

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(104)

CRA-D-390-DB-2004 (O & M)

Reserved on: 26.05.2025

Date of Pronouncement: 29.05.2025

Jitender @ Jitta

... Appellant

V/s

The State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. P.K.S. Phoolka, Advocate as Amicus Curiae
and Mr. Deepender Singh, Advocate with
Mr. Dharamvir Singh, Advocate,
for the appellants.

Mr. Ranvir Singh Arya, Addl.A.G., Haryana.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of conviction and order of sentence dated 02.04.2004 passed by the Additional District & Sessions Judge (Adhoc), Jhajjar.

2. The instant FIR came to be registered on 12.07.2002. The accused-appellant/Jitender @ Jitta came to be convicted vide judgment of conviction and order of sentence dated 02.04.2004. The present appeal against the judgment of conviction and order of sentence was filed on

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::2::

23.04.2004. The matter has come up for final hearing now after almost 23 years of the registration of the FIR.

3. Briefly stated the facts of the case are that on 12.07.2002 Basanti Devi complainant wife of Mahabir Singh resident of village Tandaheri went to the Police Station Sadar, Bahadurgarh accompanied by Jaikishan, the elder brother of her husband and reported the matter to the police that the house of Umed Singh accused was situated in front of their house across the lane and that their other house was situated adjacent to her house in the same lane. The Gram Panchayat had got constructed a drain from in front of their house and other houses including the house of Umed Singh for the flow of dirty water from the houses. However, Umed Singh was not allowing the flow of water from the house of the complainant in that drain (Nali) and on that account he used to hurl abuses at them (complainant party) and had turned hostile. On 11.07.2002, the complainant and her husband Mahabir had gone to the village pond with their buffalo. She (complainant Basanti Devi) was standing near the village pond on the road while Mahabir was standing at a small distance near the Madi situated on the village pond. At about 7.30 p.m. Umed Singh, Arvind @ Mannu son of Umed Singh, Jitender and Parveen sons of Satbir and Parveen son of Umed Singh with one more person on his motorcycle, not known to the complainant came there and they attacked Mahabir. They all had come from the side of the house of Jitender armed with knives, *khokhri* and a desi pistol

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::3::

with a common intention of killing Mahabir. They all raised a *lalkara* and surrounded Mahabir. Umed Singh exhorted them that Mahabir was not to escape and he be put to death and that he would take care of the consequences. On that *lalkara* accused Mannu who was having a *khokhri* in his hand gave a *khokhri* blow on the left side of Mahabir and Jitender gave him a knife blow on the left side of his chest. Jitender gave another blow on the left side belly of Mahabir. Sonu gave a knife blow on the front of his neck and he fell down. Parveen and the other person who could not be identified by her (complainant) gave one knife blow each to Mahabir on the right side ribs of Mahabir. Jitender and Sonu gave knife blows each on the right side temple of Mahabir near the eye and Mannu gave another *khokhri* blow on the right side of the head of Mahabir. In the meantime, Ranbir brother of Mahabir arrived at the spot and he and Basanti Devi rushed towards the spot for intervention. At that time Umed Singh who was having a desi pistol in his hand fired at them with the intention of killing them. On their alarm, some persons arrived there from the village side and on seeing those persons coming, the assailants ran away with their respective weapons. While leaving the spot, the accused gave threats to Ranbir and Basanti that they would not leave them alive as and when they could find an opportunity. Mahabir injured succumbed to his injuries at the spot. As it had fallen dark and the accused had given threats to the complainant so out of fear she could not go to the Police Station for reporting the matter to the Police. Jaikishan,

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::4::

another brother of the deceased was employed with the Haryana Police and so, Ranbir Singh contacted him on telephone and they waited for his arrival. He arrived in the village in the night and leaving Ranbir at the spot with the dead body, the complainant Basanti Devi accompanied by him went to the Police Station and reported the matter to the Police vide her written complaint Ex.PG regarding the occurrence. Kartar Singh, ASI recorded FIR Ex.PG/2 on the basis of that complaint.

4. Kartar Singh, ASI then accompanied the complainant to the spot and saw the dead body lying there. Samunder Singh, HC and Satbir and Satish Constable were with him at that time. Ranbir Singh identified the dead body to be of his brother Mahabir and Kartar Singh, ASI prepared the inquest report Ex.PH. He picked up one empty cartridge and a missed cartridge from the spot, one cover of a *khokhri* and the blood stained earth from the spot which were sealed separately into sealed parcels and were taken into possession vide recovery memo. Ex.PJ attested by Jaikishan and Ranbir, PWs. The dead body was then entrusted to Samunder Singh, HC for getting conducted the Post Mortem examination. After the Post Mortem examination, he handed over to the Investigating officer the Post Mortem report, inquest papers duly signed by the doctor, a sealed parcel of clothes of deceased and one envelope containing the seal impression of the seal used by the doctor and the sealed parcels were taken into possession by him vide recovery memo Ex. PD.

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::5::

5. On 20.07.2002, Rajender Singh son of Dalel Singh of village Tikri produced the accused Arvind, Parvesh and Jitender before Kartar Singh, ASI and he arrested them in this case and the statement of Rajender Singh was recorded. On the next day, he interrogated the accused in the presence of Raj Singh and Jaikishan on which Arvind accused made disclosure statement Ex.PK that the *khokhri* used by him in the occurrence had been kept concealed by him under the bushes of Kabli *kikar* near village Tandaheri about which he had the exclusive knowledge and could get the same recovered. That disclosure statement was signed by the accused and attested by the aforesaid witnesses. Then Parvesh was interrogated on which he made the disclosure statement Ex.PL to the effect that the knife used by him in the occurrence had been kept concealed by him in the bushes near the village about which he had the exclusive knowledge and could get the same recovered. Then Jitender made disclosure statement Ex.PM on interrogation that he had kept concealed the knife used by him in the occurrence in the kabli *kikkars* near the village about which he had the exclusive knowledge and could get the same recovered. The disclosure statements were signed by the respective accused and attested by the aforesaid witnesses. Then in pursuant of the disclosure statement the accused Arvind got recovered the *khokhri* from the stated place in the presence of Ranbir and Samunder Singh. It was sealed and taken into possession vide recovery memo Ex.PN after preparing its rough sketch. Then Parvesh got recovered the knife from the

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::6::

stated place which was sealed and taken into possession vide recovery memo Ex.PF /1 after preparing its rough sketch Ex.PF. Then Jitender got recovered the knife from the disclosed place and it was also sealed and taken into possession vide recovery memo Ex.PE/1 after preparing its rough sketch Ex.PE. Kartar Singh, ASI prepared rough site plan Ex.PO of the place of recovery of *khokhri* and Ex.PQ and Ex.PR of the places of recovery of knife by Parvesh and Jitender. When he was returning to the Police Station, Arvind was again interrogated by him on which he made the disclosure statement Ex.PS that he had kept concealed the pistol near the canal in the area of village Daboda Khurd and could get the same recovered. Then in pursuance of that disclosure statement, he got recovered the pistol from that place which was sealed and taken into possession vide recovery memo Ex. PA/2 after preparing its rough sketch Ex.PS/2.

After sending the case property to FSL Madhuban and completion of the investigation the challan was prepared against Jitender and Parvesh and the case was committed to the Court of Sessions while Arvind being a Juvenile his case was sent to Juvenile Court. Umed Singh, Sudarshan & Parveen were found innocent and so, they were not challaned by the police.

6. On receipt of the case after commitment, the documents relied upon by the prosecution were perused and a prima facie case under Sections 302/34 IPC and 25 of the Arms Act was found to have been made out

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::7::

against the accused. They were charged accordingly to which they pleaded not guilty and claimed trial. After recording the statement of Basanti Devi complainant who named Umed Singh also amongst the assailants, an application under Section 319 Cr. P.C. was moved for summoning him as well, for facing trial alongwith the other accused. He was summoned and the charge as above was framed against all the accused.

7. In order to prove its case, the prosecution examined 12 witnesses. The gist of their statements is as under:-

Pawan Kumar-Constable was examined as PW-1. He stated that on 22.07.2002, he accompanied Head Constable Samunder Singh to the canal of Daboda Khurd where the accused Umed Singh got recovered one pistol of .315 bore from the bushes near the canal. He then again stated that the recovery was effected by Arvind son of Umed Singh. The recovery memo was Ex.PA. Arvind was facing trial before the Juvenile Court.

Karan Singh-MHC was examined as PW-2. He stated that the parcels of recovered articles were deposited with him which he sent to the FSL, Madhuban.

Dharam Chand-Head Constable was examined as PW-3. He stated that on 12.07.2002 Kartar Singh ASI had handed over to him three envelopes containing the special reports of the case. One envelope was delivered by him at the house of Magistrate while other two were delivered to the Superintendent of Police and Deputy Superintendent of Police

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::8::

concerned. In cross-examination, he stated that envelopes of the special report were handed over to him at about 6.25 a.m. and he delivered one special report at the resident of the Magistrate within 15 minutes thereafter.

Jai Chand-Constable was examined as PW-4 and stated that he was the draftsman who prepared the scaled site plan Ex.PC on the instructions of investigation officer at the instance of Basanti Devi.

HC Samunder Singh was examined as PW-5. He stated that he alongwith other police officials took the dead body to Civil Hospital, Bahadurgarh for post-mortem examination. The doctor conducted the same and handed over the report to him alongwith the inquest papers. A sealed parcel of the clothes of the deceased and sealed impression etc. were handed over by him to ASI Kartar Singh. On 22.07.2002, he accompanied other police officials to village Tandaheri where Ranbir Singh met him. Arvind got recovered a *khokhri* in the presence of Ranbir. Jatinder got recovered a knife from the *kikkar* bushes near his house. Parvesh got recovered a knife from the bushes of the *kikkar* tree. On their way back, when they reached near the village Aurangabad, the accused Arvind pointed out the place where the pistol used in the occurrence had been kept concealed by him near the HUDA canal. He then got recovered the pistol from the stated place. Arvind was being tried by the Juvenile Court.

Kartar Singh-ASI was examined as PW-6. He stated that on 12.07.2002, he was posted at Police Station Sadar Bahadurgarh when

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::9::

Basanti wife of Mahabir produced a written complaint Ex.PG regarding the occurrence. He made an endorsement Ex.PG/1 and recorded a formal FIR Ex.PG/2. He, thereafter, alongwith other police officials inspected the spot where they found the dead body of Mahabir Singh. Ranbir came to the spot and identified the same. The inquest report/Ex.PH was prepared by him. On inspection, one empty cartridge was lying at the spot alongwith one cover of *khokhri*. They were picked up and were sealed. Blood stained earth was also picked up and sealed. The sealed parcels were taken into possession. The dead body was handed over to Samunder Singh Head Constable to get conducted the post mortem examination. After the same had been done, the post mortem report, inquest papers, sealed parcels of the clothes of the deceased and the sealed parcels were taken into possession by him vide recovery memo Ex.PD. On 20.07.2002, Rajender son of Dalel Singh produced before him three accused, namely, Arvind, Parvesh and Jatinder whom he arrested. Their respective disclosure statements were recorded. Arvind got recovered a *khokhri* in the presence of Ranbir and Samunder Singh vide memo Ex.PN. Parvesh got recovered a knife vide memo Ex.PF/1. Jatinder got recovered a knife vide memo Ex.PE/1. He prepared a rough site plan of the place of recovery. On the way back, Arvind was interrogated and got recovered a pistol which was taken into possession vide memo Ex.PA/2. The case property was handed over to the MHC for

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::10::

safe custody. In cross-examination, he stated that he had handed over the special report at 6.25 a.m.

Kanwar Singh-Constable was examined as PW-7. He stated that on 23.08.2002, Karan Singh-MHC handed over to him a sealed parcel of the blood stained earth, a sealed parcel of the cover of *khokhri*, a sealed parcel of empty cartridge, a sealed parcel of clothes of the deceased-Mahabir, a sealed parcel of *khokhri*, two sealed parcels of knives and one sealed parcel of a country-made pistol. He took the same to the FSL Madhuban and obtained a receipt which on return, he handed over to the MHC.

Jaikishan was examined as PW-8. He stated that on 11.07.2002, he was posted at Police Station Hassanpur. On that day, his brother informed regarding the murder of their brother. He came to the village on 12.07.2002 at about 2.30 a.m. and then he accompanied the wife of Mahabir, namely, Basanti to register the FIR. Thereafter, he accompanied Kartar Singh ASI to the spot where the dead body was lying. The police official picked up blood stained earth from the spot, a cover of *khokhri*, one missed cartridge and one fired cartridge, all of which were taken into possession. On 21.07.2002, Jatinder, Arvind and Parvesh suffered their disclosure statements which were signed by him and Raj Singh.

Dr. Satish Sangwan was examined as PW-9. He deposed as under:-



On 12.07.2002, I was posted as Medical officer at General Hospital, Bahadurgarh. That day, we conducted Post Mortem examination over the dead body of Mahabir S/o Bharat Singh, Jat. R/o Tandaheri, 35 yrs, of age, Male. On examination the length of body was 5'-8" and no mark of ligatures over neck. Injuries were as under :-

- 1. An incised stab wound of size 4 x 2cm. over left middle and lateral abdomen with intestines protruding out.*
- 2. Stab wound of size 3 x 1cm, over upper abdomen piercing the intestines and peritonium. On dissection a large intra-abdominal haematoma was found.*
- 3. A stab wound of size 3 x 1cm. over left middle chest piercing the left ventricle of heart. A large haematoma found.*
- 4. A stab wound of size 4 cm x 1 cm, over upper neck. On dissection underlying trachea and oesophagus were found severed.*
- 5. Multiple stab wound over scalp with clotted blood.*

Opinion:- In our opinion the cause of death was shock and haemorrhage as a result of stab injury incurred on the body which were ante-mortem and sufficient to cause death in normal course of nature.

Handed over to the Police:-

- 1. A well stitched body after PME with all belongings.*
- 2. A bundle containing clothes of the patient sealed.*
- 3. Copy of PMR.*
- 4. Police papers duly signed.*

The time elapsed between death and Post Mortem examination was within 24 hours. I conducted the Post Mortem examination with board members being Dr. N.K. Mundra, Dr. .R.K. Verma. My Post Mortem report in that behalf is Ex.PV. which is in my hand and bear my signatures.



CRA-D-390-DB-2004 (O & M)

::12::

Satay Parkash Kaushik Reader to District Magistrate was examined as PW-10. He stated that on 25.07.2002, he identified the signatures of Mahender Kumar IAS on a sanction order Ex.PY which was passed by the District Magistrate on police request Ex.PX.

Complainant-Basanti was examined as PW-11. She stated that on account of a dispute regarding water flowing through a water channel (*Nali*), Umed Singh was nursing a grudge against them (complainant party). On 11.07.2002, she and her husband Mahabir Singh were going to the village pond with their cattle. At about 7.30 P.M., Umed Singh, Sonu, Jitta, Parvesh, Monu and one unknown person came on a motorcycle. The name of that unknown person was Parvesh. There was another person by the name of Parveen. Those persons were having a knife, *khokhri*, and a pistol. Umed Singh raised a *lalkara* that Mahabir Singh was to be killed. On that *lalkara*, Monu gave a *khokhri* blow to Mahabir on the left side of his stomach near the arm pit. Jitta gave a knife blow on his chest towards the left side and another blow with the knife on his belly towards the left side. Then, Sonu gave a knife blow at his neck. After sustaining those blows Mahabir fell down on the ground. Thereafter, Parveen and the unknown person gave two knife blows on Mahabir, near his abdomen. Parveen was the son of Satbir, Jitta and Sonu accused gave knife blows near the right eye of Mahabir Singh, while Monu gave a *khokhri* blow on the head of Mahabir. In the meantime, her brother-in-law/Ranbir reached there and they tried to



rush to her husband. At that time, Umed Singh accused fired two shots with his pistol on her and Ranbir with an intention to kill them. On raising an alarm, some villagers came to the place of occurrence and on seeing those villagers coming towards them, the accused ran away with their respective weapons. While leaving the spot, the accused held out a threat to them that they would kill them (complainant party) whenever they had an opportunity. Thereafter, Jaikishan, the elder brother of her husband-Mahabir who was employee in the police department at Palwal was telephonically called for whom they kept waiting. After his arrival, she alongwith him went to the police station and got recorded the statement Ex.PG. While accused-Umed, Jitender and Parvesh were facing trial before the said Court, Arvind was facing trial before the Juvenile Court.

Ranbir Singh was examined as PW-12. His statement is similar to that of the complainant-Basanti and is not being reproduced here for the sake of brevity.

The FSL report was tendered as Ex.PZ.

8. In his examination under section 313 Cr. P.C. accused-Jitender @ Jitta took the plea of Umed Singh who stated that the deceased was a man of quarrelsome nature and he had caused injuries to some persons in the village and had created enemies. His two brothers including Jaikishan, ASI and maternal uncle of his wife were employed in Haryana Police and due to their influence no case was registered against him. He was murdered during



CRA-D-390-DB-2004 (O & M)

::14::

the night by some unknown person and it was a blind murder. When his body was found, the Police was informed by the members of his family and the Police arrived at the spot during the night and as the real culprit was not known, the complainant named them falsely in collusion with the police. Nothing was recovered from them nor from the spot and being a false case, no villager came forward to support that version. It was also stated that wife of Kali Ram who belonged to the Kunba of the complainant party was beaten by the deceased. So he left the village and sold his house to him (Umed). The deceased wanted to purchase that house and had also asked him not to purchase that house. But as he purchased that house he turned inimical towards him. He also took the stand that he was employed in M.E.S. Airforce Station Palam and was present at his duty there at the time of alleged occurrence and was not present in the village. Parvesh also took the same stand as that of Umed Singh.

9. In defence, Madan Lal Chug, Junior Engineer (Elec.) Palam Airport was examined as DW-1 in support of the acquitted accused.

10. Based on the evidence led, while acquitting the co-accused, namely, Parvesh and Umed Singh, the accused-appellant, namely, Jitender @ Jitta came to be convicted and sentenced by the Court of the Additional District & Sessions Judge (Adhoc) Jhajjar, vide judgment of conviction and order of sentence dated 02.04.2004 as under:-

2025:PHHC:074219-DB



CRA-D-390-DB-2004 (O & M)

::15::

Offence U/S	Sentence	Fine	In default of payment of fine
302/34 IPC	Life Imprisonment	Rs.5,000/-	RI 06 months

11. The aforementioned judgment of conviction and order of sentence dated 02.04.2004 passed by the Additional District & Sessions Judge (Adhoc), Jhajjar is under challenge before this Court.

12. During the pendency of this appeal, the sentence of the accused-appellant, namely, Jitender @ Jitta was suspended by this Court vide order dated 29.05.2008.

13. The learned Amicus Curiae for the accused-appellant contends that the prosecution case is based on the statement of PW-11/Basanti and PW-12/Ranbir Singh. These witnesses who are the wife and brother of the deceased-Mahabir Singh respectively, are interested witnesses and the conviction cannot be recorded only on the basis of their statements. In fact, as the occurrence had taken place at the village pond there would have been other independent witnesses, none of whom have been examined. There is a significant delay in the registration of the FIR. The occurrence took place on 11.07.2002 at 7.30 p.m., the complainant gave her written application to the police on 12.07.2002 at 4.00 a.m. but the special report reached the Illaqa Magistrate on 12.07.2002 at 6.25 a.m. This delay is fatal to the prosecution case. Further, since only the accused-appellant has been convicted and the others have been acquitted, the statements of the material



CRA-D-390-DB-2004 (O & M)

::16::

eye-witnesses have been disbelieved substantially qua the acquitted accused and therefore, the same statements cannot be believed qua the accused-appellant. He, thus, contends that the judgment of conviction is liable to be set aside and the accused-appellant be acquitted of the charges framed against him.

14. The learned counsel for the State, on the other hand, contends that the statements of the eye-witnesses, namely, PW-11/Basanti and PW-12/Ranbir Singh are consistent in material particulars. The maxim of '*falsus in uno, falsus in omnibus*' does not apply in the Indian context. The medical evidence is totally in consonance with the ocular account. The delay, if any, stands satisfactorily explained by the complainant inasmuch as she has stated that she was waiting for her brother-in-law/Jaikishan who came from Palwal where he had been posted before lodging the formal FIR. He, thus, contends that no fault can be found with the impugned judgment and therefore, the present appeal is liable to be dismissed.

15. We have heard the learned counsel for the parties.

16. The prosecution has cited and examined only two persons as the eye witness of the occurrence. Basanti-complainant (PW-11) is the wife of the deceased while Ranbir Singh (PW-12) is the brother of the deceased. The contention that both the witnesses being close relatives of the deceased and also inimical towards the accused party, who purchased the house of Kali Ram are not worth of any reliance in the absence of corroboration to



CRA-D-390-DB-2004 (O & M)

::17::

their statements from some independent source cannot be accepted. The deceased and his wife had gone to the village pond with their buffalo while Ranbir brother of the deceased saw the occurrence when he was proceeding towards his house. So, they both were the most natural witnesses. It is settled law that where the eye witnesses are interested being related to the deceased it does not render their evidence suspect and all that is required in such cases is to carefully analyse the evidence. If after careful scrutiny, the testimony of such an interested/related prosecution witness is found acceptable then it should be acted upon. In the instant case, their depositions are clear, cogent and consistent as to how the occurrence took place.

17. As regards the argument that the village pond was a busy place in the evening hours but no outsider was cited as a witness thereby falsifying the prosecution case, it cannot be lost sight of that in the villages people refrain from taking sides so as to avoid the wrath of the opposite side. Therefore, merely because no independent prosecution witness was examined would not create a doubt in the prosecution case.

18. As regards the argument that there was a delay in lodging the FIR which has been utilized to falsely implicate the accused, it may be relevant to note that the complainant herself has explained the same by stating that Jaikishan brother of the deceased was posted as Asstt. Sub Inspector in Police Station Hassanpur (Palwal) and after the occurrence he was contacted and his arrival was being awaited. He arrived at about 2.30



CRA-D-390-DB-2004 (O & M)

::18::

a.m. and then he accompanied her (Basanti-complainant) to the Police Station and moved a written complaint on the basis of which the FIR was recorded at 4.00 a.m. The special report reached the Illaqa Magistrate at 6.25 a.m. Therefore, the delay, if any, stands satisfactorily explained. Be that as it may, in such heinous cases, real culprits will never be let off by naming other innocents as accused.

19. As regards the argument that as PW-11/Basanti (complainant) and PW-12/Ranbir Singh had been disbelieved qua some of the accused and therefore, they ought to be disbelieved qua the present accused as well, it may be pertinent to mention here that the concept of '*falsus in uno, falsus in omnibus*' is a maxim which does not apply in the Indian context.

20. The Hon'ble Supreme Court in various judgments has categorically held that the said maxim has no application in India. Some of the relevant judgments are reproduced hereinbelow:-

In '*Israr versus State of U.P. 2005(2) RCR(Criminal) 40*', the Hon'ble Supreme Court held as under:-

17. To the same effect is the decision in State of Punjab v. Jagir Singh, AIR 1973 Supreme Court 2407 and Lehna v. State of Haryana, 2002(3) SCC 76. Stress was laid by the accused-appellants on the non-acceptance of evidence tendered by some witnesses to contend about desirability to throw out entire prosecution case. In essence prayer is to apply the principle of "falsus in uno falsus in omnibus" (false in one thing, false in everything). This plea is clearly untenable. Even if major portion of evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused,



notwithstanding acquittal of number of other co-accused persons, his conviction can be maintained. It is the duty of Court to separate grain from chaff. Where chaff can be separated from grain, it would be open to the Court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons. Falsity of particular material witness or material particular would not ruin it from the beginning to end. The maxim "falsus in uno falsus in omnibus" has no application in India and the witnesses cannot be branded as liar. The maxim "falsus in uno falsus in omnibus" has not received general acceptance nor has this maxim come to occupy the status of rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be disregarded. 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'. (See Nisar Ali v. The State of Uttar Pradesh, AIR 1957 Supreme Court 366).

In '**Jakki @ Selvaraj and another versus State Rep. By the IP, Coimbatore 2007(2) RCR(Criminal) 105**', the Hon'ble Supreme Court held as under:-

8. As noted above, stress was laid by the accused-appellants on the non-acceptance of evidence tendered by PW-13 to contend about desirability to throw out the entire prosecution case. In essence the prayer is to apply the principle of "falsus in uno falsus in omnibus" (false in one thing, false in everything). This plea is clearly untenable. Even if major portion of evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, notwithstanding acquittal of number of other co-accused persons, his conviction can be maintained. It is the duty of Court to separate the grain from the chaff. Where the chaff can be separated from the



grain, it would be open to the Court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons. Falsity of particular material witness or material particular would not ruin it from the beginning to end. The maxim "falsus in uno falsus in omnibus" has no application in India and the witnesses cannot be branded as liars. The maxim "falsus in uno falsus in omnibus" has not received general acceptance 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 testimony may be disregarded, and not that it must be discarded. 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'. (See Nisar Ali v. The State of Uttar Pradesh (AIR 1957 Supreme Court 366). Merely because some of the accused persons have been acquitted, though evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also be acquitted. It is always open to a Court to differentiate accused who had been acquitted from those who were convicted. (See Gurcharan Singh and Anr. v. State of Punjab (AIR 1956 Supreme Court 460). The doctrine is a dangerous one specially in India for if a whole body of the testimony was to be rejected, because a witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead-stop. Witnesses just cannot help in giving embroidery to a story, however true in the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the Court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. The evidence has to be sifted with care. The



aforesaid dictum is not a sound rule for the reason that one hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment. (See Sohrab s/o Beli Nayata and Anr. v. The State of Madhya Pradesh 1972 3 SCC 751) and Ugar Ahir and Ors. v. The State of Bihar (AIR 1965 Supreme Court 277). An attempt has to be made to, as noted above, in terms of felicitous metaphor, separate the grain from the chaff, truth from falsehood. Where it is not feasible to separate truth from falsehood, because grain and chaff are inextricably mixed up, and in the process of separation an absolutely new case has to be reconstructed by divorcing essential details presented by the prosecution completely from the context and the background against which they are made, the only available course to be made is to discard the evidence in toto. (See Zwinglee Ariel v. State of Madhya Pradesh (AIR 1954 Supreme Court 15) and Balaka Singh and Ors. v. The State of Punjab. (AIR 1975 Supreme Court 1962). As observed by this Court in State of Rajasthan v. Smt. Kalki and Anr. (AIR 1981 Supreme Court 1390), normal discrepancies in evidence are those which are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and those are always there, however honest and truthful a witness may be. Material discrepancies are those which are not normal, and not expected of a normal person. Courts have to label the category to which a discrepancy may be categorized. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so. These aspects were highlighted in [Krishna Mochi and Ors. v. State of Bihar etc., 2002\(2\) RCR \(Criminal\) 567 \(SC\) : JT 2002\(4\) SC 186.](#)

Applying the principles set out above, it is clear that even when the testimony of a witness is discarded in part vis-a-vis some other co-accused persons, that cannot per se be the reason to discard his



evidence in toto. As rightly observed by the trial Court and the High Court, the evidence of PW-13 has not been shaken in any manner though he was cross examined at length. Additionally, the trial Court and the High Court have found that the evidence of the doctor (PW-4) clearly shows existence of injuries in the manner described by PW-13 by weapons allegedly held by the appellants. In that view of the matter, the judgment of the High Court does not suffer from any infirmity. The appeal fails and is dismissed.

In '***Edakkandi Dineshan @ P. Dineshan & Ors. versus State of Kerela 2025 AIR Supreme Court 444***', the Hon'ble Supreme Court held as under:-

19. It is a settled position that 'falsus in uno, falsus in omnibus' (false in one thing, false in everything) that the above principle is foreign to our criminal law jurisprudence. This aspect has been considered by this Court in a plethora of judgements. In the case of Ram Vijay Singh v. State of UP, 2021 SCC Online SC 142 a Three Judge bench of this Hon'ble Court had held that:

"..(20) We do not find any merit in the arguments raised by the learned counsel for the Appellant. A part statement of a witness can be believed even though some part of the statement may not be relied upon by the Court. The maxim falsus in uno, falsus in omnibus is not the rule applied by the courts in India. This Court recently in a judgement IIangovan v. State of T.N. held that Indian Courts have always been reluctant to apply the principle as it is only a rule of caution. It was held as under: (SCC Pg 536, Para 11)"

"..(11) The Counsel for the Appellant lastly argued that once the witnesses had been disbelieved with respect to the co accused, their testimonies with respect to the present accused must also be discarded. The Counsel is, in effect, relying on the legal maxim "falsus in uno, falsus in omnibus", which Indian Courts have always been reluctant to apply. A three Judge bench of this Court, as far back as in 1957, in Nisar Ali v. State of UP, held on this point as follows (AIR p 368, Para 9-10)



"(9) 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.

(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"

(21) Therefore, merely because a prosecution witness was not believed in respect of another accused, the testimony if the said witness cannot be disregarded qua the present Appellant. Still, further it is not necessary for the prosecution to examine all the witnesses who might have witnessed the occurrence. It is the quality if evidence which is relevant in criminal trial and not the quantity."

Hence, as can be seen from above, it has being a consistent stand of this Hon'ble Court that the principle 'falsus in uno, falsus in omnibus' is not a rule of evidence and if the court inspires confidence from the rest of the testimony of such a witness, it can very well rely on such a part of the testimony and base a conviction upon it.

In '**Arun versus State of Madhya Pradesh 2025(2)**

RCR(Criminal) 421', the Hon'ble Supreme Court held as under:-

16. As the maxim 'Falsus in uno, falsus in omnibus' (false in one thing, false in everything) is not part of Indian law and jurisprudence and is, at best, a rule of caution, the entire evidence of these witnesses need not be discarded because some of their statements are proved to be factually incorrect. However, their depositions would have to be viewed with care and caution before they are accepted and acted upon. In this regard, we may note that the enmity between the family of the deceased and some of the accused was admitted by the family members themselves. Their depositions before the Trial Court, naming all the accused and attributing specific overt acts to each of them, would have to be



CRA-D-390-DB-2004 (O & M)

::24::

examined very carefully, given the variance in the initial version in the F.I.R. In fact, this inconsistency dented the prosecution's case in entirety even against Ramlal.

21. In the present case and in the attending facts and circumstances, the statements of these to most relevant witnesses can certainly be believed with respect to the present accused-appellant even though, the statements have not been believed qua the acquitted accused.

22. The up-shot of the aforementioned discussion is that the commission of the offence stands duly established beyond reasonable doubt. Therefore, we find no merit in the present appeal and the same stands dismissed. The accused-appellant/Jitender @ Jitta is directed to surrender before the Jail Authorities concerned to serve out his remaining sentence.

23. Information be given to the concerned quarters.

24. The pending applications, if any, shall stands disposed of accordingly.

**(GURVINDER SINGH GILL)
JUDGE**

29.05.2025
sukhpreet

**(JASJIT SINGH BEDI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No