-up on a stretcher in the SMS Hospital mortuary. His legs were straight, his head facing east and his feet facing west. The deceased was wearing only yellow & white colour underwear. The deceased was wheatish in complexion, 5.5 feet tall, and had a strong build. He had a stitched injury on the back right side of his head. The injury on his forehead and above his eyebrow was consistent with a sharp-edged weapon, which also had stitches. A contusion mark was visible below his right ear. A white bandage was tied around the injury on his left leg below the knee. A small injury on his right ankle, consistent with a sharp-edged weapon, was visible. He had multiple injuries on his head caused by a sharp weapon, which required stitches. The Panchas believed that Anil Kumar's death appeared to be caused by the sharp-edged weapon and other injuries. However, they recommended a post-mortem to determine the exact cause of death. He further deposed that his opinion was same as the Panchas' opinion. Papers No. 29-Kha/6 to 29-Kha/8, available on file, are the photocopy of the Panchayatnama, which is certified by the Station House Officer and the same was keep on file vide Hon'ble Court's order dated 05.07.2024. He prepared the inquest report (Panchayatnama) in his hand writing. It bears his signature. He identified the same and it was marked as Exhibit Ka-9.

**9.7** P.W. 7 Constable Rinku Kumar has deposed in his examination-in-chief dated 03.12.2024 that on 11.03.2019, he and H.C. Rajesh Kumar were on Chetak duty. Around 6:30-7:00 hours, while we were standing at Mandi Chauraha, a person informed them that a fight is taking place at Shambhunath Tila, behind Narsi Bihar. They arrived at Shambhunath Tila, where a large crowd had gathered outside a house. When they went inside, they saw a man lying unconscious and covered in blood, seriously injured. They took him to Bhaskar Hospital and admitted. The injured man was unconscious and unable to speak. Later, upon inquiring, they discovered that the injured man was Anil, son of Raghuv eer, a resident of Nagla Pohpi. He had frequented their home and had arranged Surabhi's marriage. It came to know that there was tension between them, and that the injured man had come to Bachchu Singh's house. Bachchu Singh assaulted the injured with sticks. He also attacked him with a sickle with the intent to kill him, which they reported to the police station.

**9.8** P.W. 8 Dr. Anil Solanki has deposed in his examination-in-chief dated 07.01.2025 that on 17.03.2019, he conducted the post-mortem of the deceased Anil S/o Raghuveer, age 25 years, Caste Jatav, resident of Nagla Pohapi, P.S. Refinery, District Mathura, which was identified by Sub-Inspector Vipin Kumar and Constable Sunil Kumar. The deceased died on 15.03.2019, at 6:04 PM, according to the B.H.T. The post-mortem examination was conducted on 17.03.2019, at 9:40 AM. The deceased was admitted to the Polytrauma Unit on 12.03.2019, at 5:05 AM, which B.H.T. No. is 10119041162. According to the inquest report (Panchayatnama), the deceased died due to sharp-edged weapon and other injuries. After death, the deceased's body was kept in a deep freezer. The deceased was of normal height and build, with partial stiffness in the lower body. Postmortem staining was found on the back. All body organs were normal. The corneas of the eyes were hazy, and there was a 1/2 x 1/2 cm crack on the right chin, which was black and brown in colour. The stomach lining was pale, and 30 cc of green fluid was found. The remaining organs were pale. The details of the injuries found on the body are as follows:

**A. Scalp, Skull & Vertebrae**

**(i)** 3 cm stitched wound on the left eyebrow with swelling all around and dried clotted blood, on further examination it was found to be a scalp haematoma in the Frontoparietal Temporal Occipital region, below which a depressed fracture of the skull was found and on further examination tension and swelling of the brain and meningeal membranes were found. Contusions measuring 3 x 2 cm were found on both sides of the temporal region which were dark brown in colour and subarachnoid haemorrhage was found in both sides of the parietal and cerebellum region of the brain.

**(ii)** Stitched wound 6 cm was present on the parieto-occipital region of the head, with dried blood and swelling surrounding the wound, underlying which was a scalp hematoma. Further examination revealed a fracture of the occipital bone on the left side of the head.

**(iii)** 3 cm stitched wound was present on the right eyebrow, on which clotted blood had accumulated.

**(iv)** 6 cm stitched wound was present on the right parietal region, surrounded by clotted blood.

(v) 3 cm stitched wound was found on the left forehead, covered with clotted blood, near the hairline.

(vi) 3 cm stitched wound was present on the left temporal parietal region, with clotted blood.

In my opinion, injuries Nos. 3 to 6 were caused by a sharp-edged weapon, as we discovered after opening the stitches. The margins of the injuries were cleanly cut, regular, and well-defined.

**B. (i)** Stab incised wound measuring 2.5 x 1 cm x deep present over left side back of chest, 6 cm from the spine and 16 cm from the shoulder joint. On further examination, the muscles were found to be severed, regular and well-defined, extending to the left lung, with the injury measuring 1.5 x 1.0 the left lobe of the lung. The entire wound was filled with blood and blood clots, and the chest cavity contained approximately 300 cc of blood and blood clots.

**(ii)** Incised wound measuring 2.5 x 1 cm deep into the muscles present on the left posterior part of the chest at a distance of 3 cm from the vertebrae region.

**(iii)** Incised wound 2cm x 1 cm x deep up to the chest which was done by the surgeon during treatment to insert a tube in the chest.

**C.(i)** Abrasion 4 x 1.5 cm blackish brown with hard scabs on the left side of the abdominal bone.

**(ii)** Abrasion 2 x1 CM on the right side of the stomach bone.

**(iii)** Abrasion 2 x 2 CM on the inner side of the left thigh were black and brown in colour with hard scabs.

**D.(i)** 2 x 1.5 x bone-deep incised wound on the inner side of the left thigh, containing blood clott. The margins of the wound were clear, well-defined, and regular.

**(ii)** Incised wound measuring 2.5 x .5 cm x muscle deep right foot near ankle. The margins of the wound were clear, well defined and regular.

**(iii)** Incised wound measuring 2 x .5 cm x muscle deep was present on the inner dorsal surface of the forearm of the right hand. The margins of the wound were clear, well defined and regular.

**(iv)** Incised wound 4cm x 0.5 cm directly in the occipital region. The margins of the wound are clear, well defined and regular.

**E. (i)** 8 x 4 cm bruise on the left arm, located in the medial region, was bluish black in colour.

**(ii)** 12 x 8 cm bruise on the sternum, located on the front of the chest, was bluish black in colour.

**(iii)** Bruise measuring 8 x 4 CM on the right side of the neck which was blue black in colour.

**(iv)** 6 x 4 cm blue black bruise on the left side of the neck.

In his opinion, injuries No. 1, 2 and 3 in column B could have been caused by a sharp-edged weapon, injuries No. 1, 2 and 3 in column C could have been caused by a blunt weapon, injuries No. 1, 2, 3 and 4 in column D could have been caused by a sharp-edged weapon and injuries No. 1, 2, 3 and 4 in column E could have been caused by a blunt weapon.

**F.** The blood of the deceased was soaked on a bandage and sent in a sealed glass bottle for cross matching.

**Opinion:** In his opinion, the cause of death of the deceased was shock due to ante mortem injury No. 1 of column B and injury No. 1 of column A, which were sufficient in the normal course to cause death. The injuries were jointly and individually substantial.

Papers numbered 4A/14 to 4A/16, which are the post-mortem and blood cross-matching letters, are in his handwriting and bear his signature. He identified the same and they were marked as Exhibit Ka-10 and Exhibit Ka-11, respectively.

**9.9 P.W. 9** Constable Krishna Kumar has deposed in his examination-in-chief dated 15.07.2025 that on 01.04.2019, he himself along with SHO Nitin Kasana, SI Vipin Kumar, Constable Shishvendra, with driver Harbhajan Bhadoria reached Samola Tila, then accused Bachchu Singh, son of Harichandra, resident of Samola Tila, near Delhi boundary, Thana Highway, Mathura asked us to stop the jeep, so we got down from the jeep and the accused walked ahead of us policemen and took out the deadly stick and sickle which were hidden in a gunny bag under the cot in the western shop of his house and gave it to us at 13:20 hrs and told that with this stick and sickle he had inflicted serious injuries on Anil. At the same time, public witnesses Laxman Singh, son of Santoram, resident of Samola Tila, Raju son of Phool Singh, resident of Maya Colony, Thana Highway, Mathura also reached the spot. In their presence, SHO Nitin Kasana had sternly dictated the recovery memo of

the murder weapon to SI Vipin Kumar. After reading it out and aloud, the accompanying staff and public witnesses signed it. The murder weapon was wooden and the handle of the stick had brass sheets, blue and red stickers at various places, and thin iron wires were tightened with screws. The bottom part of the stick was broken and blood was on it. The recovered stick and sickle were kept in separate clothes and sealed and stamped. The recovered goods have not come to the court from the police station today because the report received from the police station dated 15.07.2025 has paper number 50 Kha/1 to 50-Kha/6 on the file, according to which the serial number, crime number and section on the goods deposited at the police station have been erased due to dampness, fungus and rain in the storehouse.

**10.** After completion of prosecution evidence, statement of the accused Bachchu Singh was recorded under Section 313 Cr.P.C. While denying the truthfulness/veracity of the prosecution case & evidence led in support thereof; accused has stated that all the allegations are false.

Regarding the examination-in-chief of P.W. 1 Vinod Kumar, accused Bachchu Singh stated in his statement recorded under Section 313 Cr.P.C. that the First Information Report is false and fabricated. All the witnesses are false.

Regarding the examination-in-chief of P.W. 2 Babli, the accused has stated that being an interested witness, she has given false testimony.

Regarding the examination-in-chief of P.W. 3 Suneel Kumar, the accused has stated that Ante-time action has been taken.

Regarding the examination-in-chief of P.W. 4 Constable Jitendra Kumar, the accused has stated that the ante-time report has been written in consultation with the complainant.

Regarding the examination-in-chief of P.W. 5 Inspector Nitin Kasana, the accused has stated that false testimony has been given. Action has been taken while sitting at the police station. False evidence has been given.

Regarding the examination-in-chief of P.W. 6 Inspector Vipin Kumar, the accused has stated that the ante-time report has been written in consultation with the complainant. False statement has been given and wrong documents have been proved.

Regarding the examination-in-chief of P.W. 7 Constable Rinku Kumar, the accused has stated that false evidence has been given.

Regarding the examination-in-chief of P.W. 8 Dr. Anil Solanki, the accused has stated that false statement has been deposed in consultation with the complainant. False report has been prepared.

Regarding the examination-in-chief of P.W. 9 Constable Krishna Kumar, the accused has stated that false statement has been given. Wrong documents have been prepared after showing false recovery.

The accused Bachchu Singh further deposed in his statement under Section 313 Cr.P.C. that a false case has been lodged against him due to enmity. He further submitted that it was Holi on the day of the incident. The accused and his family members had gone to Chiksana, Bharatpur to see off his sister Meera's daughter Priyanka after her wedding. On the date of the incident, the deceased got into a fight with his friends over drinking and they beat him up. The deceased came to us injured, as the fight took place in a nearby park and later, a false case was registered against him due to enmity, while the accused and his family members were not present at the scene on the date and time of the incident. Upon receiving information about the deceased being injured before reaching Chiksana, the accused returned from Chiksana to Mathura in the evening and he was falsely implicated in the said case. The accused is completely innocent.

**11.** The defence has produced the following witnesses in support of his case:

**11.1** D.W.1 Laxman Singh has deposed in his examination-in-chief that he lives in the neighborhood of the accused Bachchu. The house of Bachchu is situated near Narsi Bihar Phase-II. About 6-6.5 years ago between 7:00 & 8:00 in the evening, he was returning with vegetables and saw that in the park situated in front of Bachchu's house, 4-5 boys were drinking alcohol and getting into a brawl. At the same time, one boy entered the house of the Bachchu after saving his life. Thereafter, three boys also entered the house of Bachchu. Some held stick, others iron rods, and others knives and they assaulted the first boy, who entered the house of Bachchu and injured him. There was a hue & cry and there was crowd. He was present at the scene. Neither Bachchu nor others were present in his house. The Bachchu's daughter, Surabhi, was present at the house. She was running a shop inside the house. Later, it turned out that the boy who was injured was Anil, whom the police had taken away with them.

He further deposed that later, when Bachchu returned home at night the police took him to the police station. He, along with other residents of the neighborhood, had gone to the police station to make inquiries. Bachchu was released from the station after being found innocent. The police had made signed on a document and took our phone numbers, stating that they were handing Bachchu over into our custody. He further deposed that in his presence, and based on Bachchu's indications, the police did not recover any stick, iron rod & sickle. No police appeared before him, nor was he asked to sign any recovery documents. If his signature is being affixed to any recovery document, it is incorrect.

**11.2** D.W.2 Gulab Chandra has deposed in his examination-in-chief that the marriage of his daughter Priyanka was solemnized on 08.03.2019 at Chiksana. His daughter's departure from her in-laws' home was scheduled for 11.03.2019. Accused Bachchu Singh was his brother-in-law (sala). His daughter is Bachchu's niece. He further submitted that Bachchu and his family members, except Bachchu's Daughter Surabhi, had gone to his house to see off his daughter from her in-laws' home. Bachchu Singh left Mathura for Chiksana on his motorcycle at 5.30 in the evening on 11.03.2019. Bachchu reached Bharatpur around 7.00 hours. Then, he talked to him on phone call, Bachchu told him that he is coming and at Bharatpur. Fifteen minutes later, Bachchu called him again and informed him that a commotion had broken out at his home in Mathura. He was heading back to Mathura and he went to Mathura. He further deposed that Bachchu Singh was not present at the scene at the time of the incident. Bachchu Singh has not committed any incident.

**12.** Heard learned counsel for the accused, learned counsel for the complainant and learned D.G.C. (Crl.) for the State at length and perused the matter on record.

**ARGUMENTS:**

**13.** Learned counsel for the defence has mainly submitted that the alleged incident took place on 11.03.2019 and its written complaint was submitted to the police station on 12.03.2019, whereas its First Information Report was lodged on 15.03.2019, at about 23.28/23.40 p.m. Thus, there is a delay of four days for which no reasonable explanation has been given by the prosecution. He further submitted that to whom did the complainant's brother Anil Kumar tell that Bachchu had called him to

Mandi Chauraha to discuss something, this fact is not mentioned anywhere in the entire FIR. He further contended that the First Information Report states that when the complainant's brother, Anil, did not return by noon, the complainant called his brother's mobile number, but the said number is not mentioned anywhere in the entire FIR. This renders the entire incident false & fabricated. He further submitted that during cross-examination, the complainant Vinod Kumar initially stated that his brother, the deceased Anil, lived with him in the same house, whereas at Page No. 8-Ka/7, he stated that his two brothers, Sunil and Anil, lived in one house with their father Raghuvver Singh, and he lived in another house with his children. Thus, both the statements are contradictory to each other. He further submitted that the complainant Vinod Kumar himself admitted in his cross-examination that it is true that if a person goes to a place on his own, it is not called kidnapping, however, the First Information Report was registered under Section 364 IPC. It clearly demonstrates false & fabricated FIR version. Ld. defence counsel further vehemently argued that the complainant Vinod Kumar also stated in his cross-examination that his sister had informed him regarding the incident, and that it was his sister who had named the accused persons and also revealed the location of the place of occurrence. However, this fact is neither in the First Information Report nor in his examination-in-chief. Thus, it establishes that the First Information Report is false and fabricated. He further submitted that the complainant is not the eye witness to the alleged incident. The complainant has stated in his written complaint, First Information Report, and his cross-examination that his brother, Anil, was treated at Bhaskar Hospital, located at Mandi Chauraha, but no documents from Bhaskar Hospital are on record. This also establishes that all the prosecution story is completely false and concocted. He further contended that written complaint was given to the Circle Officer, Mathura but it was addressed to S.H.O., Mathura, it is not believable. He further contended that the inquest proceedings was initiated on 16.03.2019, at 14.49 p.m., and was completed on 17.03.2019, at 8.00 a.m., i.e. this process continued for about 17 hours which is highly improbable. There is no recovery of mobile of the deceased Anil. Police did not trace the mobile number by which the phone call was made on the mobile of the complainant. There is no eye witness to the alleged incident. There is no motive of the alleged incident. There is no extra

judicial confession. There is no circumstantial evidence. There is no original copy of original inquest report (Panchayatnama). The First Information Report of the alleged incident is ante-time, delayed and has been lodged with the collusion of the police. Firstly, the First Information Report was lodged under Sections 147, 148, 149, 307 & 364 IPC and later, it was converted under Sections 302 & 342 IPC. Ld. defence counsel further asserted that the recovered goods in the said case were not presented before the Court by the police personnel saying that the report received from the police station dated 15.07.2025 has paper number 50 Kha/1 to 50-Kha/6 on the file, according to which the serial number, crime number and section on the goods deposited at the police station had been erased due to dampness, fungus and rain in the storehouse. In such a situation, the recovery of the murder weapons, i.e. a stick (Danda) & sickle (Daranti), are doubtful under Section 27 of the Evidence Act.

Learned counsel for the defence further contended that P.W.2 Babli has deposed in her examination-in-chief that “the deceased Anil was her cousin brother. On 11.03.2019, it was Holi. There was a huge crowd around Bachchu's house. When she came out of her house & stopped seeing the crowd in front of Bachchu's house and peeped through the iron door of Bachchu's house that the accused Bachchu, Ballo, Bhagwan Singh, Rakesh, Kapil, Surabhi and Ritu were assaulting a man with stick, iron rod, axe and sickle with the intention of killing him. She entered inside the house with the police and saw that the man lying unconscious was her brother Anil, whereas she has narrated in her statement recorded under Section 161 Cr.P.C. that on 11.03.2018 , there was a lot of crowd around Bachchu's house. When she came out of her house and asked the reason for the gathering of the crowd. Then, people told her that some thief has entered the house of Bachchu Singh son of Harichand. But on gathering more information at the spot, she came to know that the person whom people were calling thief was her cousin Anil. Thus, both the statements are contradictory to each other. Thus, it can say that the P.W. 2 Babli is also not the eye witness to the alleged incident. He further submitted that this is no evidence case. No fair investigation has been conducted by the Investigating Officer. Investigation is conducted in cursory manner. He further emphasized on the point that there is no dying declaration of the deceased Anil. The recovered goods, i.e. a stick (danda) and a sickle (daranti) were also not sent to F.S.L. He further submitted

that there is no independent witness to the alleged incident. He further emphasized on the point that the injured Anil Kumar died on 15.03.2019, at 06.04 p.m, during treatment, however, the First Information Report of the alleged incident was lodged under Sections 147, 148, 149, 307 & 364 IPC, on 15.03.2019, at 23.40 p.m., not under Section 302 IPC. Thus, the accused Bachchu Singh is entitled for acquittal and he should be acquitted.

Ld. counsel for the defence has cited following case laws in support of his case.

**(i) Tarun Sharma Vs. State of Haryana, 2026 (1) JIC 130 (SC)**, wherein is held that Evidence Act, 1872, Section 32 (Bhartiya Sakshya Adhinyam, 2023, Section 26)-Dying declaration-Proof of-When eye witnesses affirm that the deceased was not in a fit and conscious state to make dying declaration, medical opinion cannot prevail-Suspicious dying declaration should not be acted upon without corroboration.

**(ii) Nazim & Ors. Vs. State of Uttarakhand, 2026 (1) JIC 557 (SC)**, wherein it is held that when prosecution case is based on circumstantial evidence and only scientific evidence available neither supports the prosecution's narrative nor connects the accused with crime, conviction cannot be based solely on doubtful testimony of witness.

**(iii) Kishan Pal & Ors. Vs. State of U.P. with Shahzade Vs. State of U.P., 2001 (1) JIC 409 (All)**, in which it is held that Penal Code, 1860, Sections 302, 452, 148, 149 and 201-Arms Act, 1959, Section 25-Acquittal-PW-1, 2 and 3 turned hostile-PW-1 disowned his thumb impression on FIR-PW-2 and 3 expressed the ignorance of occurrence-PW-4 only formal witness scribe of FIR dictated by SHO-FIR loses its corroborate value-Factum of death disputed-PW-6 and 7 claimed themselves the eye-witnesses who witnessed the occurrence from the roof of the hut-Existence of this doubtful-Neither any ladder was found there and the hut now not found in existence-PW-6 not named in FIR and he even not reported the matter to any police station for about one year-Presence of PW-6 and 7 doubtful-Appeal allowed-Setting aside the conviction and sentence. (Hostile witness; Eyewitnesses-Presence doubtful).

**(iv) Radhey Sharan & Anr. Vs. State of U.P. 2015(1) JIC 275 (All)**, wherein it is held that Penal Code, 1860, Sections 302, 460, 323 and 34-Acquittal-Motive that the accused not returning the loan amount-

Not strong motive of murder that too of wife of complainant-No case of wrong identification-Injury of complainant by small torch of two cells where the accused were armed with knife and dandas-Prosecution story doubtful-Appeal allowed setting aside the conviction and sentence

Motive- It is a well settled legal principle that if there is an eye-witness account of the occurrence, the motive loses its significance, but this legal principle is applicable only in those cases where the eye-witnesses are reliable and trustworthy otherwise the motive behind an offence is always an important link in the chain of circumstances.

**(v) Kumar Vs. State Rep. by Inspector of Police, 2018 (2) JIC 557 (SC)**, wherein it is held that if the evidence of direct witnesses is not satisfactory, motive of the occurrence becomes important.

**13.1** Learned counsel for the complainant has argued that it is a matter of Honour killing as the deceased had an affair with the accused's daughter. Regarding the said facts some photographs & WhatsApp messages were annexed on file. Therefore, the accused called the deceased Anil and murdered him. The said murder was not committed by one person but by many people together, this is proved by the Post Mortem report as there are several injuries in the post-mortem report which were caused to the deceased jointly, i.e., (i) 3 cm stitched wound on the left eyebrow with swelling all around and dried clotted blood, on further examination it was found to be a scalp haematoma in the Frontoparietal Temporal Occipital region, below which a depressed fracture of the skull was found and on further examination tension and swelling of the brain and meningeal membranes were found. Contusions measuring 3 x 2 cm were found on both sides of the temporal region which were dark brown in colour and subarachnoid haemorrhage was found in both sides of the parietal and cerebellum region of the brain. (ii) Stitched wound 6 cm was present on the parieto-occipital region of the head, with dried blood and swelling surrounding the wound, underlying which was a scalp hematoma. Further examination revealed a fracture of the occipital bone on the left side of the head. (iii) 3 cm stitched wound was present on the right eyebrow, on which clotted blood had accumulated. (iv) 6 cm stitched wound was present on the right parietal region, surrounded by clotted blood. (v) 3 cm stitched wound was found on the left forehead, covered with clotted blood, near the hairline. (vi) 3 cm stitched wound was present on the left temporal parietal region, with

clotted blood. Injuries Nos. 3 to 6 were caused by a sharp-edged weapon, as discovered after opening the stitches. The margins of the injuries were cleanly cut, regular, and well-defined. B. (i) Stab incised wound measuring 2.5 x 1 cm x deep present over left side back of chest, 6 cm from the spine and 16 cm from the shoulder joint. On further examination, the muscles were found to be severed, regular and well-defined, extending to the left lung, with the injury measuring 1.5 x 1.0 the left lobe of the lung. The entire wound was filled with blood and blood clots, and the chest cavity contained approximately 300 cc of blood and blood clots. (ii) Incised wound measuring 2.5 x 1 cm deep into the muscles present on the left posterior part of the chest at a distance of 3 cm from the vertebrae region. (iii) Incised wound 2cm x 1 cm x deep up to the chest which was done by the surgeon during treatment to insert a tube in the chest. C.(i) Abrasion 4 x 1.5 cm blackish brown with hard scabs on the left side of the abdominal bone. (ii) Abrasion 2 x1 CM on the right side of the stomach bone. (iii) Abrasion 2 x 2 CM on the inner side of the left thigh were black and brown in colour with hard scabs. D.(i) 2 x 1.5 x bone-deep incised wound on the inner side of the left thigh, containing blood clotted. The margins of the wound were clear, well-defined, and regular. (ii) Incised wound measuring 2.5 x .5 cm x muscle deep right foot near ankle. The margins of the wound were clear, well defined and regular. (iii) Incised wound measuring 2 x .5 cm x muscle deep was present on the inner dorsal surface of the forearm of the right hand. The margins of the wound were clear, well defined and regular. (iv) Incised wound 4cm x 0.5 cm directly in the occipital region. The margins of the wound are clear, well defined and regular. E. (i) 8 x 4 cm bruise on the left arm, located in the medial region, was bluish black in colour. (ii) 12 x 8 cm bruise on the sternum, located on the front of the chest, was bluish black in colour. (iii) Bruise measuring 8 x 4 CM on the right side of the neck which was blue black in colour. (iv) 6 x 4 cm blue black bruise on the left side of the neck. Injuries No. 1, 2 and 3 in column B could have been caused by a sharp-edged weapon, injuries No. 1, 2 and 3 in column C could have been caused by a blunt weapon, injuries No. 1, 2, 3 and 4 in column D could have been caused by a sharp-edged weapon and injuries No. 1, 2, 3 and 4 in column E could have been caused by a blunt weapon. The cause of death of the deceased was shock due to ante mortem injury

No. 1 of column B and injury No. 1 of column A, which were sufficient in the normal course to cause death.

He further submitted that it has not been stated anywhere by the defence that if the accused has been implicated in this case then why has it been done. No proper reason has been given by the defence to falsely implicate the accused Bachchu Singh in the said case. He further submitted that the mobile number mentioned in the First Information Report (FIR), 9536183252, belongs to P.W. 2/Babli, who lives where the incident occurred. She arrived at the scene after hearing a commotion in the neighborhood and witnessed the said incident. Thereafter, she had made a phone call to the deceased's brother/complainant Vinod Kumar and informed him about the said incident.

In reply to the fact that the inquest proceeding was conducted for a long time i.e., 17 hours, Ld. Counsel for the complainant has pointed out the facts that a G.D. Paper No. 4A/18, in which it is mentioned that "RT message dated 16.03.19 NR 481 GR 300 has been filed from City Control Room, Mathura regarding FIR No. 214/19 under sections 147/148/149/307/364 IPC, Police Station Highway, regarding the death of injured Anil son of Raghuveer, resident of Nagla Pohpi, Police Station Refinery, Mathura, age about 25 years, during treatment on 15.03.2019 at 6.04 pm in Trauma Centre SMS Hospital Jaipur. On the basis of RT message, Section 302 IPC is added in place of Section 307 in the above case. After receiving this information, Sub Inspector Shri Vipin Kumar along with Constable 654 Devendra Singh and Homeguard 1570 Dharajeet were sent to Jaipur to take necessary action along with Panchayat Nama and other documents and copy of the report". On the basis of the said RT message, an information was provided to the police station on 16.03.2019, at 14.49 p.m., then the police personnel mentioned in the said message were sent to SMS Hospital, Jaipur for conducting further proceedings. Thereafter, inquest proceedings of the deceased Anil Kumar were conducted on 17.03.2019, at 8.00 a.m.

He further submitted that the First Information Report was lodged on the basis of a written complaint filed by the complainant and nowhere in that complaint was it mentioned that the brother of the complainant had died, hence initially the case was registered under Section 307 IPC and not under Section 302 IPC. Thus, the accused should be punished.

**13.2** Learned DGC (Crl.) for the State has vehemently denied the submissions made by learned defence counsel and supported the aforesaid arguments advanced by learned counsel for the complainant. He further argued that the alleged incident has been committed by the accused Bachchu Singh and there is sufficient evidence against him in the case diary. He further contended that the alleged incident took place inside the house of the accused Bachchu and his presence at the time of commission of the alleged offence is proved by D.W. 1 in his examination-in-chief. He further submitted that the D.W. 2, who is the brother-in-law of the accused, in his examination-in-chief stated that the accused Bachchu was not present inside his house at the time of incident, but he did not produce any cogent evidence regarding the said facts and he is interested witness. In view thereof, the prosecution has proved beyond doubt that the said accused is guilty of committing murder of deceased Anil Kumar. Therefore, it is prayed that the said accused be punished.

**14.** It is established principle of law that the prosecution must prove its case against the accused beyond reasonable doubt. In view of charges 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 342 IPC. Punishment for wrongful confinement :**

*Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.*

#### **DISCUSSION AND ANALYSIS**

15. The present case arises out of a charge-sheet submitted against the accused Bachchu Singh S/o Harichand for offences punishable under Sections 302 and 342 of the Indian Penal Code, in connection with Case Crime No. 214/2019, P.S. Highway, District Mathura. The case was committed to the Court of Sessions by the learned Chief Judicial Magistrate, Mathura vide order dated 03.07.2019, as the offence under Section 302 IPC is exclusively triable by the Court of Sessions.

The prosecution case, in brief, is that the deceased Anil Kumar was called by the accused Bachchu to Mandi Chauraha on 11.03.2019 and thereafter was brutally assaulted inside the house of the accused. Resulting in grievous injuries, the injured was taken to Bhaskar hospital, Mathura and later referred to SMS, Jaipur, Rajasthan where he succumbed to his injuries on 15.03.2019.

On the basis of the written complaint, the First Information Report was lodged on 15.03.2019, at 23.28/23.40 hours, against 07 named accused persons, namely, Bachchu, Kapil, Ritu, Surabhi, Ballo, Bhagvan Singh, Rakesh and their unknown tenant, in connection with Case Crime No. 214/2019, under Sections 147, 148, 149, 307 & 364 IPC, P.S. Highway, District Mathura, which was subsequently converted into Sections 302 & 342 IPC after death of the injured/victim.

During the course of investigation, the involvement of the accused persons, namely, Kapil, Smt. Ritu, Surabhi, Ballo, Bhagvan Singh, Rakesh and their tenant, was found wrong, hence, their names were expunged from the said case.

After completion of investigation, the Investigating Officer submitted charge-sheet before the concerned Court, Mathura against the accused Bachchu Singh S/o Harichand under Sections 302 & 342 IPC on 19.06.2019 vide charge-sheet No. 01/2019 and charges under Sections

302 & 342 IPC were framed against the accused, who denied the charges and claimed trial.

The prosecution, in order to prove its case, examined nine witnesses including P.W.2 Babli (eye witness), P.W.8 Dr. Anil Solanki (medical expert), and police witnesses.

During the course of trial, accused persons Ritu and five others were summoned under Section 319 Cr.P.C. vide order dated 01.07.2023 passed by Additional Sessions Judge-3, Mathura in Sessions Trial No. 386 of 2019 (State Vs. Bachchu Singh), arising out of Case Crime No. 214 of 2019, under Sections 302 & 342 IPC, P.S. Highway, District Mathura. Thereafter, revisionists Ritu & five others moved a petition, i.e. Criminal Revision No. 4128 of 2023 before the Hon'ble Allahabad High Court, wherein the Hon'ble Court was pleased to pass an order that "*Put up on 05.09.2023 as fresh. Till then, no coercive shall be taken against the revisionists in pursuance of the said order dated 01.07.2023*". Thereafter, the prosecution filed an application Paper No. 53-B stating therein that the testimony in the Sessions Court regarding accused Bachchu has been completed. Proceedings regarding the remaining accused are stayed by the Hon'ble High Court's order dated 09.08.2023 passed in Criminal Revision No. 4128/2023. Therefore, the accused Bachchu's file should be separated from that of the other accused. In view of the above, application 53-B submitted by the prosecution was allowed vide order dated 27.08.2025 passed by Additional Sessions Judge, Court No. 08, Mathura and the file of the other accused, Kapil, Ritu, Surabhi, Ballo, Bhagwan and Rakesh, is separated from that of accused Bachchu Singh.

### **REBUTTAL OF DEFENCE ARGUMENTS**

#### **Delay in Lodging FIR**

The defence has contended that there is an unexplained delay of about four days in lodging the FIR. The record shows that the written complaint was given to the police station on 12.03.2019 addressed to S.H.O., on which the then concerned Circle Officer called for report after investigating the matter on 13.03.20219. Thereafter, the then S.H.O., P.S. Highway directed SI Vipin Kumar that the necessary action be taken after investigating the said matter. After that in compliance with the order of SSI, P.W. 4 Jitendra Kumar had lodged a Chik FIR against the accused Bachchu & others in connection with Case Crime No. 214/2019, under Sections 147, 148, 149, 307 & 364 IPC and proved the same as Exhibit

Ka-2. The record further reveals that the deceased was in a critical condition and undergoing treatment from 12.03.2019 to 15.03.2019. The priority of the family was to save the life of the injured rather than rush to the police station.

The Hon'ble Supreme Court, in **Raghuveer Singh v. State of Haryana, 2000 Cr.L.J. 2463**, held that if the victim was first taken to the hospital for treatment and then the First Information Report was filed, this is a delay that is obvious and not detrimental to the prosecution in any way.

It is also well settled that delay in lodging FIR is not fatal when properly explained.

Hence, the delay stands satisfactorily explained and does not affect the prosecution case. Thus, the aforesaid argument regarding delay in lodging FIR is devoid of merit.

#### FIR Ante-timed / Fabricated

The defence has alleged that the FIR is ante-timed and fabricated. However, no material contradiction or evidence has been brought on record to substantiate this allegation. The FIR is duly supported by G.D. entry, Exhibit Ka-3. Testimony of P.W.4 (FIR scribe) Mere bald allegation without proof cannot discredit prosecution case.

#### Non-Mention of mobile number

It has been argued by the defence that the First Information Report states that when the complainant's brother, Anil, did not return by noon, the complainant called his brother's mobile number, but the said number is not mentioned anywhere in the entire FIR.

Ld. defence counsel further contended that the complainant Vinod Kumar also stated in his cross-examination that his sister had informed him regarding the incident, and that it was his sister who had named the accused persons and also revealed the location of the place of occurrence. However, this fact is neither in the First Information Report nor in his examination-in-chief.

It is held by the Hon'ble Supreme Court in **Prabhu Dayal Vs. State of Rajasthan, (2018) 8 SCC 127** that the FIR is not the encyclopedia of all the facts relating to crime. The only requirement is that at the time of lodging FIR, the informant should state all those facts which normally strike to mind and help in assessing the gravity of the crime or identity of the culprit briefly.

### Contradictions in Testimony of P.W.1

Defence pointed out alleged contradiction regarding residence of brothers.

To discuss the aforesaid point, I have gone through the cross-examination of the complainant/P.W. 1/Vinod Kumar, who has stated that it is belied to say that his brother Anil doesn't live with him and he lives with another brother Suneel. However, such discrepancy is trivial and does not affect core prosecution story.

It is held by the Hon'ble Supreme Court in **State of U.P. v. M.K. Anthony, (1985) 1 SCC 505** that minor contradictions in testimony do not ruin a case if the evidence is generally trustworthy.

### No Eye Witness

Defence has argued that there is no eye witness.

To clarify the said argument, I have gone through the evidence of the complainant/P.W. 1/Vinod Kumar, who has stated in his examination-in-chief that he received a call on his mobile number 9627620512 from 9536183352, stating, "Your brother Anil Kumar has been kidnapped from Mandi Chauraha by Bachchu son of Harichand, Kapil son of Bachchu, Ritu wife of Kapil, Surabhi daughter of Bachchu, & Ballo, Bhagwan Singh, Rakesh, sons of Harichand, and their tenant. They have taken him to their house and killed him. The highway police have arrived and taken your brother's body from Bachchu's house. Your brother's body was drenched in blood, and Bachchu's house was also with blood. The police have also taken Bachchu and his daughter Surabhi". He has further stated in his cross-examination that his sister provided an information to him regarding the said incident. His sister has also told the name of the accused persons as well as place of occurrence to him.

I have further gone through the evidence of P.W. 2/Babli, who has stated in his examination-in-chief that on 11.03.2019, there was a huge crowd around Bachchu's house. When she came out of her house & stopped seeing the crowd in front of Bachchu's house and peeped through the iron door of Bachchu's house that the accused Bachchu, Ballo, Bhagwan Singh, Rakesh, Kapil, Surabhi and Ritu were assaulting a man with stick, iron rod, axe and sickle with the intention of killing him. She entered inside the house with the police and saw that the man lying unconscious was her brother Anil. She had called Anil's elder brother

Vinod about the incident. The police had questioned her regarding the incident.

She has further stated in her cross-examination that if the police did not record in her statement that she had seen any of the accused, or that she had informed her brother about the incident, then she cannot explain the reason for it. She has further stated that it is belied to say that she deposed false testimony in the Court after legal consultation to falsely implicate the accused in the said case. She has further stated in her cross-examination that after receiving summons from the Court, she arrived at the Court and came to know that the police did not record her statements which she gave to the police. She further narrated that it is belied to state that neither she witnessed any incident nor she went to the house of Bachchu, nor she saw the accused, nor she saw the injured, nor she told the police about the said incident. She further stated that it is belied to state that the said incident did not occur in the house of Bachchu.

Upon careful appreciation of the testimony of P.W. 1 & P.W.2, this Court finds that P.W.2 is a natural and reliable witness who had the occasion to see the occurrence. Her presence at the place of incident is fully established and her ocular account regarding the assault by the accused persons remains unshaken in cross-examination. Accordingly, this Court holds that P.W.2 is a truthful eye-witness of the occurrence. Her testimony is corroborated by medical evidence also.

Contradiction in Statement of P.W.2

Defence highlighted alleged contradiction between statement of P.W. 2 under Section 161 Cr.P.C. and deposition.

Such contradiction is not material. The core fact that accused assaulted the deceased remains intact.

It is held by the Hon'ble Supreme Court in **Bur Singh & another Vs. State of Punjab 2009 (65) ACC 98 (Supreme Court)** that normal discrepancies do not corrode the credibility of evidence.

No document of Bhaskar Hospital as well as no original document of inquest report

Ld. defence counsel has contended that the complainant has stated in his written complaint, First Information Report, and his cross-examination that his brother, Anil, was treated at Bhaskar Hospital, located at Mandi Chauraha, but no documents from Bhaskar Hospital are

on record. Furthermore, there is no original Inquest report (Panchayatnama).

As far as the aforesaid point is concerned, it is noteworthy to mention here that documents from Bhaskar Hospital, where the injured was initially admitted, have not been filed. However, this omission is not fatal for the following reasons:

(i) The fact that the injured was taken to hospital is proved by P.W.7/Constable Rinku Kumar, (ii) The death and nature of injuries are conclusively proved by post-mortem report.

At best, the above omissions can be termed as lapses in investigation. It is well settled that defective investigation does not entitle the accused to acquittal when there is other reliable evidence on record. The Court has to evaluate the evidence independently of such lapses.

It is held by the Hon'ble Supreme Court in **Khem Ram Vs. State of Himachal Pradesh, (2018) 1 SCC 202** & **State of Karnataka Vs. Suvarnamma, (2015) 1 SCC 323** that any irregularity or deficiency in investigation by I.O. need not necessarily lead to rejection of the case of prosecution when it is otherwise proved. The only requirement is use of extra caution in evaluation of evidence. A defective investigation cannot be fatal to prosecution where ocular testimony is found credible and cogent.

It is further relevant to mention here that P.W.6 (Investigating Officer) has categorically deposed that he prepared the inquest report. The certified photocopy of the same is available on record and proved as Exhibit Ka-9. The said document has been duly proved by the Investigating Officer.

It is settled law that where the original document is not available, secondary evidence is admissible under Section 65 of the Indian Evidence Act, subject to proper foundation.

Therefore, the photocopy of the inquest report is legally admissible and has been rightly relied upon.

In view of the above discussion, the photocopy of the inquest report is admissible as secondary evidence under Section 65 Evidence Act. Non-production of Bhaskar Hospital record is a minor lapse and does not affect the prosecution case. The core evidence (ocular, medical & recovery) remains intact and reliable.

### No Motive

Defence argued absence of motive. This argument fails in light of direct evidence. Motive loses significance where ocular evidence is reliable.

The Hon'ble Supreme Court in **Jafail Biswas v. State of West Bengal (2019) 12 SCC 560** held that if the prosecution succeeds in proving its case, the existence or absence of motive is immaterial.

### Recovery/FSL Report

Defence argued that recovered weapons were not sent to FSL.

As far as the aforesaid point is concerned, it is relevant to go through the examination-in-chief as well as cross-examination of P.W.5/Inspector Nitin Kasana, who has stated that during the course of investigation, the murder weapon, i.e. danda and sickle (Daranti) were recovered at the instance of the accused Bachchu Singh, which is proved by P.W. 5 as Exhibit Ka-7. Moreover, the said recovery was also corroborated by P.W. 9/Constable Krishna Kumar saying in his examination-in-chief as well as cross-examination that the accused Bachchu took out the deadly stick and sickle which were hidden in a gunny bag under the cot in the western shop of his house and gave it to police at 13:20 hrs and told that with this stick and sickle he had inflicted serious injuries to Anil.

It is held by the Hon'ble Supreme Court as well as Hon'ble Allahabad High Court in **Sandeep Vs. State of UP, (2012) 6 SCC 107 & Tejpal Vs. State of U.P., 2005(53) ACC 319 (Allahabad-D.B.)**, respectively, 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.

Merely because the Investigating Officer failed to send the recovered danda and sickle to the FSL, the same does not render the prosecution case doubtful. It is a settled principle of law that lapses in investigation cannot enure to the benefit of the accused when there is cogent and reliable ocular testimony duly corroborated by medical evidence. The injuries found on the person of the deceased are fully consistent with the use of blunt and sharp weapons like danda and sickle respectively. Therefore, the non-FSL examination is only a procedural lapse and not fatal to the prosecution.”

#### No Dying Declaration

Defence contended absence of dying declaration.

This argument is irrelevant as P.W. 7 Constable Rinku Kumar has deposed in his examination-in-chief he along with fellow police personnel arrived at Shambhunath Tila, where a large crowd had gathered outside a house. When they went inside, i.e. Bachchu’s house, they saw a man lying unconscious and drenched in blood, seriously injured. The injured man was unconscious and unable to speak. He further stated in his cross-examination that when he along with fellow police personnel reached the place of occurrence and found that the injured Anil was lying in unconscious state there. Thus, the defence contention regarding absence of dying declaration is devoid of merit. The evidence of P.W.7 clearly establishes that the injured was found in an unconscious condition and was not in a position to speak. Thus, the possibility of recording any dying declaration stands ruled out. It is a settled proposition of law that non-availability of a dying declaration does not in any manner dent the prosecution case when there is otherwise cogent and reliable evidence on record.

It is held by the Hon’ble Supreme Court in **Kake Singh Vs. State of M.P., 1981 Supp SCC 25** that when maker of DD is unconscious, where the deceased was unconscious and could never make any DD the evidence with regard to it is to be rejected.

#### Inquest Delay

Learned defence counsel has contended that the inquest proceedings were conducted with abnormal delay, as they commenced on

16.03.2019 and concluded on 17.03.2019, and therefore the prosecution case becomes doubtful.

As far as the aforesaid point is concerned, it is relevant to mention here that a G.D. Paper No. 4A/18, in which it is mentioned that “RT message dated 16.03.19 NR 481 GR 300 has been filed from City Control Room, Mathura regarding FIR No. 214/19 under sections 147/148/149/307/364 IPC, Police Station Highway, regarding the death of injured Anil son of Raghuveer, resident of Nagla Pohpi, Police Station Refinery, Mathura, age about 25 years, during treatment on 15.03.2019 at 6.04 pm in Trauma Centre SMS Hospital Jaipur. On the basis of RT message, Section 302 IPC is added in place of Section 307 in the above case. After receiving this information, Sub Inspector Shri Vipin Kumar along with Constable 654 Devendra Singh and Homeguard 1570 Dharajeet were sent to Jaipur to take necessary action along with Panchayat Nama and other documents and copy of the report”. On the basis of the said RT message, an information was provided to the police station on 16.03.2019, at 14.49 p.m., then the police personnel mentioned in the said message were sent to SMS Hospital, Jaipur for conducting further proceedings. Thereafter, inquest proceedings of the deceased Anil Kumar were conducted on 17.03.2019, at 8.00 a.m. The above sequence clearly establishes that there is no gap or unexplained interval after receipt of information. Police acted promptly by deputing officer immediately after G.D. entry. The inquest was conducted at Jaipur, i.e., outside jurisdiction (different State). The time consumed is fully explained by receipt of RT message, recording in G.D., travel from Mathura to Jaipur, procedural formalities at hospital.

It is well settled that mere passage of time does not amount to delay unless it is unexplained and prejudicial.

In view of the chronological sequence, this Court finds that the police acted promptly upon receiving information. The time taken is natural and reasonably explained. There is no intentional or unexplained delay in conducting the inquest proceedings. Accordingly, the contention of the defence regarding delay in inquest proceedings is rejected.

FIR Initially Under Section 307 IPC

Defence argued that FIR was not under Section 302 IPC.

At the time of FIR, the victim was alive. Section 302 IPC was rightly added after death.

### Plea of Alibi

Defence plea that the accused was at Chiksana, Bharatpur, Rajasthan at the time of the incident. In support of this point, he has examined D.W.2 Gulab Chandra, who has deposed in his examination-in-chief that the marriage of his daughter Priyanka was solemnized on 08.03.2019 at Chiksana. His daughter's departure from her in-laws' home was scheduled for 11.03.2019. Accused Bachchu Singh was his brother-in-law (sala). His daughter is Bachchu's niece. He further submitted that Bachchu and his family members, except Bachchu's Daughter Surabhi, had gone to his house to see off his daughter from her in-laws' home. Bachchu Singh left Mathura for Chiksana on his motorcycle at 5.30 in the evening on 11.03.2019. Bachchu reached Bharatpur around 7.00 hours. Then, he talked to him on phone call, Bachchu told him that he is coming and at Bharatpur. Fifteen minutes later, Bachchu called him again and informed him that a commotion had broken out at his home in Mathura. He was heading back to Mathura and he went to Mathura. He further deposed that Bachchu Singh was not present at the scene at the time of the incident.

In connection with the aforesaid point, the defence has not produced any cogent document, i.e. the marriage card, video recording and CCTV footage, call details of accused and CDR, etc., which corroborates the accused's presence in the house of D.W.2 daughter's in-laws' home, i.e. Chiksana, Bharatpur, Rajasthan. The said witness D.W. 2 is also the interested witness. Thus, the aforesaid point of Alibi loses its importance and prosecution gains relevancy.

It is held by the Hon'ble Supreme Court in **Sandeep Vs. State of UP, (2012) 6 SCC 107** that burden of proving the plea of alibi lies upon the accused. If the accused has not adequately discharged that burden, the prosecution version which was otherwise plausible has, therefore, to be believed.

Accordingly, the defence has failed to create any reasonable doubt. On the contrary, false defence strengthens prosecution case.

### **POINTS FOR DETERMINATION:**

**15.1** The following points arise for determination:

- (i)** Whether the accused wrongfully confined the deceased ?
- (ii)** Whether the death of Anil Kumar was homicidal in nature ?
- (iii)** Whether the accused caused the death of the deceased?

**Whether the accused wrongfully confined the deceased?**

**15.2** The basis of the present case had commenced on Exhibit Ka-1 i.e. the written complaint (Tehrir) of the present case, which was given by the complainant Vinod Kumar, who is the brother of the deceased Anil Kumar, on 12.03.2019, at Police Station Highway, Mathura, stating therein that his brother Anil Kumar left the house on 11.03.2019, at 6.00 in the morning, saying that Bachchu S/o Harichand, resident of Shambhunath Tila near Delhi Wali boundary, P.S. Highway has called him to Mandi Chauraha for some discussion and he will return after an hour.

It is pertinent to mention here from the said facts that the complainant's brother Anil Kumar was called by the accused Bachchu Singh.

The First Information Report further reveals that when the complainant's brother did not come till noon, he called on his brother's phone but the phone was switched off. Thereafter, in the evening at around 8.00 p.m., complainant received a phone call from number 9536183352 that his brother Anil Kumar has been kidnapped by Bachchu Singh S/o Harichand, Kapil S/o Bachchu, Ritu W/o Kapil, Surabhi D/o Bachchu, and Ballo, Bhagwan Singh, Rakesh, sons of Harichand, and their tenant. All of them have kidnapped Anil Kumar from Mandi Chauraha and after bringing him to their house and killed him. During the course of investigation, the Investigating Officer traced out the aforesaid mobile number and found that the said mobile number was of Babli, who is the cousin (sister) of the deceased.

For the aforesaid point of determination, it is also observed that P.W. 2 Babli has stated in her examination-in-chief that on 11.03.2019, after hearing the commotion, she came out of her house & saw the crowd in front of Bachchu's house and peeped through the iron door of Bachchu's house that the accused Bachchu, Ballo, Bhagwan Singh, Rakesh, Kapil, Surabhi and Ritu were assaulting a man with stick, iron rod, axe and sickle with the intention of killing him. She also stated that after sometime, police reached the place of occurrence. Seeing the police arrive, all the accused fled from the scene, leaving the man half dead. She entered inside the house with the police and saw that the man lying

unconscious was her brother Anil. Subsequently, she had informed her Anil's elder brother Vinod about the said incident over phone call.

Further, regarding wrongfully confinement of the accused Anil in the house of accused, I have also gone through the deposition of D.W. 1, who lives in the neighborhood of the accused Bachchu and found that the said witness has stated firstly in his examination-in chief that neither the accused Bachchu nor any one was present in his house, but further stated that the accused's daughter Surabhi was present at the house. Thus, the said statements regarding the presence of the accused are contradictory to each other and does not appear reliable. He further stated in his statement that the injured/deceased was Anil, whom the police had taken away with them from the house of the accused.

P.W. 7/Rinku Kumar has also stated in his examination-in-chief that after getting information, he along with fellow police personnel Constable Rajesh Kumar, reached Shambhunath Tila, where a large crowd had gathered outside a house of accused Bachchu and when they went inside and found a man who was Anil lying unconscious and seriously injured. Thereafter, they admitted the said injured person to the hospital and reported to the police station about the said incident.

Thus, it is clear from the said depositions that the deceased Anil Kumar was wrongfully confined by the accused Bachchu. Accordingly, the point for determination No. (i) is hereby disposed of.

**Whether the death of Anil Kumar was homicidal in nature ?**

**15.3** To determine the aforesaid point for determination, I have gone through the inquest report (Panchayatnama) of the deceased, i.e. Exhibit Ka-9, as well as post-mortem report (Paper No. 4A/14) of the deceased Anil, i.e. Exhibit Ka-10, which are proved by P.W. 6/Inspector Vipin Kumar and P.W. 8/Dr. Anil Solanki, respectively.

P.W. 6 had appointed five Panchas, i.e. Suneel, Hari Singh, Jagesh, Giriraj and Pramod. The Panchas opined that Anil Kumar's death appeared to be caused by the sharp-edged weapon and other injuries. However, they recommended a post-mortem to determine the exact cause of death. His opinion was same as the Panchas' opinion. Thereafter, post-mortem of the deceased was conducted on 17.03.2019, at 9.40 a.m.

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

### **A. Scalp, Skull & Vertebrae**

**(i)** Stitched wound 3 cm on the left eyebrow vertically with surrounding swelling and dryclotted blood. On dissection, subscalp haematoma present in the Frontoparietal Temporal Occipital region, below which skull bone found depressed fracture. On further examination, tension and swelling of the brain and meningeal membranes were found. Contusions measuring 3 x 2 cm were found on both sides of the temporal region which were dark brown in colour and subarachnoid haemorrhage was found in both sides of the parietal and cerebellum area of the brain.

**(ii)** Stitched wound 6 cm was present on the parieto-occipital region of the head, with dry clotted blood with surrounding swelling. On dissection, subscalp hematoma present. On further examination, there is skull bone found fracture left occipital bone.

**(iii)** Stitched wound 3 cm right eyebrow vertically placed with clotted blood.

**(iv)** Stitched wound 6 cm right parietal region with dry clotted blood present vertically placed.

**(v)** Stitched wound 3 cm left forehead near hairline with dry clotted blood present.

**(vi)** Stitched wound 3 cm left temporal parietal region with dry clotted blood.

Doctor had opined that injuries No. 3 to 6 on stitched removed, margins are clean cut, regular and well-defined caused by sharp weapon.

**B. (i)** Stab incised wound 2.5 cm x 1 cm x deep present over left side back of chest, 6 cm from vertebral region and 16 cm from left acromion process. On further examination, there is muscle found cut, regular and well-defined and reach upto left lung posterior aspect 1.5 x 1.0 x left lobe deep. Tract filled with blood and blood clots and the chest cavity contained about 300 cc of blood and blood clots.

**(ii)** Incised wound 2.5 cm x 1 cm x muscle deep present over left side back of chest 3 cm from the vertebral region.

**(iii)** I.W. 2cm x 1 cm x chest cavity containing left mid axillary line done surgically (ICCD).

**C.(i)** Abrasion 4 x 1.5 cm blackish brown with hard scab present over left anterior superior iliac spine.

**(ii)** Abrasion 2 x 1 cm present right anterior superior iliac spine.

**(iii)** Abrasion 2 x 2 cm present over left thigh were black and brown in colour with hard scabs.

**D.(i)** Incised wound 2 cm x 1.5 cm x bone-deep left leg containing blood clot. The margins of the wound were clear, well-defined, and regular.

(ii) Incised wound measuring 2.5 x .5 cm x muscle deep right foot near ankle with clean cut, well defined and regular.

(iii) Incised wound 2 x 0.5 cm x muscle deep was present on the inner dorsal surface of the forearm of the right hand. The margins of the wound were clean cut, well defined and regular.

(iv) Incised wound 4cm x 0.5 cm right occipital region with clean cut, well defined and regular.

E. (i) 8 x 4 cm bruise on the left arm, located in the medial region, was bluish black in colour.

(ii) 12 x 8 cm bruise on the sternum, located on the front of the chest, was bluish black in colour.

(iii) Bruise measuring 8 x 4 CM on the right side of the neck which was blue black in colour.

(iv) 6 x 4 cm blue black bruise on the left side of the neck.

F. The blood of the deceased was soaked on a bandage and sent in a sealed glass bottle for cross matching.

The Dr. In his opinion, injuries No. 1, 2 and 3 in column B could have been caused by a sharp-edged weapon, injuries No. 1, 2 and 3 in column C could have been caused by a blunt weapon, injuries No. 1, 2, 3 and 4 in column D could have been caused by a sharp-edged weapon and injuries No. 1, 2, 3 and 4 in column E could have been caused by a blunt weapon.

P.W. 8/Dr. Anil Solanki, who conducted the post-mortem of the deceased, has opined in connection with the said injuries that the cause of death of the deceased Anil is shock as a result of ante mortem injury No. 1 of column B and injury No. 1 of column A, which is sufficient to caused death individually & cumulatively effects, in ordinary course of nature.

It is held by the Hon'ble Supreme Court in **Virsa Singh v. State of Punjab, AIR 1958 SC 465** that if injury is sufficient in ordinary course to cause death, then it would be murder.

Upon careful consideration of the testimony of P.W. 6, who conducted the inquest proceedings of the deceased, P.W.8, who conducted the post-mortem of the deceased, and the post-mortem report, i.e. Exhibit Ka-10, it is evident that the deceased sustained multiple ante-mortem injuries including incised wounds, stitched wounds, stab injuries and skull fractures on vital parts of the body of the deceased. The cause of death has been opined as shock due to such injuries, which were sufficient in the ordinary course of nature to cause death. The number,

nature and location of injuries clearly rule out the possibility of accidental or suicidal death. The injuries were inflicted by sharp and blunt weapons, indicating a deliberate and violent assault.

In view of the above medical evidence and surrounding circumstances, this Court has no hesitation in holding that the death of Anil Kumar was homicidal in nature. Accordingly, the point for determination No. (ii) is hereby disposed of.

**Whether the accused caused the death of the deceased ?**

**15.4** To determine the aforesaid point for determination, I have further gone through the ocular evidence of P.W. 2/Babli (Eye Witness), who has categorically stated in her examination-in-chief that she saw the accused assaulting the deceased with stick, iron rod & sickle inside his house. Her presence is natural as she resided in the same locality of the accused.

It is held by the Hon'ble Supreme Court in **State of U.P. v. Krishna Master & Ors., (2010) 12 SCC 324** that reliable ocular evidence is sufficient for conviction.

Further, I have considered the statement of P.W. 7 Constable Rinku Kumar, who has stated in his examination-in-chief that he along with fellow police personnel, reached the spot immediately and found the deceased inside accused's house lying unconscious, drenched in blood & seriously injured.

It is established by the statements of P.W. 2, P.W.7, site plan of the place of occurrence, admission of D.W. 1 (defence witness) and statement made by the accused under Section 313 Cr.P.C. that the place of occurrence was accused's house.

During the course of investigation, the Investigating Officer of the said case recorded the statement of the accused under Section 161 Cr.P.C., wherein he states that:

*"I have three children, two girls and a boy. One girl and one boy are married. One girl, Kumari Surabhi, has become marriageable. I was searching for a boy for her marriage. Two-three months ago, I went to my in-laws' village Nagla Pahi. There I was discussing about the girl's marriage, then a boy Anil son of Raghuvver, resident of Nagla Pahi, Police Station Refinery, Mathura was also present there, so he told that he knows a boy, who works for HPCL and is a resident of Deeg, currently living in Mathura. After some time, Anil spoke to the boy's father and arranged to see the boy. We liked the boy, and a few days later, we arranged for Pankaj, son of Kamal, resident of Bhagwan Nagar, to marry Pankaj and Surabhi. The marriage was scheduled for April 12th. Since Anil had arranged the said*

*marriage, he started visiting us frequently. He obtained the mobile number of Surabhi and started talking to her. He lured or intimidated her and took two obscene photos of her. Based on those photos, the accused's daughter stopped talking to him. He started calling me and sending messages on WhatsApp, demanding that he talks to Surabhi. If you don't, he will show these photos to the person where her marriage is fixed and get the marriage cancelled. We blocked his number several times, but he kept messaging me on WhatsApp from different numbers. All the messages are saved on my phone, and you can see them if you want. That day, he had been sending random messages since morning. My family, i.e. my son Kapil, his wife Ritu, and my wife Vinati Devi had gone out to attend a program in Chiksana, Rajasthan, for my niece's Dashahi. Only my daughter Surabhi, my younger grand-daughter Kasis, and I were at home. In the evening, I went out for a walk. When I returned home around 6:30, Anil was at my house. As soon as he saw me, he started saying, "You didn't let me talk to Surabhi." Hearing this, I became enraged. I picked up a stick nearby and hit him on the head, causing him to fall. I was extremely angry. I hit him with several more blows. I was fed up with his behavior and with the intention of killing him, I attacked him several times with a sickle lying nearby. Hearing the noise, 8/10 passersby came to my house. Seeing them, I shouted thief thief and told everyone that he is a thief and has entered my house. Everyone, thinking him to be a thief, beat him further with sticks lying nearby. I do not know the names of those passersby. I had hidden the stick and the sickle inside the shop itself. I had washed the sickle which was soaked in blood with water and hidden it.*

Now coming to the point of motive of the accused Bachchu behind committing the said offence, I have considered the argument advanced by the learned counsel for the complainant as well as statement of the accused recorded under Section 161 Cr.P.C. as mentioned above, which was not proved by the prosecution side. However, regarding the credibility of the said statement, the prosecution has filed some objectionable photographs of deceased and accused's daughter & WhatsApp chats with the accused, available on file, which reflect the deceased had illicit relation with the accused's daughter. Further, the conduct of the accused in raising a false alarm of "thief-thief", followed by concealment and washing of the weapon, clearly indicates a guilty mind and supports the existence of a strong motive behind the occurrence. The nature of assault, repeated blows, and use of a deadly weapon indicate that the act was not a trivial reaction but stemmed from deep-rooted resentment, thereby reinforcing the prosecution case regarding motive. In view of the said discussion, this Court finds that the

prosecution has successfully established the existence of motive. The consistent evidence regarding prior interaction between the deceased and the family of the accused, coupled with the admissions made by the accused himself and his subsequent conduct, clearly indicate that the accused was aggrieved by the acts of the deceased and had a strong reason to commit the offence. The mere non-recovery of the mobile phone does not, in any manner, dilute the prosecution case.

It is held by the Hon'ble Supreme Court in **Sanjeev Vs. State of Haryana, (2015) 4 SCC 387** that Motive is something which prompts a man to form an intention. The intention can be formed even at the place of incident at the time of commission of crime. It is only either intention or knowledge on the part of the accused which is required to be seen in respect of the offence of culpable homicide. In order to read either intention or knowledge, the courts have to examine the circumstances, as there cannot be any direct evidence as to the state of mind of the accused.

It is also relevant to discuss here the statement of D.W. 1 and D.W. 2, who are examined by the defence in support of his case. I have considered the arguments deposed by D.W.1 & D.W.2 & found that there are contradictions between the statements of them, i.e. both of them are not the eye witness of the said incident. Firstly, D.W.1 has stated in his statement that neither Bachchu nor others were present in the house of Bachchu. Secondly, he stated that the Bachchu's daughter, Surabhi, was present at the house. Thus, the said statements are contradictory to each other. Further, D.W. 1 firstly stated in his statement that the police reached the spot and took the injured Anil with them and secondly, he stated that no police has arrived at the scene in his presence. Thus, this statements are also contradictory to each other.

Further, D.W. 2 has mainly stated in his statement that his daughter's departure after her marriage from her in-laws' home was scheduled on 11.03.2019. Accused Bachchu Singh was his brother-in-law (sala). His daughter is Bachchu's niece. On the said date, Bachchu and his family members, except Bachchu's Daughter Surabhi, had gone to his house to see off his daughter from her in-laws' home, but with regard to the aforesaid point, the defence has not produced any cogent document, i.e. the marriage card, video recording, CCTV footage and mobile CDR location, etc. which corroborates the accused's presence at her daughter's in-laws' home, i.e. Chiksana, Bharatpur, Rajasthan. The said

witness D.W. 2 is also the interested witness. Accordingly, both the statements of D.W. 1 & D.W. 2 are not reliable and lose its importance.

It is also relevant to mention here that D.W.1 Laxman Singh has deposed in his examination-in-chief that about 6-6.5 years ago between 7:00 & 8:00 in the evening, he saw that in the park situated in front of Bachchu's house, 4-5 boys were drinking alcohol and getting into a brawl. At the same time, one boy entered the house of the Bachchu after saving his life. Thereafter, three boys also entered the house of Bachchu. Some held stick, others iron rods, and others knives and they assaulted the first boy, who entered the house of Bachchu and injured him.

It is noteworthy that no suggestion regarding the said alleged incident was put to any of the prosecution witnesses during cross-examination. Thus, the defence has failed to confront the prosecution witnesses with this version, which further indicates that the said story has been subsequently concocted. If such an incident had actually taken place inside the house of the accused, it was expected that either the accused or D.W.1 would have informed the police or lodged a complaint. However, no such report or complaint has been brought on record. This unnatural conduct casts serious doubt on the veracity of the defence version. The testimony of D.W.1 stands uncorroborated by any independent evidence. Thus, the version lacks credibility. The defence version appears to be an afterthought, introduced for the first time during defence evidence. The same is, therefore, not worthy of credence. In view of the said discussion, this Court finds that the version put forth by D.W.1 is a belated and concocted story, which does not inspire confidence and is liable to be rejected.

It is held by the Hon'ble Supreme Court in **Mani @ Udattu Mani & Ors. Vs. State represented by Inspector of Police 2009 (67) ACC 526 (Supreme Court)** that in the matter of the criminal trial, deficient evidence. The Court is bound to separate chaff from grain. The evidence is not to be disregarded in all respect. The part of evidence found worthy of acceptance, it may be used for conviction of the accused.

It is held by the Hon'ble Supreme Court in **Sudip Kumar Sen Vs. State of W.B., (2016) 3 SCC 26 as well as State of UP Vs. Satveer, (2015) 9 SCC 44** that in a criminal trial quality of evidence and not the quantity matters. As per Sec. 134 of the Evidence Act, no particular number of witnesses is required to prove any fact. Plurality of witnesses

in a criminal trial is not the legislative intent. If the testimony of a sole witness is found reliable on the touchstone of credibility, accused can be convicted on the basis of such sole testimony.

It is held by Hon'ble Allahabad High Court in **Chotey Lal & Another Vs. State of U.P., 2010 (3) ACR 3275**, that independent witness hardly come forward to depose in present times. Hence, in the present time it is difficult to get independent witness to come to the Court of law and depose their statements.

It is held by the Hon'ble Supreme Court in **Leela Ram Vs. State of Haryana 2000 Supreme Court Cases (Crl.) 222** that criminal case, the corroboration with mathematical niceties should not be expected.

It is held by the Hon'ble Supreme Court in **Yogesh Singh Vs. Mahabeer Singh & Others, AIR 2016 SC 5160**, that is a cardinal principle of criminal jurisprudence that the guilt of the accused must be proved beyond all reasonable doubts. However, the burden on the prosecution is only to establish its case beyond all reasonable doubts but not all doubts.

Upon careful evaluation of the entire evidence on record, this Court finds that P.W.2 Babli, an eye witness, has clearly and categorically deposed that the accused Bachchu Singh assaulted the deceased inside his house by means of stick and sharp-edged weapon sickle. Her testimony is natural and inspires confidence. The said ocular version stands fully corroborated by the testimony of P.W.7 Constable Rinku Kumar, who reached the spot and found the injured lying inside the house of the accused in a grievously injured condition.

It is further established from the evidence on record, including site plan of the place of occurrence, i.e. the accused's house and defence witness D.W.1, that the incident occurred inside the house of the accused. Once this fact is proved, the burden shifts upon the accused under Section 106 of the Indian Evidence Act to explain the circumstances under which the deceased sustained fatal injuries inside his house. However, the accused has failed to furnish any plausible explanation, which constitutes an additional incriminating circumstance against him. The recovery of weapon of offence, namely stick and sickle, at the instance of the accused further strengthens the prosecution case. The medical evidence fully corroborates the ocular version as the injuries found on the body of the deceased are consistent with the weapons used. The defence version that

the deceased was assaulted in a park is wholly improbable and unsupported by any reliable evidence. On the contrary, it stands falsified by the prosecution evidence and admissions of defence witness.

In view of the aforesaid facts and circumstances, this Court is of the considered opinion that the prosecution has successfully proved beyond reasonable doubt that it was the accused Bachchu Singh who caused the fatal injuries to the deceased Anil Kumar, resulting in his death. Accordingly, the point for determination No. (iii) is hereby disposed of.

**16.** Considering all the facts, circumstances of the case, the nature & gravity of offence, manner of commission and all the prosecution evidence, this Court is of the view that the prosecution has proved its case beyond reasonable doubt against the accused Bachchu Singh that he wrongfully confined the deceased Anil Kumar & caused the fatal injuries to him, resulting in his death and committed his murder. Thus, the accused is liable to be held guilty & convicted under Sections 302 & 342 of Indian Penal Code, 1860, in connection with Case Crime No. 214/2019, P.S. Highway, District Mathura.

**ORDER**

Accordingly, the accused Bachchu Singh is hereby held guilty and convicted under Sections 302 & 342 of Indian Penal Code, 1860, in connection with Case Crime No. 214/2019, P.S. Highway, District Mathura.

The accused Bachchu Singh is present before the Court from jail. File be put up before this Court after lunch for hearing on point of sentence today.

**Dated : 31.03.2026**

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

- (i)** File put up today after lunch for hearing on sentence.
- (ii)** Accused Bachchu Singh is produced before the Court in judicial custody from District Jail, Mathura.
- (iii)** Learned counsel for the complainant as well as learned DGC (Crl.) is present before the Court. They have submitted that the alleged offence is grave in nature involving brutal assault causing death of the deceased by the said accused. Thus, they prayed for maximum punishment to the accused.

Learned counsel for the accused is also present before the Court and has submitted that accused is neither professional criminal nor habitual offender. Thus, he prayed for leniency.

(iv) Heard learned counsels for the parties on the point of sentence and perused the record.

(v) In view of all the facts and circumstances of the present case, the following sentence is awarded to the said convicted accused.

**ORDER**

(1) Accused Bachchu Singh is convicted under Section 302 Indian Penal Code, 1860. Hence, he is awarded rigorous imprisonment for life under Section 302 Indian Penal Code along with fine of Rs. 20,000/- (Rupees Twenty Thousand Only), in default of payment of fine, he shall further undergo six months additional simple imprisonment.

(2) Accused Bachchu Singh is also convicted under Section 342 Indian Penal Code, 1860. Hence, he is awarded rigorous imprisonment for one year under Section 342 Indian Penal Code along with fine of Rs. 1,000/- (Rupees One Thousand Only), in default of payment of fine, he shall further undergo fifteen days additional simple imprisonment.

(3) Both the sentences shall run concurrently.

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

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

(6) A copy of the judgment & order be provided to the accused free of cost immediately.

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

(8) The entire records be consigned to record room.

**Dated : 31.03.2026**

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

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

**Dated : 31.03.2026**

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

AJEET SINGH, STENO/-