



2026:CGHC:33819-DB



CGHC010426882025

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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 2072 of 2025

1 - Raja Nikose S/o Kailash Nikose Aged About 25 Years R/o Near Firantin Mandir Ward No. 43, Basantpur, Police Station-Basantpur, District Rajnandgaon, C.G.

2 - Pankaj Yadav S/o Ashwani Yadav Aged About 26 Years R/o Mahamaya Chowk Ward No. 43, Basantpur, Police Station-Basantpur, District Rajnandgaon, C.G.

3 - Choti @ Vishnu Singh Rajput S/o Suresh Singh Rajput Aged About 20 Years R/o Bangali Chowk Ward No. 43, Basantpur, Police Station-Basantpur, District Rajnandgaon, C.G.

4 - Khemu @ Khemchand Dewangan S/o Mehattar Ram Dewangan Aged About 21 Years R/o Kaurinbatha, Near Jaitkhambh, Police Station-Basantpur, District Rajnandgaon, C.G.

--- Appellants

versus

State Of Chhattisgarh Through The Station House Officer, Police Station- Basantpur, District- Rajnandgaon, C.G.

--- Respondent(s)

ACQA No. 8 of 2026

Minakshi Varma W/o Shri Suraj Varma Aged About 42 Years R/o House No. 1204, Rajeev Nagar, Ward No. 38, Basantpur, Rajnandgaon, District- Rajnandgaon (C.G.)

---Appellant

**Versus**

- 1 - State Of Chhattisgarh Through Station House Office, Police Station-Basantpur, District- Rajnandgaon (C.G.)**
- 2 - Cheen @ Pintu @ Pratham Yadav S/o Mohan Yadav Aged About 20 Years R/o Jaldhara Chowk, Basantpur, Police Station-Basantpur, District Rajnandgaon (C.G.)**
- 3 - Nanu @ Kameshwar Yadav S/o Arjun Yadav Aged About 22 Years R/o Jaldhara Chowk, Basantpur, Police Station- Basantpur, District- Rajnandgaon (C.G.)**
- 4 - Vikas Das Vaishnav @ Chinna S/o Late Ramnarayan Vaishnav Aged About 21 Years R/o Chandra Colony (Rented House, House Owner- Dr. Sharma), Police Station- Basantpur, District- Rajnandgaon (C.G.)**
- 5 - Sanjay Yadav @ Sanju S/o Late Shankar Yadav Aged About 22 Years R/o Rajeev Nagar Ward No. 42, Basantpur, Police Station-Basantpur, District- Rajnandgaon (C.G.)**
- 6 - Amit Nikosey S/o Kailash Nikosey Aged About 21 Years R/o Near Firantin Mandir, Ward No. 42, Basantpur, Police Station-Basantpur, District- Rajnandgaon (C.G.)**
- 7 - Aman Nikosey S/o Kailash Nikosey Aged About 20 Years R/o Near Frantin Mandir, Ward No. 42, Basantpur, Police Station-Basantpur, District- Rajnandgaon (C.G.)**
- 8 - Sahil Khobragade S/o Poonamchand Khobragade Aged About 21 Years R/o Ward No. 42, Near Sharda Mandir Basantpur, Police Station-Basantpur, District- Rajnandgaon (C.G.)**
- 9 - Avinash Sinda S/o Jhaman Sinda Aged About 24 Years R/o Near Frantin Mandir, Ward No. 42, Basantpur, Police Station- Basantpur, District- Rajnandgaon (C.G.)**

--- Respondents

ACQA No. 69 of 2026

State Of Chhattisgarh Through-The Station House Officer, Police Station-Basantpur, District- Rajnandgaon (C.G.)

**---Appellant****Versus**

- 1** - Chhin @ Pintu @ Pratham Yadav S/o Mohan Yadav Aged About 20 Years R/o Jaldhara Chowk, Basantpur, Thana Basantpur, Distt.-Rajnandgaon, C.G.
- 2** - Nanu @ Kameshwar Yadav S/o Arjun Yadav Aged About 22 Years R/o Jaldhara Chowk, Basantpur, Thana Basantpur, Distt.-Rajnandgaon (C.G.)
- 3** - Vikas Das Vaishnav @ Chinna S/o Late Ramnarayan Vaishnav Aged About 21 Years R/o Chandra Colony (Rented, Name Of The Owner Of The House- Dr. Sharma, Thana- Basantpur, Distt.-Rajnandgaon, C.G.)
- 4** - Sanjay Yadav @ Sanju S/o Late Shankar Yadav Aged About 22 Years R/o Rajiv Nagar, Ward No. 42, Basantpur, Thana Basantpur, Rajnandgaon, C.G.
- 5** - Amit Nikose S/o Kailash Nikose Aged About 21 Years R/o Near Firantin Mandir, Ward No. 42, Basantpur, Distt.- Rajnandgaon, C.G.
- 6** - Aman Nikose S/o Kailash Nikose Aged About 20 Years R/o Near Firantin Mandir, Ward No. 42, Basantpur, Distt.- Rajnandgaon, C.G.
- 7** - Sahil Khobragadhe S/o Punamchand Khobragadhe Aged About 21 Years R/o Ward No. 42, Basantpur, Near Sharda Mandir, Thana- Basantpur, Distt.- Rajnandgaon, C.G.
- 8** - Avinash Sinda S/o Jhaman Sinda Aged About 24 Years R/o Near Firantin Mandir, Ward No. 42, Basantpur, Distt.- Rajnandgaon, (C.G.)

--- Respondents

For Appellants in : CRA No.2072/2025 and For Respondents in ACQA Nos.8/2026 and 69/2026	Mr.B.P.Singh and Mr.Aditya Shrivastava, Advocates
For Appellant in : ACQA No.8/2026	Mr.A.V.Shridhar and Mr.Avinash Chand Sahu, Advocates



For Appellant in:	Mr.Sanghrash Pandey, Government Advocate
ACQA No.69/2026	

Hon'ble Shri Ramesh Sinha, Chief Justice and
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, C.J.

4/8/2026

1. Though Criminal Appeal No.2072/2025 is listed for hearing on the application for suspension of sentence and grant of bail to the appellants, but since the appellants are in jail since 24.09.2020, with the consent of the parties, this Court proceeds to hear the appeal finally.
2. Appellants-Raja Nikose, Pankaj Yadav, Choti @ Vishnu Singh Rajput and Khemu @ Khemchand Dewangan have preferred Criminal Appeal No.2072/2025 under Section 415(2) of the Bhartiya Nagrik Suraksha Sanhita, 2023 questioning the impugned judgment dated 30.08.2025 passed by the First Additional Sessions Judge, Rajnandgaon, in Sessions Case No.35/2021, by which appellant-Raja Nikose has been convicted convicted and sentenced in the following manner:-

S.No	Conviction	Sentence
1.	Under Section 147 of the IPC	RI for 1 year and fine of Rs.500/-, in default of payment of fine to further undergo RI for 15 days.
2.	Under Section 148 of the	RI for 2 years and fine of



	IPC	Rs.1000/-, in default of payment of fine to further undergo RI for 1 month.
3.	Under Section 307 of the IPC	RI for 7 years and fine of Rs.1500/-, in default of payment of fine to further undergo RI for 2 months.
4.	Under Section 302 of the IPC	Imprisonment for life and fine of Rs.2000/-, in default of payment of fine to further undergo RI for 3 months.

and appellants-Pankaj Yadav, Choti @ Vishnu Singh Rajput and Khemu @ Khemchand Dewangan have been convicted and sentenced in the following manner:

S.No	Conviction	Sentence
1.	Under Section 147 of the IPC	RI for 1 year and fine of Rs.500/-, in default of payment of fine to further undergo RI for 15 days.
2.	Under Section 148 of the IPC	RI for 2 years and fine of Rs.1000/-, in default of payment of fine to further undergo RI for 1 month.
3.	Under Section 307 of the IPC	RI for 7 years and fine of Rs.1500/-, in default of payment of fine to further undergo RI for 2 months.
4.	Under Section 302 of the IPC	Imprisonment for life and fine of Rs.2000/-, in default of payment of fine to further undergo RI for 3 months.
5.	Under Section 25 of the	RI for 2 years and fine of



	Arms Act	Rs.1000/-, in default of payment of fine to further undergo RI for 1 month.
6.	Under Section 27 of the Arms Act	RI for 3 years and fine of Rs.1500/-, in default of payment of fine to further undergo RI for 2 months.

3. Appellant-Minakshi Varma has filed Acquittal Appeal No.8 of 2026 against the judgment dated 30.08.2025 passed by the First Additional Sessions Judge, Rajnandgaon, in Sessions Case No.35/2021, whereby the trial Court has acquitted the eight accused / respondents from the charge under Sections 147, 148, 307 & 302/149 of the IPC and Sections 25 & 27 of the Arms Act.
4. Appellant-State has preferred Acquittal Appeal No.69/2026 against the judgment dated 30.08.2025 passed by the First Additional Sessions Judge, Rajnandgaon, in Sessions Case No.35/2021, whereby the trial Court has acquitted the respondents / accused Chhin @ Pintu @ Pratham Yadav, Nanu @ Kameshwar Yadav, Vikas Das Vaishnav @ Chinna, Sanjay Yadav @ Sanju, Amit Nikose, Aman Nikose, Sahil Khobragade and Avinash Shinde for offences under Sections 147, 148, 307, 307/149, 302, 302/149 of the IPC and Sections 25 & 27 of the Arms Act.
5. Case of the prosecution, in brief, is that on 24.09.2020, the complainant, Pintu Markam, resident of Basantpur, near Firantin Temple, Police Station Basantpur, District Rajnandgaon, lodged a



complaint stating that he runs a dance academy named D-Action near *Fursat Ke Pal*. On the night of 23.09.2020, while he was present at his dance academy, at about 11:40 P.M., he received a phone call on his mobile number 8319091153 from his younger brother, Mahendra Markam @ Chintu, using mobile number 7974678556. Mahendra informed him that his elder brother, Goldy Markam @ Yogendra Sahu, had been assaulted near the fruit market by Raja Nikose, Pankaj Yadav, Choti @ Vishnu Rajput, Khemchand Devangan, Chhin @ Pintu @ Pratham Yadav, and Nanu Yadav @ Kameshwar Yadav, who had attacked him with a tangi (axe) and knife with the intention of killing him, and that he was lying injured near the fruit market. Upon receiving this information, the complainant immediately rushed to the spot, where his brothers had also arrived. He found his brother, Goldy Markam @ Yogendra Sahu, lying on the roadside near a drain, covered in blood, with injuries on his right shoulder and head, from which blood was oozing. The injured was taken to the District Hospital, Rajnandgaon, in his own Fortuner car bearing registration No. CG10/DA/9009, which was parked at the scene. Upon examination, the doctor declared him dead. Postmortem was conducted by Dr.Nitin Barmate (PW-11) and found following injuries:-

“1) Chop wound present over left fronto-temporo-parietal region, 7cm from left eyebrow, 9cm x 2cm x cavity deep, margins clean cut and blood infiltrated. With brain exposed out.



- 2) Chop wound present over occipital region, 6cm from left mastoid, 8cm x 4cm x bone deep. margins clean cut and blood infiltrated.
- 3) Chop wound present over central occipital region, 2cm below external occipital protubance, 7cm x 1.2cm x bone deep, margins clean cut and blood infiltrated.
- 4) Chop wound present over left zygoma up to nostril, 8cm x 1.5cm x bone deep, margins clean cut and blood infiltrated.
- 5) Incised wound present over left side of forehead, 3cm lateral to left eyebrow, obliquely placed, 4.5cm x 0.5cm x bone deep, margins clean cut and blood infiltrated.
- 6) Two Incised wound present over right side of chest, obliquely placed, 3cm x 0.2cm x muscle deep and 4cm x 0.2cm x muscle deep, margins clean cut and blood infiltrated.
- 7) Chop wound present over left arm lower 1/3, 8.5cm x 3cm x bone deep, margins clean cut and blood infiltrated.
- 8) Incised wound present over left forearm upper 1/3[^] prime prime , dorsally, 4.5cm x 1cm x muscle deep, margins clean cut and blood infiltrated with e/o tailing at upper end of 7cm in length.
- 9) Incised wound present over left forearm middle 1/3[^] prime prime, dorsolaterally, 7cm x 1cm x muscle deep, margins clean cut and blood infiltrated.
- 10) Chop wound present over left dorsum of hand, 7.5cm x 4.7cm x bone deep, margins clean cut and blood infiltrate with e/o fracture of all metacarpal bone.



11) Chop wound present over left dorsum of hand, 2cm from injury No. (10), 6.5cm x 2cm x bone deep, margins clean cut and blood infiltrate

12) Incised wound present over left index finger, 3cm x 0.5cm x bone deep, margins clean cut and blood infiltrate.

13) Incised wound present over left palm, 4cm x 0.5cm x muscle deep, margins clean cut and blood infiltrate.

14) Two Incised wound present over right arm lower 1 / (3 deg) ventrally, 3.2cm x 1.5cm x muscle deep and 2 cm x 0.5cm x muscle deep, margins clean cut and blood infiltrated.

15) Three Incised wound present over right forearm upper 1 / 3rd prime and middle 1 / 3rd prime and lower 1 / 3rd, 4cm x 1.8cm x muscle deep, 4.5cm x 1.8cm x muscle deep and 1.2 cm x 1cm x muscle deep, respectively, margins clean cut and blood infiltrated.

16) Chop wound present over right dorsum of hand, 9cm x 1.5cm x bone deep, margins clean cut and blood infiltrate with e/o fracture of 2nd, 3rd prime and 4 metacarpal bone.

17) Incised wound present over left side of chest, obliquely placed, 7cm from left nipple 2cm x muscle deep, margins clean cut and blood infiltrated

18) Incised wound present over left side of axillary region, obliquely placed 18cm from left nipple 3.5cm x 1cm x bone deep, margins clean cut and blood infiltrated.

19) Incised wound present over left side of axillary region, obliquely placed, 20cm from left nipple, 2.8cm x



1.5cm x bone deep, margins clean cut and blood infiltrated.

20) Incised wound present over left side of lower chest at trunk, obliquely placed, 15cm from left nipple, 7.5cm x 2cm x bone deep, margins clean cut and blood infiltrated

21) Stab wound present over right side of chest, obliquely placed, 5cm from right nipple and 30m from midline, 2cm x 1cm x cavity deep, margins clean cut and blood infiltrated medial ne acute. Track of wound: Skin Subcutaneous tissue Intercostal space -Right pleura- right lung (Upper lobe). Right sided 3 rib

22) Incised wound present over right side of chest, obliquely placed, 4cm lateral to right nicole. 1.5cm x 1cm x muscle deep, margins clean cut and blood infiltrated

23) Incised wound present over right side of chest, obliquely placed, 10cm below and lateral to right nipple, 2cm x 1cm x muscle deep, margins clean cut and blood infiltrated.

24) Incised wound present over right side of lower chest, obliquely placed, 20cm below and lateral to right nipple, 2.5cm x 1cm x muscle deep, margins clean cut and blood infiltrated.

25) Incised wound present over right side of abdomen, obliquely placed, 7cm lateral to umbilicus, 3cm x 2cm x muscle deep, margins clean cut and blood infiltrated.

26) Stab wound present over right side of abdomen, over trunk, obliquely placed, 19cm lateral to umbilicus, 2.6cm x 1.3cm x cavity deep, margins clean cut and blood infiltrated. Medial angle acute. Track of wound:



Skin Subcutaneous tissue Muscle Peritoneum-right lobe
Liver (Two places)

27) Incised wound present over right side of thigh, laterally, 21cm below right anterior superior iliac spine, 3cm x 1.5cm x muscle deep, margins clean cut and blood infiltrated.

28) Stab wound present over right side of chest, obliquely placed, 10cm below right nipple, of size 3.6 cm x 1.2cm x cavity deep. Margins clean cut and blood infiltrated. Right angle acute Track of wound: Skin Subcutaneous tissue Right sided 6 Intercostal space Right pleura- right lung (lower lobe).

29) Stab wound present over left side of abdomen, obliquely placed, 4cm from umbilicus, of size 2.8 cm x 1cm x cavity deep. Margins clean cut and blood infiltrated. Right angle acute. Track of wound: Skin Subcutaneous tissue Muscle Peritoneum- left lobe Liver

30) Three linear Abrasion present over left side of abdomen, of 6cm x 0.1cm to 2 x 0.1cm, reddish. 24

31) Stab wound present over left side of back, obliquely placed 2cm from midline, at the level of thoracic 11th vertebra level of size 4 cm x 0.6cm x cavity deep. Margins clean cut and blood infiltrated Upper angle acute. Track of wound: Skin Subcutaneous tissue.----- Left sided 8th intercostal space ----- left pleura-----Left lung (lower lobe).

32) Stab wound present over left side of back, obliquely placed. 10cm from midline, at the level of Lumbar 1st vertebral level of size 6 cm x 0.5cm x cavity deep. Margins clean cut and blood infiltrated. Upper angle acute. Track of wound: Skin Subcutaneous tissue----- Muscle ---- Retro Peritoneum----- Peritoneal cavity.



33) Stab wound present over left side of trunk, posteriolaterally, obliquely placed, 18cm from midline, at the level of thoracic 12th vertebral level, of size 3.5 cm x 1cm x cavity deep. Margins clean cut and blood infiltrated. upper angle acute. Track of wound: Skin -----Muscle ----Retro Peritoneum ----- Peritoneal cavity-----through and through spleen----Mesentery.

34) Incised wound present over left side of back, obliquely placed, at the level of thoracic 11 vertebral level, of size 2 cm x 0.8cm x muscle deep. Margins clean cut and blood infiltrated.

35) Incised wound present over left side of lower back, obliquely placed, extend from midline, at the level of Lumbar 2nd and 3rd vertebral level, of size 9 cm x 1.5cm x muscle deep. Margins clean cut and blood infiltrated.

36) Incised wound present over left side of lower back, obliquely placed, at the level of Lumbar 2nd and 3rd vertebral level, of size 3 cm x 1.5cm x muscle deep. Margins clean cut and blood infiltrated.

37) Three Incised wound present over left side of back, of size 15cm x 0.3cm x muscle deep to 7cm x 0.4cm x muscle deep. Margins clean cut and blood infiltrated.

38) Incised wound present over midline of back, obliquely placed, at the level of thoracic 10th to 11th vertebral level, of size 3.5 cm x 1cm x muscle deep. Margins clean cut and blood infiltrated.

39) Incised wound present over right scapular region, of size 3.5 cm x 2cm x muscle deep. Margins clean cut and blood infiltrated.

40) Abrasion present over right knee joint, 3 x1cm, reddish.”



The doctor has opined that cause of death was due injury to vital organs and death was homicidal in nature.

6. The complainant further alleged that Raja Nikose, Pankaj Yadav, Choti alias Vishnu Rajput, Khemchand Devangan, Chheen alias Pintu alias Pratham Yadav, Nanu Yadav alias Kameshwar Yadav, and Vikas Das Vaishnav had jointly assaulted and murdered his elder brother, Goldy Markam, by inflicting injuries with knives and a tangi, resulting in his death. At the time of the incident, Prateek Tamrakar, a friend of Goldy Markam, was also present. When Prateek attempted to intervene and rescue Goldy, all the accused jointly assaulted him with a tangi and knife, causing serious injuries to his right shoulder and head. He was also taken to the hospital in a critical condition and admitted for treatment.
7. Based on the said complaint, Police Station Basantpur, District Rajnandgaon, registered a Dehati Marg Intimation (inquest intimation) and recorded a Dehati Nalishi (preliminary complaint) at the spot. A spot map (Naksha) and inquest panchnama were prepared. The post-mortem examination of the deceased, Yogendra Sahu @ Goldy Markam, was conducted. Thereafter, a First Information Report (FIR) was registered at Police Station Basantpur. The accused persons, namely Raja Nikose, Pankaj Yadav, Choti alias Vishnu Singh Rajput, Khemu alias Khemchand Devangan, Chhin alias Pintu alias Pratham Yadav, Nanu alias Kameshwar Yadav, Vikas Das Vaishnav alias Chinna, Sanjay Yadav alias Sanju, Amit Nikose, Aman Nikose, Sahil Khobragade,



and Avinash Shinde, were taken into custody and interrogated.

During interrogation, they allegedly confessed to having jointly committed the offence. Their memorandum statements were recorded, and, pursuant thereto, the weapons allegedly used in the offence, namely knives, tangi (axe), and iron rod, along with the clothes worn by them at the time of the incident, were seized. A site plan of the place of occurrence was prepared, and blood-stained as well as plain soil were seized from the spot. The seized weapons and the clothes recovered from the accused were sent for forensic examination. The accused persons were arrested, and information regarding their arrest was communicated to their respective family members. A requisition was also sent to the Tahsildar, Rajnandgaon, for preparation of the Patwari map of the place of occurrence. Statements of the complainant, the injured witness, and other witnesses were recorded.

8. Upon completion of the investigation, a charge-sheet was filed before the Chief Judicial Magistrate, Rajnandgaon, against the accused persons for offences punishable under Sections 147, 148, 149, 307, and 302 of the Indian Penal Code. The case was thereafter committed to the Court of Sessions, Rajnandgaon, under Section 209 of the Code of Criminal Procedure, from where the First Additional Sessions Judge, Rajnandgaon received the case on transfer for trial in accordance with law.



9. Charges were framed against the accused under Sections 147, 148, 307 (alternatively Section 307 read with Section 149), and 302 (alternatively Section 302 read with Section 149) of the Indian Penal Code. Additionally, co-accused Pankaj Yadav, Choti alias Vishnu Singh Rajput, Khemu alias Khemchand Devangan, Vikas Das Vaishnav alias Chinna, Sanjay Yadav alias Sanju, Amit Nikose, Sahil Khobragade, and Avinash Shinde were also charged with offences punishable under Sections 25 and 27 of the Arms Act. The charges were read over and explained to all the accused, who pleaded not guilty and claimed to be tried.
10. After the prosecution evidence was recorded, the statements of the accused were examined under Section 313 of the Code of Criminal Procedure. In their examination, the accused stated that the allegations against them were false, that they had no knowledge of the alleged incident, and that the prosecution witnesses were falsely implicating them. They asserted that they were innocent and had been falsely implicated due to personal enmity at the instance of their in-laws. The accused further expressed their intention to lead defence evidence. Accordingly, on behalf of accused Raja Nikose, Amit Nikose, Avinash, and Aman, the testimony of Bela Shinde (Defence Witness No. 1) was examined.
11. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment dated 30.08.2025, while acquitting accused Chhin @ Pintu @ Pratham Yadav, Nanu



@ Kameshwar Yadav, Vikas Das Vaishnav @ Chinna, Sanjay Yadav, Amit Nikose, Aman Nikose, Sahil Khobragade and Avinash Shinde for offences under Sections 147, 148, 307, 307/149, 302, 302/149 of the IPC and Sections 25 & 27 of the Arms Act convicted and sentenced appellants-Raja Nikose, Pankaj Yadav, Choti @ Vishnu Singh Rajput and Khemu @ Khemchand Dewangan for the offences as mentioned in opening paragraph of this judgment. Hence, these criminal appeal and acquittal appeals.

12. Mr.B.P.Singh, learned counsel for appellants-Raja Nikose, Pankaj Yadav, Choti @ Vishnu Singh Rajput and Khemu @ Khemchand Dewangan submits that the impugned judgment of conviction and order of sentence dated 30.08.2025 passed by the learned Trial Court is illegal, perverse, contrary to the facts, evidence available on record, and settled principles of law, and is therefore liable to be set aside. It is further submitted that the learned Trial Court has failed to properly appreciate the evidence on record. The prosecution has not been able to establish that the appellants had any intention or common intention to cause the death of the deceased. There is no evidence to show that the appellants assaulted the deceased with the requisite intention or knowledge necessary to attract the offence of murder. The prosecution has also failed to establish any motive on the part of the appellants for committing the alleged offence. Learned counsel further contends that there is no direct eyewitness to the alleged occurrence, and



the conviction of the appellants has been recorded in the absence of reliable and cogent evidence. The appellants have been falsely implicated in the present case, and the prosecution has failed to produce any convincing evidence connecting them with the alleged crime.

13. It is also submitted that the learned Trial Court has adopted a contradictory approach by acquitting the co-accused persons on the same set of evidence while convicting the appellants without assigning any cogent or convincing reasons for such differential treatment. Such findings are arbitrary and unsustainable in law. Learned counsel further submits that the prosecution evidence suffers from material contradictions, omissions, and inconsistencies, which strike at the root of the prosecution case and render the testimony of the prosecution witnesses unreliable. The learned Trial Court failed to consider these infirmities in their proper perspective. It is further argued that the prosecution has failed to prove its case beyond reasonable doubt. The findings recorded by the learned Trial Court are based on conjectures and surmises rather than legally admissible and reliable evidence. The learned Trial Court has failed to properly appreciate the oral and documentary evidence placed on record and has arrived at findings that are perverse and contrary to the evidence. In view of the aforesaid facts and circumstances, learned counsel submits that the conviction and sentence imposed upon the appellants are unsustainable in law and deserve to be set aside. The appellants



are entitled to the benefit of doubt and deserve to be acquitted of all the charges.

14. Learned counsel for the appellant in ACQA No.8/2026 submit that although an appellate Court exercises caution while interfering with an acquittal, it has wide powers to re-appreciate the evidence. Where the acquittal is perverse, based on misappreciation of evidence or erroneous application of law, interference is justified. The Trial Court erred in rejecting the prosecution's last-seen evidence. The respondents/accused were proved to be last seen with the deceased, and having failed to explain the incriminating circumstances, an adverse inference ought to have been drawn under Section 106 of the Evidence Act. The Trial Court failed to properly appreciate the testimony of PW-1, an injured eyewitness, whose evidence consistently established the presence and participation of all the accused. His testimony remained substantially unchallenged and could not have been discarded on minor discrepancies. The evidence of PW-8 (Girish Totwani) corroborated PW-1 regarding the presence and involvement of the accused, yet the Trial Court ignored this material evidence without assigning cogent reasons. The finding that PW-1's evidence was inadmissible is legally unsustainable. The testimony of an injured eyewitness carries great evidentiary value unless effectively discredited. They further submit that the Trial Court adopted a selective approach by convicting only four accused on the basis of recovery while acquitting the remaining



accused despite direct eyewitness evidence establishing their participation in the unlawful assembly. The Trial Court also erred in disbelieving the recoveries made pursuant to the disclosure statements under Section 27 of the Evidence Act, despite the recoveries being duly proved. The accused neither pleaded alibi nor offered any plausible explanation in their statements under Section 313 CrPC regarding the incriminating circumstances or their presence at the scene, thereby strengthening the prosecution case. They also submit that the Trial Court failed to consider the cumulative effect of the prosecution evidence, particularly the last-seen circumstance, eyewitness testimony, corroborative evidence, and recoveries, resulting in a manifest miscarriage of justice. The impugned judgment is based on surmises, undue emphasis on minor inconsistencies, and disregard of material evidence. The findings are perverse and contrary to settled principles of criminal jurisprudence, warranting interference by this Court and reversal of the acquittal.

15. Learned State Counsel for the appellant in ACQA No.69/2026 submits that the impugned judgment of acquittal is wholly erroneous, unreasonable and contrary to the settled principles governing appreciation of evidence in criminal trials, inasmuch as the learned trial Court has failed to correctly evaluate the cogent and reliable evidence available on record against the respondents/accused. It is contended that there exists sufficient ocular as well as circumstantial evidence establishing the



involvement of the accused in the commission of the offence, which has been unjustifiably discarded on the basis of minor, immaterial and trivial discrepancies. The trial Court, it is urged, has ignored the consistent testimonies of material prosecution witnesses including Prateek Tamrakar (PW-1), Pintu Markam (PW-2), Smt. Minakshi Verma (PW-3), Dr. Anil Mahakalkar (PW-4), Lalit Markam (PW-5), Lokesh Kumar Dewangan (PW-6), Mahendra Kumar (PW-7), Girish Totwani (PW-8), Dr. Runarayan Sahu (PW-9), Dinu Gore (PW-10), Dr. Nitin Barmate (PW-11), Navluram Dhawde (PW-12), Kamlesh Kumar Sahare (PW-13), Siddharth Prithyani (PW-14), Ruchi Verma (PW-15) and Yogesh Kumar Patel (PW-16), which collectively establish the previous enmity and the chain of circumstances pointing towards the guilt of the accused. It is further submitted that the medical evidence, particularly the postmortem report and the testimony of the doctors, unequivocally proves that the death of the deceased was homicidal in nature, caused by injuries to vital organs which were sufficient in the ordinary course of nature to cause death, and the same has remained uncontroverted. It is further contended that the learned trial Court has failed to draw the necessary adverse inference against the respondent/accused, who, even in their statements recorded under Section 313 Cr.P.C., failed to furnish any plausible explanation regarding the incriminating circumstances appearing against them or their presence at the relevant time and place of occurrence. The prosecution has duly



established that the accused persons, forming an unlawful assembly, acted in concert and inflicted multiple injuries on the deceased with sharp-edged weapons, and several blood-stained weapons were duly recovered pursuant to their memorandum statements, which lends further corroboration to the prosecution case. The documentary evidence including FIR, dehati nalishi, merg intimation, inquest proceedings and spot map also substantiate the prosecution story. It is thus submitted that the findings of acquittal recorded by the learned trial Court are based on conjectures and surmises and are liable to be set aside, as the evidence on record clearly establishes the guilt of the accused beyond reasonable doubt, warranting their conviction for the offence of murder.

16. Learned State Counsel further submits that the trial Court has rightly convicted the appellant-Raja Nikose for offences under Sections 147, 148, 307 and 302 of the IPC and appellants-Pankaj Yadav, Choti @ Vishnu Singh Rajput and Khemu @ Khemchand Dewangan for offences under Sections 147, 148, 307, 302 of the IPC and Sections 25 & 27 of the Arms Act in which no interference is called for by this Court.
17. We have heard learned appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.



18. The first question for consideration would be, whether death of deceased Yogendra @ Goldy Markam was homicidal in nature ?
19. The trial Court has answered this issue in affirmative. After going through the medical evidence of Dr.Nitin Barmate (PW-11) and postmortem report (Ex.P-50) and considering the nature of injuries, the trial Court has rightly held that death of the deceased was homicidal in nature, which has not been seriously disputed by learned counsel for the appellants. As such, the finding recorded by the trial Court that death of the deceased was homicidal in nature is the finding of fact based on evidence available on record, which is neither perverse nor contrary to record. We hereby affirm that finding.
20. In the present case, the prosecution has shown Prateek Tamrakar (PW-1), Lalit Markam (PW-5), Mahendra Markam (PW-7), Girish Totwani (PW-8) and Siddharth Prithyani. Prateek Tamrakar (PW-1) is also a injured witness.
21. Prateek Tamrakar (PW-1) in para para 6 of his cross-examination has stated that he lay down under a DI vehicle parked far from the scene of the incident, so no one saw him there. There was light where he lay, but he was under the vehicle, so no one saw him. In para 7 of his cross-examination, he has admitted that he did not name any of the accused involved in the incident and the police had recorded the names of all the accused in the case.



22. The trial Court in para 59 of the impugned judgment has observed that it is also evident from the record that, during the course of investigation, no Test Identification Parade (TIP) was conducted to enable the eyewitnesses present at the scene of occurrence to identify any of the accused persons. In such circumstances, the testimony of the aforesaid witnesses does not establish the involvement of the accused persons in the incident solely on the basis of their identification in Court. The next question that arises for consideration is whether the prosecution has succeeded in proving a complete chain of circumstantial evidence against the accused persons.
23. The trial Court in para 78 of its judgment has observed that it has been found that the four accused persons, namely Raja Nikose, Pankaj Yadav, Chhoti alias Vishnu Singh, and Khemu alias Khemchand Devangan, voluntarily appeared before the police station and surrendered. In such circumstances, their voluntary surrender, the recording of their memorandum/disclosure statements while in custody, the recovery of blood-stained weapons and the clothes worn by them pursuant to such disclosure statements, and the subsequent forensic examination confirming the presence of human blood on the seized weapons and clothing, complete the entire chain of circumstantial evidence against them. The only conclusion that can reasonably be drawn therefrom is that these accused persons, being members of an unlawful assembly and armed with deadly weapons, participated



in the murder of Goldy Markam and the attempted murder of Prateek Tamrakar. Accordingly, these four accused are held guilty.

24. The trial Court in para 79 of its judgment has observed that Insofar as the involvement of the other co-accused persons, apart from the aforesaid surrendered accused, namely Raja Nikose, Pankaj Yadav, Chhoti alias Vishnu Singh, and Khemu alias Khemchand Devangan, is concerned, it is noteworthy that the prosecution appears to have implicated them solely on the basis of the memorandum (disclosure) statements recorded under Section 27 of the Indian Evidence Act. Their memorandum statements were recorded under Section 27, and, pursuant to the information furnished by them, the investigating officer claims to have recovered the weapons allegedly used in the offence and the clothes worn by them at the time of the incident. The Investigating Officer has deposed to this effect in his evidence. Similarly, Mahendra Markam (PW-6) has also stated that these co-accused made disclosure statements in his presence and that, pursuant to their disclosures, the weapons and clothes were seized in accordance with the seizure memos. The Forensic Science Laboratory (FSL) report further indicates that blood and human blood were detected on the clothes and weapons seized from them.
25. The trial Court in para 80 of its judgment has also observed that since these other co-accused persons did not surrender before



the concerned police station, as the aforesaid four accused had done, and as there is no other circumstantial evidence against them except their memorandum statements, the seizure memos, and the forensic examination reports, the chain of circumstances against them remains incomplete. In the absence of any further evidence completing the chain of circumstances and leading to the only irresistible conclusion that Chhin @ Pintu @ Pratham Yadav, Nanu @ Kameshwar Yadav, Vikas Das Vaishnav @ Chinna, Sanjay Yadav, Amit Nikose, Aman Nikose, Sahil Khobragade, and Avinash Shinde were members of the unlawful assembly along with the four surrendered accused and had participated in the commission of the offence, they are entitled to the benefit of acquittal.

26. In a case dependent on circumstantial evidence, the law is well settled that the chain of circumstances must be complete, conclusive, and exclude every hypothesis consistent with innocence (**Sharad Birdhichand Sarda v. State of Maharashtra**¹). Here, the chain is broken at multiple points: hostile testimony from key relatives, unreliable extra-judicial confession, doubtful recovery, and no conclusive forensic link.

27. The Supreme Court in the matter of **Jagroop Singh v. State of Punjab**² has held thus in paragraphs 12, 13, 14 & 15 which is reproduced hereunder:-

1 AIR 1984 SC 1622

2 (2012) 11 SCC 768



“12. In **Sharad Birdhichand Sarda v. State of Maharashtra [(1984) 4 SCC 116]** a three-Judge Bench has laid down five golden principles which constitute the “panchsheel” in respect of a case based on circumstantial evidence. Referring to the decision in **Shivaji Sahebrao Bobade v. State of Maharashtra [1973 2 SCC 793]**, it was opined that it is a primary principle that the accused “must be” and not merely “may be” guilty before a Court can convict and the mental distance between “may be” and “must be” is long and divides vague conjectures from sure conclusions. Thereafter, the Bench proceeded to lay down that the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty; that the circumstances should be of a conclusive nature and tendency; that they should exclude every possible hypothesis except the one to be proved; and that there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

13. In **Padala Veera Reddy v. State of Andhra Pradesh and others [1989 Supp (2) SCC 706]**, this Court held that when a case rests upon circumstantial evidence, the following tests must be satisfied:

“10.....(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(2) those circumstances should be of a definite



tendency unerringly pointing towards guilt of the accused;

(3) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

(4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.”

A similar view has been reiterated in **Ramreddy Rajesh Khanna Reddy and another v. State of A.P.[(2006) 10 SCC 172]**.

14. In **Balwinder Singh v. State of Punjab [1995 Supp(4) SCC 259]**, it has been laid down:

“4.that the circumstances from which the conclusion of guilt is to be drawn should be fully proved and those circumstances must be conclusive in nature to connect the accused with the crime. All the links in the chain of events must be established beyond reasonable doubt and the established circumstances should be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence. In a case based on circumstantial evidence, the Court has to be on its guard to avoid the danger of allowing suspicion to take the place of legal proof



and has to be watchful to avoid the danger of being swayed by emotional considerations, howsoever strong they may be, to take the place of proof.”

15. In **Harishchandra Ladaku Thange v. State of Maharashtra [(2007) 11 SCC 436]**, while dealing with the validity of inferences to be drawn from circumstantial evidence, it has been emphasised that where a case rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused or the guilt of any other person and further the circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances.”

28. Further, the Supreme Court in the matter of **Pradeep Kumar v. State of Chhattisgarh**³ has observed thus in para 27:-

“27. It is important to note that the cardinal principles in the administration of criminal justice in cases where heavy reliance is placed on circumstantial evidence, is that where two views are possible, one pointing to the guilt of the accused and the other towards his innocence, the one which is favourable to accused must be adopted.”

29. When the case is entirely based upon the circumstantial evidence, the chain of such circumstantial evidence in all probabilities 'must' indicate towards guilt of accused and

3 (2023) 5 SCC 350



circumstances 'must be' and not 'may be' lead towards guilt of accused.

30. Memorandum statements (Exs.P-11, P-13, P-15 and P-17) of the appellants have been proved by investigating officer Ruchi Verma (PW-15) and on that basis, the appellants have been convicted.

31. A careful perusal of memorandum statements of the appellants (Exs.P-11, P-13, P-15 and P-17) would show that it has been recorded by investigating officer Ruchi Verma (PW-15) at Police Station Basantpur in presence of two panch witnesses in which the appellants are said to have assaulted Yogendra @ Goldy Markam by axe and knife, due to which he died.

32. At this stage, it would be appropriate to notice Section 27 of the Indian Evidence Act, 1872, which states as under: -

“27. How much of information received from accused may be proved.—Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

33. Section 27 of the Indian Evidence Act is applicable only if the confessional statement relates distinctly to the fact thereby discovered.

34. The Supreme Court in the matter of **Asar Mohammad and others v. State of U.P.**⁴ with reference to the word “fact”

4 AIR 2018 SC 5264



employed in Section 27 of the Evidence Act has held that the facts need not be self-probatory and the word “fact” as contemplated in Section 27 of the Evidence Act is not limited to “actual physical material object”. It has been further held that the discovery of fact arises by reason of the fact that the information given by the accused exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place and it includes a discovery of an object, the place from which it is produced and the knowledge of the accused as to its existence. Their Lordships relying upon the decision of the Privy Council in the matter of **Pulukuri Kotayya v. King Emperor**⁵ observed as under: -

“13. It is a settled legal position that the facts need not be self-probatory and the word “fact” as contemplated in Section 27 of the Evidence Act is not limited to “actual physical material object”. The discovery of fact arises by reason of the fact that the information given by the accused exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place. It includes a discovery of an object, the place from which it is produced and the knowledge of the accused as to its existence. It will be useful to advert to the exposition in the case of *Vasanta Sampat Dupare v. State of Maharashtra*⁶, in particular, paragraphs 23 to 29 thereof. The same read thus:

“23. While accepting or rejecting the factors of discovery, certain principles are to be kept in mind.

5 AIR 1947 PC 67

6 (2015) 1 SCC 253



The Privy Council in *Pulukuri Kotayya v. King Emperor* (supra) has held thus: (IA p. 77)

“... it is fallacious to treat the ‘fact discovered’ within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information as to past user, or the past history, of the object produced is not related to its discovery in the setting in which it is discovered. Information supplied by a person in custody that ‘I will produce a knife concealed in the roof of my house’ does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added ‘with which I stabbed A’, these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant.

xxx xxx xxx

xxx xxx xxx

xxx xxx xxx”

35. Reverting to the facts of the case in light of the principles of law laid down by their Lordships of the Supreme Court in **Asar**



Mohammad (supra), only discovery of an object, the place from which it is produced and knowledge of the accused as to this extent would be admissible and incriminating part of the accused statement that they have inflicted injuries to deceased Yogendra @ Goldy Markam would not be admissible under Section 27 of the Evidence Act. In the present case, no incriminating article has been seized pursuant to the memorandum statements of the appellants (Exs.P-7, P-8 and P-9). As such, that part of evidence would not be admissible.

36. The Supreme Court in the matter of **Aghnoo Nagesia v. State of Bihar**⁷ has clearly held that confession to police whether in course of investigation or otherwise and confession made while in police custody would be hit by Section 25 of the Evidence Act and observed as under:-

"9. Section 25 of the Evidence Act is one of the provisions of law dealing with confessions made by an accused. The law relating to confessions is to be found generally in Ss. 24 to 30 of the Evidence Act and Ss. 162 and 164 of the Code of Criminal Procedure, 1898. Sections 17 to 31 of the Evidence Act are to be found under the heading "Admissions". Confession is a species of admission, and is dealt with in Ss. 24 to 30. A confession or an admission is evidence against the maker of it, unless its admissibility is excluded by some provision of law. Section 24 excludes confessions caused by certain inducements, threats and promises. Section 25 provides : "No confession made to a police officer, shall be proved as

⁷ AIR 1966 SC 119



against a person accused of an offence." The terms of S. 25 are imperative. A confession made to a police officer under any circumstances is not admissible in evidence against the accused. It covers a confession made when he was free and not in police custody, as also a confession made before any investigation has begun. The expression "accused of any offence" covers a person accused of an offence at the trial whether or not he was accused of the offence when he made the confession. Section 26 prohibits proof against any person of a confession made by him in the custody of a police officer, unless it is made in the immediate presence of a Magistrate. The partial ban imposed by S. 26 relates to a confession made to a person other than a police officer. Section 26 does not qualify the absolute ban imposed by S. 25 on a confession made to a police officer. Section 27 is in the form of a proviso, and partially lifts the ban imposed by Ss. 24, 25 and 26. It provides that when any fact is proved to be discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved. Section 162 of the Code of Criminal Procedure forbids the use of any statement made by any person to a police officer in the course of an investigation for any purpose at any enquiry or trial in respect of the offence under investigation, save as mentioned in the proviso and in cases falling under sub-s (2), and it specifically provides that nothing in it shall be deemed to affect the provisions of S. 27 of the Evidence Act. The words of S. 162 are wide enough to include a confession made to a police officer in the course of an investigation. A



statement or confession made in the course of an investigation may be recorded by a Magistrate under S. 164 of the Code of Criminal Procedure subject to the safeguards imposed by the section. Thus, except as provided by S. 27 of the Evidence Act, a confession by an accused to a police officer is absolutely protected under S. 25 of the Evidence Act, and if it is made in the course of an investigation, it is also protected by S. 162 of the Code of Criminal Procedure, and a confession to any other person made by him while in the custody of a police officer is protected by S. 26, unless it is made in the immediate presence of a Magistrate. These provisions seem to proceed upon the view that confessions made by an accused to a police officer or made by him while he is in the custody of a police officer are not to be trusted, and should not be used in evidence against him. They are based upon grounds of public policy, and the fullest effect should be given to them.”

Their Lordships further held as under:-

“18. If the first information report is given by the accused to a police officer and amounts to a confessional statement, proof of the confession is prohibited by S. 25. The confession includes not only the admission of the offence but all other admissions of incriminating facts related to the offence contained in the confessional statement. No part of the confessional statement is receivable in evidence except to the extent that the ban of S. 25 is lifted by S.27”

37. In the case in hand, confessional statements (Exs.P-11, P-13, P-15 and P-17) made by the appellants before the police officer is



hit by Section 25 of the Evidence Act and no part of it is admissible under Section 27 of the Evidence Act. As such, we are of the considered opinion that alleged memorandum statements of the appellants (Exs.P-11, P-13, P-15 and P-17) are hit by Section 25 of the Evidence Act and no part of it is admissible under Section 27 of the Evidence Act in view of decisions rendered by Privy Council in **Pulukuri Kotayya** (supra) followed by the the Supreme Court in **Asar Mohammad** (supra). Even otherwise, no other incriminating piece of evidence is available on record to convict the appellants for offence under Sections 302 of the IPC.

38. In the present case, as per FSL report (Ex.C-2), human blood was found on Articles H axe, Article I1 fullpant and I2 t-shirt seized from appellant Raja Nikose, Article J knife seized from appellant Pankaj Yadav, Article K1 and K2 T-shirt and scissor seized from appellant Raja Nikose, Article L knife seized from appellant Choti @ Vishnu Singh and Article N knife seized from appellant Khemu @ Khemchand Dewangan.

39. At this stage, pertinent decision of the Supreme Court on this point in the matter of **Balwan Singh v. State of Chhattisgarh and another**⁸ may be noticed herein, in which the Supreme Court has summarized the law on this point after taking into the decision of the Supreme Court (Constitution Bench) in the matter

8 (2019) 7 SCC 781



of **Raghav Prapanna Tripathi v. State of U.P.**⁹. In **Raghav Prapanna Tripathi** (supra), the Constitution Bench of the Supreme Court has held that in case the prosecution needed to prove that the bloodstains found on the earth or the weapons were of a human origin and were of the same blood group as that of the accused.

40. The aforesaid decision of the Supreme Court i.e. **Raghav Prapanna Tripathi** (supra) was followed in **Balwan Singh** (supra) in which it was observed as under:-

“23. From the aforementioned discussion, we can summarise that if the recovery of bloodstained articles is proved beyond reasonable doubt by the prosecution, and if the investigation was not found to be tainted, then it may be sufficient if the prosecution shows that the blood found on the articles is of human origin though, even though the blood group is not proved because of disintegration of blood. The court will have to come to the conclusion based on the facts and circumstances of each case, and there cannot be any fixed formula that the prosecution has to prove, or need not prove, that the blood groups match.”

41. Thereafter, the Supreme Court in **Balwan Singh** (supra) relying upon the fact that the prosecution has failed to prove that the blood was of human origin declined to rely upon the aspect of recovery of the weapons from the accused therein. It was observed as under:-

9 AIR 1963 SC 74



“24. In the instant case, then, we could have placed some reliance on the recovery, had the prosecution at least proved that the blood was of human origin. As observed supra, while discussing the evidence of PWs 9 and 16, the prosecution has tried to concoct the case from stage to stage. Hence, in the absence of positive material indicating that the stained blood was of human origin and of the same blood group as that of the accused, it would be difficult for the Court to rely upon the aspect of recovery of the weapons and tabbal, and such recovery does not help the case of the prosecution.”

42. Having bestowed our anxious consideration to the rival submissions advanced by learned counsel for the parties and having carefully re-appreciated the entire oral and documentary evidence available on record, we are of the considered opinion that the conviction of the appellants cannot be sustained in law.
43. In the present case, the prosecution has failed to establish a complete and unbroken chain of circumstances pointing only towards the guilt of the appellants. The testimony of the alleged eyewitnesses does not inspire confidence. Admittedly, no Test Identification Parade (TIP) was conducted during the course of investigation, and Prateek Tamrakar (PW-1), though an injured witness, admitted in his cross-examination that he had not disclosed the names of the accused persons. In such circumstances, the identification of the accused for the first time before the Court loses much of its evidentiary value.



44. The Trial Court itself recorded a finding that the case against the appellants rested substantially on circumstantial evidence. However, the principles governing conviction on circumstantial evidence, as authoritatively laid down by the Supreme Court in **Sharad Birdhichand Sarda** (supra), **Jagroop Singh** (supra), and **Pradeep Kumar** (supra), require that every incriminating circumstance must be firmly established, the chain of circumstances must be complete, and the evidence must exclude every hypothesis except the guilt of the accused. The present case falls short of these settled requirements.
45. We further find that the learned Trial Court committed a serious error in placing reliance upon the memorandum statements (Exs. P-11, P-13, P-15 and P-17). The confessional portions contained therein are clearly barred by Section 25 of the Indian Evidence Act and are inadmissible in evidence. Only that part of the information which distinctly relates to the discovery of a fact is admissible under Section 27 of the Evidence Act. As held by the Privy Council in **Pulukuri Kotayya** (supra) and reiterated by the Supreme Court in **Asar Mohammad** (supra) and **Aghnoo Nagesia** (supra), the inculpatory statement that the accused had assaulted the deceased cannot be read in evidence. The Trial Court, therefore, committed a manifest error in treating the inadmissible confessional portions as substantive evidence against the appellants.



46. Even the recoveries allegedly made pursuant to the disclosure statements do not conclusively establish the guilt of the appellants. Although the FSL report indicates the presence of human blood on certain seized articles, the prosecution has failed to establish any forensic nexus connecting those articles with the deceased or the crime. There is no evidence regarding the blood group of the deceased matching the stains found on the recovered weapons or clothes. In the absence of such connecting evidence, the recoveries alone cannot form the basis of conviction. The law laid down by the Supreme Court in **Balwan Singh** (supra) makes it abundantly clear that recovery of bloodstained articles, by itself, cannot sustain a conviction unless it forms part of a complete chain of incriminating circumstances.
47. The prosecution has also failed to establish any convincing motive, and the evidence led is insufficient to prove beyond reasonable doubt that the appellants shared the common object or intention necessary to attract liability under Sections 302/149 or 307/149 of the IPC. Suspicion, however grave, cannot substitute legal proof.
48. The Trial Court has, on the same set of evidence, acquitted the remaining co-accused by holding that the chain of circumstantial evidence was incomplete. We find that the evidence against the present appellants also suffers from similar infirmities. The distinction drawn by the Trial Court solely on the basis of surrender and recoveries is not sufficient to sustain the conviction



when the foundational evidence itself is legally inadmissible or inconclusive.

49. So far as Acquittal Appeal No. 8 of 2026, preferred by the appellant-Minakshi Verma, and the acquittal appeal preferred by the State are concerned, we do not find any ground warranting interference with the judgment of acquittal. The settled principle governing appeals against acquittal is that unless the view taken by the Trial Court is manifestly perverse or wholly unreasonable, the appellate Court ought not to substitute its own view merely because another view is possible. In the present case, after excluding the inadmissible confessional statements and considering the deficiencies in the prosecution evidence, the view taken by the Trial Court in acquitting the remaining accused is a reasonably possible view based on the evidence available on record. Consequently, no case for interference is made out.
50. Accordingly, Criminal Appeal No. 2072 of 2025 deserves to be and is hereby **allowed**. The judgment of conviction and order of sentence dated **30.08.2025**, passed by the learned Trial Court against appellants-**Raja Nikose, Pankaj Yadav, Choti @ Vishnu Singh Rajput and Khemu @ Khemchand Dewangan**, are set aside. The appellants are acquitted of all the charges by extending to them the benefit of doubt. The appellants are in jail, they be released forthwith, if not required in any other case.



51. Consequently, Acquittal Appeal No. 8 of 2026, preferred by the appellant-Minakshi Verma, as well as Acquittal Appeal No.69/2026 preferred by the appellant-State, are **dismissed**. The acquittal of the remaining accused recorded by the Trial Court is **affirmed**.

52.Appellants-Raja Nikose, Pankaj Yadav, Choti @ Vishnu Singh Rajput and Khemu @ Khemchand Dewangan are directed to file personal bond and two sureties each in the like amount to the satisfaction of the Court concerned in compliance with Section 437-A of the Code of Criminal Procedure, 1973 (Now Section 481 of the Bhartiya Nagrik Suraksha Sanhita, 2023).

53. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice