A.F.R.
RESERVED ON 28.11.2025
DELIVERED ON 20.01.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1406 of 1990

Islam

…..Appellant(s)

Versus

State of U.P.

…..Respondent(s)

Counsel for Appellant(s) : Kameshwar Singh, Krishna Kant Shukla, Rama Shanker Mishra

Counsel for Respondent(s) : D.G.A

Court No. - 43

HON'BLE SALIL KUMAR RAI, J.
HON'BLE VINAI KUMAR DWIVEDI, J.

(Per:- Salil Kumar Rai, J.)

The present appeal has been filed against the judgment and order dated 17.7.1990 passed by the IV Additional Sessions Judge, Saharanpur convicting the appellant and sentencing him to life imprisonment in Session Trial No. 633 of 1988 registered under Section 302/34 IPC.

The prosecution case is that Islam, i.e., the appellant and co-accused Naseem were the nephews of Mehmoodan. There was some property dispute between Mehmoodan and the accused who wanted to usurp the land of Mehmoodan. The first information report states that on 2.11.1987, at 06:00 a.m. Mehmoodan was going to answer the call of nature and when she was near the '*gher*' of Inam Ilahi, the accused along with Altaf and Yamin assaulted her with Palkati (axe). When Mehmoodan cried for help, Shareef Ahmad, the first informant, as well as Mehardin, Hanif, Jarif Ahmad, Urmi, Kallu and some other persons

rushed to the spot and saw the accused dragging Mehmoodan and assaulting her with Palkati. On seeing the informant, the assailants fled from the scene. Mehmoodan died due to injuries on her neck which were caused by the axe. The first information report was lodged at 08:30 a.m. on 2.11.1987. The distance between the police station and the place of incident is shown in the chik FIR as 9.5 Kms. The written report was marked as Exhibit Ka -1 and the chik FIR was marked as Exhibit Ka-14 in the trial court.

The axe stained with human blood was recovered from twenty steps away from the dead body of Mehmoodan (hereinafter referred to as, the 'deceased') and a recovery memo was prepared which was marked as Exhibit Ka-9 in the trial court. The stained clothes of the deceased and the jug carried by her were also collected and the recovery memo of the items was marked as Exhibit Ka-10 in the trial court. Blood stained soil and plain soil were also collected by the police from two different spots and recovery memos of the same were marked as Exhibits Ka - 11 and Ka - 12 in the trial court.

The inquest report was prepared at 12:30 p.m. on 2.11.1987. The inquest notes the distance between the police station and the place of incident as 11 kilometers. It is noticeable that Yamin, one of the accused referred in the first information report, was also a witness to the inquest.

The post-mortem of the deceased was done on 3.11.1987 at 04:00 p.m. The following ante-mortem injuries were noted on the dead body:-

> **"***1. Lacerated wound 15 cm x 4 cm x bone cut on right side face just below right ear. All the underlying tissues and vessels were cut.*
>
> *2. Lacerated wound 12 cm x 3 cm x bone cut on right side face adjacent and below to injury no.l, all underlying tissues and vessels were cuts.*
>
> *3. Lacerated wound 16 cm x 5 cm x bone cut along with underlying tissues and vessels on front and upper part of right side neck adjacent and below injury no.22.*
>
> *4. Lacerated wound 16 cm x 9 cm x bone deep on the front of right side chest just below injury no.3.*
>
> *On internal examination, scalp right side temporal and right parietal were found to be cut. Haemotonia was present under the membrane. II and IIIrd cervical vertebra were cut into pieces.*

Spinal Cord cut under IInd and IIIrd cervial region. Larynx and Trachea were found cutting into pieces. Right mandible and mustoid bones were also found broken. Upper part of oesophagus was also fractured. Stomach was empty. In the doctor's opinion, the cause of death was due to Haemorrhage and shock as a result of anti-mortem injuries. The duration of the injuries at the time of autopsy was about 1½ day old."

The post-mortem report was marked as Exhibit Ka - 2 in the trial court.

Charge-sheet was submitted and the matter was committed for trial to the session court. Session Trial No. 633 of 1988 was registered against the accused Islam(appellant), Naseem and Altaf. The accused were charged by the trial court under Section 302/34 IPC. The accused pleaded not guilty and demanded trial.

The prosecution examined four witnesses. Shareef, the first informant, was examined as PW-1 and Mehardin, referred as an eye-witness in the first information report, was examined as PW-2. It is relevant to note that the statement of Mehardin was recorded by the Investigating Officer under Section 161 Cr.P.C., twenty five days after the incident. The doctor who conducted the autopsy on the dead body of the deceased was examined as PW-3 and the Investigating Officer of the case was examined as PW-4.

The Investigating Officer, i.e., PW-4 has proved the following documents relevant for a decision of the present appeal : -

Sr. No.	**Document**	**Exhibit Number**
1.	Inquest Report	Exhibit Ka – 3
2.	Site Plan	Exhibit Ka – 8
3.	Recovery memo of blood stained 'Palkati'	Exhibit Ka – 9
4.	Recovery memo of 'Lota and Chunri'	Exhibit Ka – 10
5.	Recovery memo of blood stained and plain soil	Exhibit Ka – 11
6.	Recovery memo of blood stained and plain soil	Exhibit Ka – 12
7.	Charge-sheet	Exhibit Ka – 13
8.	Chik report	Exhibit Ka – 14

9.	Copy of G.D. entry of Kayami Mukadama	Exhibit Ka – 15

PW-3 has proved the post-mortem report marked as Exhibit Ka - 2 while P.W-1 has proved the written report of the incident marked as Exhibit Ka - 1 in the trial court.

In his oral evidence, PW-1 stated that the father of the deceased had executed a Will bequeathing his landed property to the deceased which was not relished by the accused. The noticeable feature of the evidence of PW-1 is that the witness did not name Yamin as assailant but named only the appellant, Naseem and Altaf as persons who had assaulted the deceased and the witness has not assigned any role in the incident to Yamin. Further, in his evidence, the witness has stated that Islam, the appellant, was hitting the deceased with the axe while Naseem and Altaf, the other two co-accused, were holding the deceased. The witness further stated that he had seen the appellant hitting the deceased with the axe once near the residence of Inam Ilahi after which the deceased was dragged to the grove where the appellant again hit the deceased with the axe.

In his evidence Mehardin, PW-2, stated that he reached the spot on hearing the cries of Mehmoodan and saw that the appellant was hitting the deceased with axe while the other two co-accused held the deceased. The witness further stated that the accused fled when they saw the witness and other persons. In their cross-examination, the defence challenged the claim of the witness that he was a resident of village Ambehta Mohan, i.e., the village where the incident happened, but was a resident of another village named Aveeran. The witness replied that his ration card was from Ambehta Mohan and he had his residence at Ambehta Mohan though his agricultural lands were in village Aveeran where he also had a house which was purchased two years back.

So far as medical evidence is concerned, a perusal of the post-mortem report would show that it does not mention any incised wound on the body of the deceased but records four lacerated wounds on the body of the deceased. The report also mentions that the bone underneath

the wound was cut. In his cross-examination, the doctor who was examined as PW-3 denied that any of the injuries noted in the post-mortem report could be caused by an axe. The witness was examined by the court. On a question put to the witness by the court that bone cuts were not possible in lacerated wounds and in wounds caused by blunt weapon, the witness admitted that he had wrongly referred the ante-mortem injuries as lacerated wounds and the injuries should have been referred as incised wounds.

PW-4 is a formal witness and documents proved by him have already been referred above.

In their examinations under Section 313 Cr.P.C., the accused denied the prosecution case and pleaded that false case had been registered against them because they were related to the deceased.

The trial court rejected the plea of the defence that the appellant had no motive to commit the crime and held that the evidence indicated that there was some property dispute between the parties and the appellant wanted to usurp the land of the deceased, which could be the motive to commit the homicide and further, absence of motive was not relevant because there was direct evidence of the crime. The trial court also rejected the plea of the defence that the first information report was ante-timed. The trial court relied on the testimony of PW-1 who was an eye-witness of the incident and held that the use of axe in committing the crime was proved from the post-mortem report, the admission of PW-3 made in response to the questions put by the court, the recovery memo and the chemical examination. The trial court held the appellant liable under Section 302 IPC sentencing him to life imprisonment but acquitted the other two accused after noticing that in his evidence, PW-1 had deposed that it was only the appellant who assaulted the deceased with axe while the other accused were only holding the deceased and had no weapon. Hence, the present appeal against conviction.

It has been argued by the counsel for the appellant that the first information report is ante-timed and had been prepared after deliberations which would be evident from the difference in the distance

shown in the first information report and the inquest report prepared by the Investigating Officer. It has been argued that Yamin also shown as an assailant in the first information report is a witness to the inquest which shows that the first information report was registered after the inquest. It was further argued that from the evidence on record, it is apparent that the first information report was, for the first time, received in the court of Chief Judicial Magistrate, Saharanpur on 7.11.1987 even though the first information report is stated to have been registered on 2.11.1987. It was further argued by the counsel for the appellant that there are contradictions between the testimony of PW-1 and the first information report regarding the role of the accused in the homicide and also the presence of Yamin at the place of incident, the use of axe in the incident is not proved and that the post-mortem report does not corroborate the injuries claimed by the prosecution. It was argued that in his evidence, PW-1 refers to only two hits by the appellant on the neck of the deceased while the post-mortem report mentions four wounds which shows that PW-1 was not an eye-witness of the incident and his testimony so far as it implicated the other co-accused was disbelieved by the trial court which shows that the testimony of PW-1 is not reliable, therefore, the trial court has wrongly relied on the testimony of PW-1 to convict the appellant. It was further argued that PW-2 was a chance witness and was not a resident of village Ambehta Mohan. PW-2 was interrogated by the Investigating Officer twenty five days after the incident which shows that PW-2 was a tutored witness and not an eye-witness of the incident, therefore, his evidence was liable to be rejected. It was further argued that from the evidence of PW-3, it was evident that injuries referred in the post-mortem report could not be caused by axe which proved that the case of the prosecution was false. It was argued that the prosecution had failed to prove, beyond doubt, the case against the appellant and the judgment and order dated 17.7.1990 passed by the IV Additional Sessions Judge, Saharanpur convicting and sentencing the appellant are liable to be set-aside and the appellant is to be acquitted of the charges in Session Trial No. 633 of 1988.

Rebutting the contention of the counsel for the appellant, the Additional Government Advocate has argued that the testimony of PW-1 and PW-2 proves beyond doubt the prosecution case. It has been argued that human blood was found on the axe recovered from the scene which corroborates the testimony of PW-1 and PW-2. It was argued that in his examination by the court, PW-3 admitted his error in referring to ante-mortem injuries as lacerated wound and admitted that the wounds should have been referred to as incised wounds. It was argued that the role of the appellant in the crime was proved by the prosecution beyond doubt and there is no error in the findings recorded and the sentence imposed by the trial court, therefore, the appeal is liable to be dismissed.

We have considered the records of the case and the submissions of the counsel for the parties.

In support of his argument that the first information report was ante-timed, the counsel for the appellant has highlighted that the FIR was received by the Chief Judicial Magistrate on 7.11.1987 while the date of dispatch as noted in the G.D. was 3.11.1987. The FIR is claimed to have been registered at 08:30 a.m. on 2.11.1987. We do not find any force in the submission of the appellant. It comes out from the judgment of the trial court that the distance of the police station from the Head Quarters was 48 kilometers. The FIR was sent to the District Headquarter on 3.11.1987 through a messenger and it was common practice that the police-pairokars of the police station which are at a long distance from the Head Quarter, leave the police stations at early hours so as to reach the court on time. The trial court held that the aforesaid explained the despatch of the first information report on 3.11.1987. So far as the plea that the first information report was received in the court of the Chief Judicial Magistrate on 7.11.1987, the trial court has noted that there was no evidence on record to show that the Chief Judicial Magistrate was present throughout or the FIR was not put up before him because it was not in existence. There is a clear entry of Kayami Mukadma in the copy of the G.D. The G.D. has been proved by the Investigating Officer, i.e., PW-4 and was marked as Exhibit Ka-15. In its

judgment reported in ***Subash And Shiv Shankar vs. State of U.P. (1987) 3 SCC 331***, the Supreme Court in similar circumstances had observed as follows : -

> ***"11.*** *Coming now to the appeal of Subash it was strenuously contended by Mr. Frank Anthony, learned counsel that the prosecution evidence suffers from numerous infirmities and as such the Sessions Judge and the High Court ought not to have convicted him. His further argument was that in any case the benefit of doubt given to Om Kumar and Raj Kishore, ought to have been given to Subash also. Mr. Anthony argued that Exhibit Kha-1 could not have been given at 1.12 p.m. because there is no evidence to show when the report was sent to the Magistrate and when it was received by him. The learned counsel referred to Gurdev Singh v. State, where the dangers ensuing from a First Information Report not being lodged promptly have been pointed out. We are unable to accept the argument of Mr. Anthony because there are no materials to warrant an inference that Exhibit Kha-1 had been given later but antedated to cover up the delay in making the report.* ***It is true that the First Information Report sent to Court does not contain the Magistrate's endorsement regarding the time of its receipt, but Ram Kishan, Head Constable (P.W. 5) has deposed that the special report was despatched to the Magistrate at 1.20 p.m. itself through constable Chiman Lal and that the General Diary contains an entry to that effect."***
>
> (emphasis supplied)

In view of the aforesaid, the mere fact that the FIR is shown to have been received by the Chief Judicial Magistrate, Saharanpur on 7.11.1987 is not sufficient to hold that the first information report was ante-timed.

We are also unable to accept the argument on behalf of the appellant that the FIR was ante-timed would be evident from the fact that the distance between the place of incident and the police station as recorded in the inquest report/ Panchayatnama and as recorded in the FIR are different and also because Yamin who is a witness of the inquest is also named as an accused in the FIR. In case, the FIR was ante-timed, there would have been no difference in the distance between the place of incident and the police station as recorded in the inquest report and in the FIR. Similarly, if the inquest had been prepared before the first information report, the first information report would not have shown Yamin as one of the assailants.

It was argued by the counsel for the appellant that the post-mortem of the deceased was conducted on 3.11.1987 at 04:00 p.m. even though the incident occurred on 2.11.1987 at 06:00 a.m., the FIR was registered by 08:30 a.m. and the inquest was prepared by 12:30 p.m. which shows that the FIR was ante-timed. It comes out from the judgment of the trial court that the dead body was sent to the District Headquarter at 12:30 p.m. because the post-mortem facilities were available only at District Headquarters. The dead body of the deceased was sent to the reserved police line and was received in the police line on 3.11.1987 at 07:00 a.m. The distance between the place of incident and the Head Quarter was 48 kilometers and the distance between the place of incident and the police station was 9.5 kilometers. Considering the aforesaid facts, we do not find any delay in conducting the post-mortem.

It has been argued by the counsel for the appellant that the testimony of PW-1 was not corroborated by the post-mortem report which shows four lacerated wounds on the body of the deceased while the witness states that the appellant had twice hit the deceased on her neck. It was also argued that in his evidence PW-3 had stated that the injuries on the body of the deceased could not be caused by Palkati (axe) which is alleged to have been used by the appellant to murder the deceased. It was argued that there were contradictions between the testimony of the witness and the first information report lodged by him regarding the role assigned to different accused in the homicide which discredits the witness and his status as an eye-witness of the incident. It was argued that for the aforesaid reason, the trial court has wrongly relied on the testimony of PW-1 to convict the appellant.

Before considering the argument of the counsel for the appellant regarding the credibility of the testimony of PW-1, it would be appropriate to refer to the observations of the Supreme Court in Paragraph – 32 of its judgment reported in ***Rajan vs. State of Haryana (2025) SCC OnLine SC 1952*** : -

> ***"32****. The appreciation of ocular evidence is a hard task. There is no fixed or straight-jacket formula for appreciation of the ocular*

evidence. The judicially evolved principles for appreciation of ocular evidence in a criminal case can be enumerated as under:

"I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.

II. ***If the Court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details****.*

III. When eye-witness is examined at length it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

IV. Minor discrepancies on trivial matters not touching the core of the case, hyper technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.

V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. ***By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen****.*

VII. Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind whereas it might go unnoticed on the part of another.

IX. By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess work on the spur of the moment at the time of interrogation. And

> *one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.*
>
> *XI.* ***Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on****.*
>
> *XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross examination by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The sub-conscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him.*
>
> *XIII.* ***A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Unless the former statement has the potency to discredit the later statement, even if the later statement is at variance with the former to some extent it would not be helpful to contradict that witness.”***
>
> *(emphasis supplied)*

The incident took place at 6:00 a.m. PW-1 claims that he was near the place of incident when the crime was committed and came on the spot when he heard the shrieks of the deceased for help. However, that does not make the witness a chance witness. The witness is a resident of the village and the trial court has noted that villagers commonly go out in open to answer the call of nature and on that we agree with the opinion of the trial court. PW-1 is not an interested witness and there is no evidence on record to show that the witness was inimical to the accused. It has been alleged in the first information report that four persons, including Yamin, were hitting the deceased with axe but in his testimony, the witness has stated that only the appellant was hitting the deceased with axe while the co-accused were holding the deceased. The counsel for the appellant argues that the aforesaid contradiction shows that PW-1 is not an eye-witness of the incident. The argument is not acceptable. An eye-witness is not expected to have a photographic memory of the incident. The testimony of an eye-witness cannot be rejected only because the FIR did not narrate, with mathematical precision, the role of different persons in the crime. The difference between what has been recorded in the first information report and the

testimony of the witness is not sufficient to discredit the witness or reduce the value of his testimony. The axe was recovered twenty steps from the dead body of the deceased. The recovery memo notes that the axe contained human blood. The axe and the jug carried by the deceased were sent for chemical examination which reported that blood were found on both the articles. The report was marked as Exhibit Ka - 16 in the trial court. Though the post-mortem report shows ante-mortem injuries as lacerated wounds and in his testimony, PW-3 has stated that the injuries could not have been caused by axe but the post-mortem report also records that there were bone cuts underneath the wounds on the dead body. On being examined by the court, PW-3 admitted that the ante-mortem injuries have been erroneously referred as lacerated wounds and they should have been referred as incised wounds. An incised wound with bone cuts can be caused only by a sharp weapon. In light of the admission by PW-3, the medical evidence corroborates the injuries as testified by the witness and proves the use of axe in homicide. The argument that the witness states that he saw the appellant hitting the deceased twice and the post-mortem report shows four ante-mortem injuries, therefore, the witness is not reliable and cannot be considered an eye-witness is also not acceptable. As stated earlier, an eye-witness cannot be expected to have a photographic memory of the incident and state the incident with mathematical precision.

It was also argued on behalf of the appellant that PW-2 was a chance witness as he was not a resident of the village where the incident occurred. It has been further argued that the statement of PW-2 was recorded by the Investigating Officer, twenty five days after the incident which further supports the case of the defence that PW-2 was not an eye witness. It is apparent that the Investigating Officer had not fairly conducted the investigation. The role of the Investigating Officer and the doctor who had conducted the autopsy on the dead body have been adversely commented on by the trial court. A faulty investigation by the Investigating Officer cannot be the sole reason to reject the prosecution case. Even if the testimony of PW-2 is rejected, the same would not help

the appellant because the prosecution case has been proved by PW-1 whose testimony is corroborated by the medical evidence. We do not find the testimony of PW-1 unreliable so as to require corroboration by any other independent witness. It is the quality of evidence which is to be taken into consideration and not the number of witness examined to prove the prosecution case. The sole testimony of PW-1 proves the prosecution case beyond doubt.

It was argued on behalf of the appellant that the other co-accused who were alleged to be holding the deceased while the appellant was hitting the deceased with axe have been acquitted implying thereby that the testimony of PW-1 and the prosecution case has been disbelieved by the trial court, therefore, the appellant is to be acquitted.

Falsus in uno falsus in omnibus is not a principle of law applicable in India. It is only a rule of caution. Even if a major portion of evidence is found to be deficient, in case the remaining part of the evidence is sufficient to prove the guilt of the accused, his conviction can be maintained notwithstanding the acquittal of other co-accused. Even if the evidence of PW-1 so far as it relates to the other co-accused is found deficient, there is nothing which persuades us to disbelieve the testimony of PW-1 so far as it relates to the appellant.

At this stage, it would be relevant to refer to the observations of the Supreme Court in Paragraph – 9 to 12 of its judgment in ***Nisar Ali vs. The State of Uttar Pradesh AIR (1957) SC 366*** : -

> ***"9****. It was next contended that the witnesses had falsely implicated Qudrat Ullah and because of that the Court should have rejected the testimony of these witnesses as against the appellant also. The well-known maxim falsus in uno falsus in omnibus was relied upon by the appellant. The argument raised was that because the witnesses who had also deposed against Qudrat Ullah by saying that he had handed over the knife to the appellant had not been believed by the Courts below as against him, the High Court should not have accepted the evidence of these witnesses to convict the appellant.* ***This maxim has not received general acceptance in different jurisdictions in India; nor has this maxim come to occupy the status of a rule of law. It is merely a rule of caution. All that it amounts to is that in such cases the testimony may be disregarded and not that it must be disregarded****. One American author has stated:*
> *"….* ***the maxim is in itself worthless****; first in point of validity ….. and secondly, in point of utility because it merely tells the jurry what they may do in an event, not what they must do or must not do,*

and therefore, it is a superfluous form or words. It is also in practice pernicious…..."

***10**. The doctrine merely involves the question of weight of evidence which a Court may apply in a given set of circumstances but it is not what may be called "a mandatory rule of evidence".*

***11**. Counsel for the appellant drew our attention to a passage from an unreported judgment of the Privy Council, Chaubaria Singh v. Bhuneshwari Prasal Pal.*

"The defendants own evidence and that of several of his witnesses is of no use to him. He cannot contend that any Court of law can place reliance on the oath of people who have admittedly given false evidence upon the other branches of the case."

***12**. This passage is a very slender foundation, if at all, for conferring on the doctrine the status of anything higher than a rule of caution and the **Privy Council cannot be said to have given their weighty approval to any such controversial rule which has been termed as "worthless", "absolutely false as a maxim of life" and "in practice pernicious" in works of undoubted authority on the law of evidence.**"*

In the circumstances, we do not find any error on the part of the trial court in convicting the appellant even after acquitting the other co-accused in the case.

So far as absence of motive on the part of the appellant to murder the deceased is concerned, it is not sufficient to create doubts on the prosecution case. There is direct eye evidence of the incident. The testimony of PW-1 proves beyond doubt the guilt of the appellant. In any case, it appears from the evidence on record that there was some property dispute between the family of the appellant and the deceased and further, the father of the deceased had executed a Will in favour of the deceased which had offended the appellant and his family.

In the aforesaid circumstances and in light of the evidence on record, we do not find sufficient reasons to interfere in the findings of the trial court which also had the opportunity to watch the demeanor of the witness and whose assessment of evidence has to be given due regard by us as Appeal Court. We do not find any reason to either set-aside or modify the judgment of the trial court.

For all the aforesaid reasons, the judgment and order dated 17.7.1990 passed by the trial court in Session Trial No. 633 of 1988

convicting the appellant under Section 302 IPC and sentencing him to life imprisonment is affirmed.

The appellant is on bail. The appellant shall surrender before the trial court by 25th February, 2026 and shall be taken in custody and sent to jail for completing the sentence awarded by the trial court. The period already undergone by the appellant shall be adjusted against the sentence awarded by the trial court. In case, the appellant fails to surrender, the trial court shall take steps in accordance with law to secure the presence of the appellant.

The judgment of this Court shall be certified to the trial court. The records of the case along with the judgment shall be remitted back to the trial court for necessary action.

The appeal is ***dismissed***.

(Vinai Kumar Dwivedi,J.) (Salil Kumar Rai,J.)

January 20, 2026
Satyam/Vipasha