

सत्यमेव जयते

Raju alias Badari Lal son of Latoor Lal, resident of Khodiyon Ka Chowk, Sangod, District Kota
(At present in Central Jail, Kota)

Versus

----Respondent

For Appellant(s) : Mr. Rinesh Gupta assisted by
Mr. Sarwat Alam and
Mr. Ashutosh Singh Naruka

For Respondent(s) : Mr. Amit Kumar Punia, P.P. with
Mr. Vijay Yadav, P.P.
Ms. Neha Goyal

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE SAMEER JAIN

Date of Conclusion of Arguments :: 11/02/2026

Judgment Reserved On :: 11/02/2026

Whether the full judgment or

only the operative part is pronounced : : Full Judgment

Judgment Pronounced On :: **24/02/2026**

Per Hon'ble Mahendar Kumar Goyal, J.

This criminal appeal has been preferred by the accused-appellant (for short "the appellant") assailing the legality and validity of the judgment dated 27.01.2017 passed by the learned Additional Sessions Judge (Women Atrocities Cases) No.1, Kota (for brevity "the learned trial court") in Sessions Case No.52/2015 whereby, the appellant has been convicted and sentenced as under:-

Under Section 302 IPC:- Life imprisonment and fine of ₹10,000/-; in default whereof, one year's additional simple imprisonment.

The relevant facts, in nutshell, as revealed are that the complainant-Shakil submitted a written report dated 07.06.2015 at about 2:25 PM at MBS Hospital, Kota to the Station House Officer, Police Station Borkhera, District Kota City, stating therein that his younger brother had informed him telephonically that his father-Jamil Khan was stabbed with knife by the appellant which was witnessed by Shri Mohan. It was further alleged that about four-five days ago, the appellant had threatened to beat his father. Based thereupon, an FIR No.253 dated 07.06.2015 was registered against the appellant at Police Station Borkhera, District Kota City for the offence under Section 302 IPC. After investigation, the appellant was charge-sheeted under Section 302 IPC whereunder, charges were also framed. After trial, he has been convicted and sentenced, as stated hereinabove.

Assailing the judgment, learned counsel for the appellant submitted that the learned trial Court has recorded his conviction based only on surmises and conjectures and there is no legally admissible evidence available on record to connect him with the offence. He contended that although, the learned trial Court has relied upon the testimony of Shri Mohan (PW-2) and Smt. Hasina (PW-3)-the alleged eye witnesses; but, failed to appreciate that their testimony was full of contradictions and improvements on material aspects of the case rendering the same to be totally unreliable. Learned counsel submitted that although, it was prosecution case that the scene of crime was the under

construction house of Smt. Hasina but, it was not so corroborated from the site plan (Exhibit P.-6). Learned counsel further contended that recovery of knife/*gupti* allegedly at his instance was doubtful. Inviting attention of this Court towards the findings recorded by the learned trial Court, learned counsel asserted that although, it has relied upon the forensic science laboratory report to record his conviction but, the same was not exhibited and was not part of the record. He, therefore, prayed that the appeal be allowed, the judgment impugned dated 27.01.2017 be quashed and set aside and he be acquitted of the charge framed against him.

Per contra, learned Public Prosecutor, opposing the submissions, submitted that the findings of the learned trial Court are based on appreciation of evidence on record which established, beyond reasonable doubt, that the appellant has committed murder of the deceased-Jamil Khan. He further submitted that the allegation of stabbing the deceased twice by the appellant with *gupti* was medically corroborated and the weapon of offence was also recovered from appellant's rented room on his disclosure statement. He, therefore, prayed that the appeal be dismissed.

Heard. Considered.

The evidence on record reflect that the prosecution case rests upon the ocular testimony of Shri Mohan (PW-2) and Smt. Hasina (PW-3) who are claimed to be eye witnesses of the incident. So far as date, time of the incident and the manner in which it was committed, there is no contradiction in their testimony but, its close scrutiny, if juxtaposed with the other

evidence on record including the site plan, serious doubts emerge as to the veracity and reliability of their deposition. Both have deposed that on 07.06.2015 at about 1-1:30 PM, i.e., at lunch time, when they were having tea with the deceased at the under construction house of Smt. Hasina, the appellant came armed with a knife or *gupti* and stabbed twice the deceased; one in the abdomen and another on chest, leading to bleeding. They have further stated that they both took the deceased to hospital in an auto, informed the younger son of the deceased and after reaching the hospital, Jamil expired. The allegation of stabbing and death thereby stood medically corroborated as is revealed from the autopsy report (Exhibit P-12) and the testimony of Dr. Sanjay Verma (PW-13/1) who conducted the autopsy. However, the attending circumstances cast a doubt on the veracity of the aforesaid oral testimony.

Their Lordships have, in the case of **Kum. Shubha @ Shubhashankar versus State of Karnataka & Anr.: 2025 INSC 830**, held as under:-

"47. Before analyzing the evidence on record, we deem it fit to discuss the relevant principles applicable to the facts and circumstances of the present appeals. It is the foundational duty of the Court to make an endeavor and find out the truth. Evidence is the material for unearthing the truth. In order to do so, a fact has to be proved by taking due note of the matters made available before the Court. To prove a fact, the adequate parameter is the degree of probability.

Rajesh Yadav and Anr. V. State of U.P., (2022) 12 SCC 200.

"Principles of law

11. xxxxx
12. xxxxx
13. xxxxx
14. xxxxx
15. xxxxx
16. xxxxx
17. xxxxx
18. xxxxx
19. xxxxx

Appreciation of evidence

20. We have already indicated different classification of evidence. While appreciating the evidence as aforesaid along with the matters attached to it, evidence can be divided into three categories broadly, namely, (i) wholly reliable, (ii) wholly unreliable, and (iii) neither wholly reliable nor wholly unreliable. If evidence, along with matters surrounding it, makes the court believe it is wholly reliable qua an issue, it can decide its existence on a degree of probability. Similar is the case where evidence is not believable. When evidence produced is neither wholly reliable nor wholly unreliable, it might require corroboration, and in such a case, court can also take note of the contradictions available in other matters.

21. The aforesaid principle of law has been enunciated in the celebrated decision of this Court in *Vadivelu Thevar v. State of Madras*, 1957 SCR 981 : AIR 1957 SC 614: (AIR p. 619, paras 11-12)

"11. In view of these considerations, we have no hesitation in holding that the contention that in a murder case, the court should insist upon plurality of witnesses, is much too broadly stated. Section 134 of the Indian Evidence Act has categorically laid it down that 'no particular number of witnesses shall in any case, be required for the proof of any fact'. The legislature determined, as long ago as 1872, presumably after due consideration of the pros and cons, that it shall not be necessary for proof or disproof of a fact to call any particular number of witnesses. In England, both before and after the passing of the Evidence Act, 1872, there have been a number of statutes as set out in *Sarkar's Law of Evidence* — 9th Edn., at pp. 1100 and 1101, forbidding convictions on the testimony of a single witness. The Indian Legislature has not insisted on laying down any such exceptions to the general rule recognized in Section 134 quoted above. The section enshrines the well-recognised maxim that "Evidence has to be weighed and not counted". Our Legislature has given statutory recognition to the fact that administration of justice may be hampered if a particular number of witnesses were to be insisted upon. It is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of uncommon occurrence, where determination of

guilt depends entirely on circumstantial evidence. If the Legislature were to insist upon plurality of witnesses, cases where the testimony of a single witness only could be available in proof of the crime, would go unpunished. It is here that the discretion of the presiding Judge comes into play. **The matter thus must depend upon the circumstances of each case and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. Even as the guilt of an accused person may be proved by the testimony of a single witness, the innocence of an accused person may be established on the testimony of a single witness, even though a considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution. Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:**

(1) Wholly reliable.

(2) Wholly unreliable.

(3) Neither wholly reliable nor wholly unreliable.

12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way — it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. **It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. There is another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses. Situations may arise and do arise where only a single person is available to give evidence in support of a disputed fact. The court naturally has to weigh carefully such a testimony and if it is satisfied that the evidence is reliable and free from all taints which tend to render oral testimony open to suspicion, it becomes its duty to act upon such testimony. The law reports**

contain many precedents where the court had to depend and act upon the testimony of a single witness in support of the prosecution. There are exceptions to this rule, for example, in cases of sexual offences or of the testimony of an approver; both these are cases in which the oral testimony is, by its very nature, suspect, being that of a participator in crime. But, where there are no such exceptional reasons operating, it becomes the duty of the court to convict, if it is satisfied that the testimony of a single witness is entirely reliable. We have, therefore, no reasons to refuse to act upon the testimony of the first witness, which is the only reliable evidence in support of the prosecution.”

(emphasis supplied)

48. Thus, the evidence adduced before the Court, can be accepted either in toto or in part. Furthermore, it can also be rejected. A Court shall apply its mind to the evidence available to arrive at a just conclusion.”

We, now, propose to scan the evidence on record on the touchstone of the aforesaid dictum.

Although, both the eye witnesses have categorically deposed that upon stabbing, Jamil bled which stood corroborated from the postmortem report (Exhibit P.-12) and the testimony of Dr. Sanjay Verma which revealed the cause of death to be shock on account of excessive bleeding. However, the site plan of the scene of crime

(Exhibit P.-6) does not reflect even a blood droplet at the place where the deceased was allegedly stabbed by the appellant. It, however, records bloodstains at place "B"-a platform where the deceased was laid and bandaged. However, none of the eye witnesses has stated that after stabbing, the deceased was shifted to any place other than the auto-rickshaw which was hired to move him to the hospital. Nor, it was the prosecution case that the deceased was bandaged by them or by anybody else before taking him to the hospital rather, their testimony discloses that soon after the stabbing, the deceased was taken to the hospital without delay. Smt. Hasina (PW-3) has stated that after the incident, many person gathered there including wife of Balaram-her neighbour but, she did not disclose anything to her as she had immediately taken the deceased to the hospital.

Moreover, in the site plan, place "B" is shown at two different locations one; in the vacant plot marked "C" situated towards the northern side of the under construction house and the scene of crime and second, in front of scene of crime and outside the house of Shri Balaram.

Further, we also find from the record that the Investigating Officer has conducted the site inspection on his own on the date of incident about an hour after preparation of the site plan and prepared a report also marked as Exhibit P.-6 which shows a lot of blood at the platform made of slabs situated in front of house of Balaram where the deceased was laid with 3-4 droplet at the place where the stabbing took place. It also shows that at the scene of crime, there were signs of scuffle in between the deceased and the appellant. However, it has not been prosecution case that

there was any scuffle in between the deceased and the appellant rather, both the eye witnesses have categorically deposed that when they were having tea during lunch time, the appellant came, abused the deceased, stabbed him twice and ran away. Further, in the site plan prepared at 4:30 PM, no blood or blood droplet were shown at the scene of crime which were shown in the site inspection report prepared at 5:30 PM.

Furthermore, in the site inspection report, the deceased was shown to be laid at the platform made of slabs; however, one of the *panch* witnesses to the seizure memo of blood (Exhibit P.-5) namely Shri Rajendra Kumar (PW-5) has categorically stated, during his cross-examination, that the platform was made of sand. We also find that in the site plan (Exhibit P.-6), only one gate of the under construction house has been shown and Shri Mohan (PW-2) has also deposed that when they were sitting at the gate of the house, the appellant came and stabbed the deceased but, Smt. Hasina (PW-3)-the house owner has stated, in her cross-examination, that her house has two gates and she was unaware from which gate the appellant entered. Thus, from the aforesaid testimony, we are not convinced that the prosecution has been able to establish either the scene of crime or, the manner in which the offence was allegedly committed .

The prosecution story, as to scene of crime, is also rendered doubtful in view of the fact that although, as per the prosecution case, the deceased and the eye witnesses were having tea in disposable glasses at the time of incident but, neither the glasses were shown in the site plan nor, the same were recovered by the investigating agency. Smt. Hasina has stated that the tea was

brought in the disposable glasses but, feigned ignorance, when confronted during her cross-examination, as to whether the same were given to the Police or not or, whether they were lying at the scene of crime or not.

Reliability of the prosecution story also gets dented from the fact that although, from the ocular evidence as well as medical evidence, it is tried to be established that upon stabbing twice, the deceased bled profusely and the cause of death was also excessive bleeding but, as per the seizure memo of the clothes of the deceased (Exhibit P.-4), there were blood stains only on the shirt and *baniyan* (inner wear) of the deceased whereas, in normal course, the same should have been totally blood soaked in the circumstance mentioned hereinabove. Moreover, although, it is the prosecution case that the deceased was stabbed twice; one in abdomen and another in chest but, the seizure memo does not reflect that the shirt and the *baniyan* of the deceased had any cut marks at those places. The Investigating Officer-Shri Ranvijay Singh (PW-12), when confronted with the aforesaid aspect during his cross-examination, admitted that the Exhibit P.-4 did not bear any such endorsement. Further, both the eye witnesses have stated that they shifted the deceased in an auto and took him to the hospital. While, Shri Mohan (PW-2) has stated that his hands were blood stained and clothes were blood soaked but, Smt. Hasina (PW-3) has stated, in her cross-examination, that neither her hands nor, her clothes had any bloodstain which was highly improbable even if not impossible in view of the manner in which the crime was allegedly committed and their action/conduct subsequent thereto. Moreover, the Police neither recovered the

blood soaked clothes of Mohan nor, the auto-rickshawala was examined to lend credence to the prosecution case.

It is noticeable that while, Smt. Hasina has claimed that when she tried to catch hold of the appellant, he rushed towards her with knife and when she backed off, he ran away; however, in the same breath, she has stated that the appellant came, did not speak to anybody, stabbed the deceased and fled and contradicting herself, has further stated that she ran after the appellant. Furthermore, although, in their examination-in-chief, both; Mohan and Hasina, have stated in unison that they have taken the deceased to the hospital in an auto-rickshaw but, during their cross-examination, contradicting the aforesaid testimony, they have stated that he was taken to the hospital by Mohan alone. As also that Shri Mohan (PW-2) has stated that he did not know the appellant prior to the date of incident and he was apprised of his name by the public but, feigned ignorance, who told so when confronted during his cross-examination. Still, the appellant was not subjected to any test identification parade which creates doubt as to veracity of his testimony.

We are conscious of the fact that in the instant case, the ocular testimony as to the date, time and the manner of commission of offence is free from any contradiction and the allegations are medically corroborated and ordinarily, should be relied upon but, in the attending circumstances, each if viewed stand alone, may not be sufficient to cast a doubt on the veracity and reliability of the prosecution case but, if examined cumulatively, as we have discussed hereinabove, the prosecution

case is rendered doubtful and the testimony of PW-2 and PW-3 unreliable.

Moreover, we find that the prosecution has not been able to establish, beyond reasonable doubt, as to the nature of weapon of offence used by the appellant as also that its recovery is free from suspicion. While, in the FIR, lodged by Shakil-son of the deceased based on the information furnished to his younger brother by Smt. Hasina (PW-3), it was alleged that a knife was used by the appellant in commission of offence which was corroborated by Mohan but, Smt. Hasina has alleged that the appellant came with a *gupti* like arm. However, on the disclosure statement of the appellant, the Police has recovered a *gupti* vide Exhibit P.-7. Furthermore, in our considered view, the prosecution has not been able to establish this recovery against the appellant. As per the seizure memo (Exhibit P.-7), it was recovered from a locked room in the house of Sabrati which was opened by Smt. Khatoon-wife of Sabrati with a key. Thus, it is apparent that the room was not in the exclusive possession of the appellant. Moreover, the prosecution has not been able to establish that the subject room was on rent with the appellant. Shri Shakir Hussain-one of the *panch* witnesses to the Exhibit P.-7 and son of Subrati has been declared hostile and has denied, upon cross-examination by the learned Special Public Prosecutor, that the appellant was tenant in the subject room. Shri Subrati (PW-9) as also his wife Smt. Khatoon (PW-8) have also been declared hostile and have stated, when cross-examined by the learned Special Public Prosecutor, that he was their tenant about two-two and a half years ago. Smt. Hasina (PW-3) has also stated, in her cross-examination, that

two-three months prior to the incident, the appellant was residing in the neighbourhood of her *Samdhan* (sister-in-law), i.e., Smt. Khatoon. The Investigating Officer has also admitted as PW-12 that there was no evidence on record to demonstrate that the appellant was the tenant in the subject room. In view thereof, we find that the prosecution could not connect the appellant with the recovery of the alleged weapon of offence.

Although, in the case of ocular evidence, motive is not of much significance but, in the instant case, prosecution has come out with a contradictory stand in this regard. While, in the FIR, it was alleged that the appellant had threatened the deceased about four-five days ago to beating and the "*Karyavahi Police*", reflects that upon inquiry, the complainant informed that the appellant had murdered his father on account of old enmity. However, the complainant-Shakil Mohammad (PW-1) has stated that about two months prior to the alleged incident, the appellant had threatened his father whereupon, they lodged a complaint with the Police but, no action was taken thereupon. He, however, did not disclose any reason behind threat or of old enmity. On the other hand, Smt. Hasina (PW-3) while, in her examination-in-chief, feigned ignorance as to enmity in between the deceased and the appellant; but, in her cross-examination, she has alleged that on an earlier occasion, i.e., about two-two and a half months prior to the date of incident, when the appellant had visited her house, he had threatened to kill Shri Jamil. Again, the prosecution is silent as to reason/motive behind such threatening.

Further, a perusal of the judgment impugned reflects that the learned trial Court has relied upon the FSL report to connect

the appellant with the alleged offence; but, we find that no such FSL report was part of the record and was not been exhibited. Therefore, the learned trial Court gravely erred in relying upon the FSL report, not part of the record.

From the conspectus of the aforesaid analysis of evidence on record, we are convinced that the prosecution has not been able to establish, beyond reasonable doubt, that the appellant caused death of Shri Jamil Khan by inflicting two stab injuries and hence, the appeal deserves to be allowed.

Resultantly, the appeal is allowed. The judgment impugned dated 27.01.2017 passed by the learned Additional Sessions Judge (Women Atrocities Cases) No.1, Kota in Sessions Case No.52/2015 is quashed and set aside and the appellant is acquitted of the charges framed against him. Since, the appellant is in jail, he shall be set at liberty forthwith if not required to be detained in any other case.

In view of the provisions of Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (437-A CrPC), the appellant is directed to furnish a personal bond in the sum of ₹25,000/- and a surety in the like amount before the Registrar (Judicial) of this Court which shall be effective for a period of six months with the stipulation that in the event of Special Leave Petition being filed against the judgment or on grant of leave, the appellant aforesaid, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

(SAMEER JAIN),J

(MAHENDAR KUMAR GOYAL),J