2026 INSC 403

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 1788-1789 OF 2019

ADALAT YADAV ETC. …APPELLANT(S)

VERSUS

THE STATE OF BIHAR …RESPONDENT(S)

J U D G M E N T

SANJAY KAROL J.,

1. The appellant-convicts before us are the father and son, namely Adalat Yadav and Anirudh Yadav. Criminal Appeal No. 1788 of 2019 has been filed by Adalat Yadav, and Criminal Appeal No. 1789 of 2019 has been filed by Anirudh Yadav. Both challenging the common judgment dated 4th February 2017 passed in Criminal Appeal (DB)) No. 110 of 2012 and 79 of 2012

respectively, whereby the Division Bench, has confirmed finding of conviction and sentence awarded by the Additional Sessions Fast Track Court-IV Begusarai[1] in terms of judgment dated 22.11.2011 passed in Sessions Trial No. 251 of 2019 sentencing them to undergo Rigorous Imprisonment for life under Section 302 and 149 read with Section 120B of Indian Penal Code, 1860[2] and also a fine of Rs.10,000/- and in default of payment of fine they shall undergo Simple Imprisonment for six months. The above convicts were further sentenced to undergo Rigorous Imprisonment for 10 years under Sections 307, 149 of the I.P.C. read with Section 120B of the I.P.C. with a fine of Rs.5000/- and in default of payment they shall undergo Simple Imprisonment for three months. Apart from this, they were also sentenced to undergo Rigorous Imprisonment for 7 years under Section 27 of the Arms Act with a further direction to run the sentences concurrently.

2. The facts giving rise to these appeals, as set out by the Courts below, are as follows.

(i) On 4th December, 2008 while Sunil Yadav @ Sunil Kumar Yadav (PW-5/complainant) was homebound from the Begusarai Court along with his brother Ram Sharan Yadav (deceased), certain persons including

[1] 'Trial Court'
[2] 'IPC'

two appellants/convicts surrounded them upon reaching the grocery store run by one Suresh Mahto. A-1 hurled abuses at them and stated that despite repeated directions/clear warnings given to them by Girdhari Yadav (*who was also an accused before the High Court*), against giving depositions in the murder case on one Mahesh Paswan, the deceased had refused to heed. He then fired his pistol, hitting the deceased on his head, making him fall to his death, instantly. A-2 had fired upon the deceased and, thereafter, other members of the group also opened fired on the complainant as also one Ganesh and Baidyanath Yadav, who were walking alongside the deceased and the complainant. The bullet fired by one Shivji Yadav, hit the complainant on his leg. A written complaint was lodged about the incident on the same day, resulting in registration of FIR Number 222/08 at Police Station Balia.

(ii) Upon completion of the investigation, charge sheets were filed bearing No.38/09 dated 04th March 2009 and No. 310/09 dated 16th March 2009, respectively. The Trial Court convicted a total of 4 persons including the appellant-convicts while acquitting one Ram Balak Yadav. A perusal of the Trial Court judgment reveals

that such a finding has been arrived at upon a cumulative assessment of the testimonies of all the witnesses. It has been observed that PW-1 to PW-4 consistently supported the prosecution's case, especially to the effect that enmity *inter se* the parties is germane on the earlier occurrence of violence on 28th November 2003, wherein the appellant-convicts were involved in an act of indiscriminate firing at the house of the deceased and also deployment of a bomb there. This had resulted in the death of the daughter of the deceased. They had also stated that while the background of the dispute between the parties was as alluded to above, the primary reason therefor was that the deceased was a witness against Girdhari Yadav. The learned Trial Judge, after taking note of the alleged contradictions between the testimonies of the witnesses as pointed out by the learned counsel for the parties but overall, termed them to be minor in nature, not affecting the sanctity of the statements.

(iii) The High Court, in the impugned judgment while agreeing with the overall conclusion returned by the Trial Court, differed in its reasoning. According to the learned Division Bench, PWs-1 to 4 could not be relied

upon as eyewitnesses. The relevant discussion is as under: -

> "…It Is true that the evidence of the witnesses is to be considered in its totality. Furthermore, the classification of the witnesses have been found duly identified as wholly reliable, wholly unreliable, partly reliable as well as partly unreliable. Generally, the maxim *falsus in uno and falsus in omnibus* is not found applicable in Indian continent. However, when the evidence of the witnesses suggests at first hand that they could not be an eye witness to occurrence, then in that event, their status being inimical as well as interested, will play an additional role in order to discredit their evidences. Moreover, when their evidences are uncorroborated by an independent witness, then in that event, the same would require scrutiny. That being so, status of PW-1, PW-2, PW-3 and PW-4 could not be considered as an eye witness to occurrence, more particularly PW-2 and PW-4, who claimed to have joined company of deceased as well as injured at Balia Bazar, where they had gone together from their house before 3.00 p.m., on account of inconsistencies as well as contradictions at the first instance itself. In likewise manner, the status of PW-1 also becomes doubtful in the background of the fact that he was to purchase household articles and for that, he had gone to the shop of Suresh Mahto, which was closed and then, staying for one and half hour without any activity could not inspire confidence regarding his conduct. So far PW-3 is concerned, admittedly, he happens to be full brother of PW-5, informant and was also one of the participants of the fray being fought amongst the parties as well as depicting presence of 15-20 persons at the P.O. representing both groups is a circumstance, which could not be washed away during course of consideration of individual status of the witnesses vis-à-vis their

> credibility as an eye witness to the occurrence. Their presence might have after the occurrence, as, the P.O. lies in vicinity of the village…"

(iv) The High Court, proceeding further, confirmed the conviction of three persons, one Bihari Yadav and the other two appellant-convicts on the basis of the sole testimony of the complainant as PW-5. In doing so reliance was placed on judgment of this Court in ***Sudip Kumar Sen v. State of W.B.***[3].

(v) It is as such that the appellant - convicts are before us.

3. We have heard Mr. Ashwani Kumar Singh, learned Senior Counsel for appellant-convicts and Mr. Azmat H. Amanullah, learned counsel for the State.

4. The prosecution, to establish the guilt of these persons, examined a total of 10 witnesses. PWs-1 to 5 were allegedly eyewitnesses, PW-6 and PW-9 were investigating officers, PW-7 and PW-8 were expert witnesses, PW-10 has been generally categorized as formal witness. The defense led no evidence and, in their statements, recorded under Section 313 Code of Criminal Procedure, 1973[4] issued blanket denial for the prosecution's case and pleaded false implication.

5. It is a well settled position in law that this Court under Article 136 of the Constitution of India, does not interfere in

[3] (2016) 3 SCC 26
[4] 'CrPC'

matters having concurrent findings of the Courts below [See: ***Goverdhan vs State of Chattisgarh***[5], and ***Ravasaheb v. State of Karnataka***[6]] as such we need not delve into each and every individual's testimonies and instead only examine whether the path adopted by the Courts below is compromised by any manifest error. Should that be established, only then individual reappreciation of all the testimonies would be justified.

6. Challenging the findings against the appellant-convicts, learned senior counsel has raised the following points:

(a) There is a delay in filing the FIR and the same is tainted as the original version has been suppressed. The incident, as per the testimonies, is of the evening hours between 5 and 6 P.M. However, registration of the FIR though the very same day is at half past 10 in the night.

(b) The place of occurrence of the alleged incident is not proved. According to the FIR, the place of incident was near the grocery shop run by one Suresh Mahto. However, the Investigating Officer, in his testimony has deposed that place of occurrence was Bhagatpur Pitch Road, and in his cross examination has admitted that there is no grocery shop in that vicinity.

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[5] (2025) 3 SCC 378
[6] (2023) 5 SCC 391

(c) There is a direct conflict between the medical and ocular evidence. PW-9 has deposed that the deceased was shot on his forehead. However, PW-7 Dr. Ashok Kumar Jha, who has conducted the postmortem concluded that the entry wounds was on the base of skull and the exit wound was at the upper base of the nose thereby inverting the fatal injury.

(d) The next point agitated is that material witnesses such as officer-in-charge of the Balia Police Station, who received written report and other members of the police force who were all important witnesses, were not been examined during the trial, thereby causing prejudice to the appellant-convicts.

e) Still further, the presence of 4 of the eyewitnesses i.e. PWs-1 to 4 has been doubted by the High Court.

Cumulatively, it is submitted that all of these factors, viewed on the whole, are sufficient to cast doubt upon the prosecution's case and as such make it fall short of the threshold of beyond reasonable doubt. Consequently, the convictions of the appellant-convicts would be rendered shaky and thus fall.

Per contra, Mr. Amanullah would submit that the case of the prosecution stands entirely proved and none of the grounds raised by the appellant – convicts, are sufficient enough to make the conviction doubtful. It has been submitted that the High

Court's reliance on the testimony of the complainant PW-5 is justified since the testimony of an injured witness has greater evidentiary value.

In regard to the place of occurrence, it is submitted that Bhagatpur Pitch Road, has been clearly identified, and it is stated therein that the house/land of Suresh Mahto is to the west. The description of spot by the different prosecution witnesses is different, only with respect to the reference points, but all of them converse upon the same area.

In reference to the gun shot injury, and the alleged contradicting statements of PW-5 and PW-7, it is submitted that the factum of the deceased having been shot on his head is indisputable as duly corroborated by the medical report and as such, difference if any is rendered immaterial.

7. In light of the submissions, we now proceed to examine the matter. Out of the manifold contentions advanced by the appellant - convicts, the fact that four PWs have been discounted by the High Court is a major factor. This cannot be faulted since convictions on the basis of the testimony of a singular eyewitness is also permissible. After all, evidence on record is to be measured for quality, not on the basis of quantity. If the testimony is of '*sterling quality*', resting a conviction thereon

would be entirely permissible. Although this position is well settled, we may for ready reference reiterate the same as follows:

<u>*Evidence to be weighed not counted*</u>

(i) In ***Lallu Manjhi v. State of Jharkhand***[7]**,** this Court observed:

> **"10.** The law of evidence does not require any particular number of witnesses to be examined in proof of a given fact. However, faced with the testimony of a single witness, the court may classify the oral testimony into three categories, namely, (*i*) wholly reliable, (*ii*) wholly unreliable, and (*iii*) neither wholly reliable nor wholly unreliable. In the first two categories there may be no difficulty in accepting or discarding the testimony of the single witness. The difficulty arises in the third category of cases. The court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial, before acting upon the testimony of a single witness. (See: *Vadivelu Thevar* v. *State of Madras* [AIR 1957 SC 614 : 1957 Cri LJ 1000] .)"

(ii) A bench of three judges in ***Amar Singh v. State (NCT of Delhi)***[8]**,** held:

> **"16.** …As a general rule the court can and may act on the testimony of single eyewitness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Evidence Act, 1872. But if there are doubts about the testimony, the courts will insist on corroboration. It is not the number, the quantity but quality that is material. The time-honoured principle is that evidence has to be weighed and not counted. On this

[7] (2003) 2 SCC 401
[8] (2020) 19 SCC 165

> principle stands the edifice of Section 134 of the Evidence Act. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise [see *Sunil Kumar* v. *State (NCT of Delhi)* [*Sunil Kumar* v. *State (NCT of Delhi)*, (2003) 11 SCC 367 : 2004 SCC (Cri) 1055]]."

8. As per the High Court, the testimony of PW-5 is sufficient enough to make the needle of guilt rest on the appellant - convicts. In other words, his testimony is unimpeachable or that it is of sterling quality. What may qualify as sterling quality is discussed in the following judgments:

Sterling witness

(i) In ***Rai Sandeep v. State (NCT of Delhi)***[9]**,** this Court observed:

> **"22.** In our considered opinion, the "sterling witness" should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-

[9] (2012) 8 SCC 21

> examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a "sterling witness" whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

[See also: ***Ganesan v. State***[10]]

(ii) *In* ***Naresh v. State of Haryana***[11], it was observed:

> **"16.** As noticed hereinabove, the evidence of the eyewitness should be of very sterling quality and calibre and it should not only instil confidence in the court to accept the same but it should also be a version of such nature that can be accepted at its face value."

[10] (2020) 10 SCC 573
[11] (2023) 10 SCC 134

9. The next argument is that there is a delay in filing the FIR which leads to the doubt of suppression of the original version.

Delay in lodging FIR

(i) A three judge bench of this Court in ***State of H.P. v. Gian Chand***[12]**,** held:

> **"12.** Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the court on its guard to search if any explanation has been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to satisfactorily explain the delay and there is a possibility of embellishment in the prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case…"

(ii) In **Ravinder Kumar v. State of Punjab**[13], it was observed:

> "**14.** When there is criticism on the ground that FIR in a case was delayed the court has to look at the reason why there was such a delay. There can be a variety of genuine causes for FIR lodgment to get delayed. Rural people might be ignorant of the need for informing the police of a crime without any lapse of time. This kind of unconversantness is not too uncommon among urban people also. They might not immediately think of going to the police station. Another possibility is due to lack of adequate transport facilities for the informers to reach the

[12] (2001) 6 SCC 71
[13] (2001) 7 SCC 690

police station. The third, which is a quite common bearing, is that the kith and kin of the deceased might take some appreciable time to regain a certain level of tranquillity of mind or sedativeness of temper for moving to the police station for the purpose of furnishing the requisite information. Yet another cause is, the persons who are supposed to give such information themselves could be so physically impaired that the police had to reach them on getting some nebulous information about the incident."

(iii) In ***Ramdas v. State of Maharashtra***[14]**,**

"24. … The proposition is too broadly stated to merit acceptance. It is no doubt true that mere delay in lodging the first information report is not necessarily fatal to the case of the prosecution. However, the fact that the report was lodged belatedly is a relevant fact of which the court must take notice. This fact has to be considered in the light of other facts and circumstances of the case, and in a given case the court may be satisfied that the delay in lodging the report has been sufficiently explained. In the light of the totality of the evidence, the court of fact has to consider whether the delay in lodging the report adversely affects the case of the prosecution. That is a matter of appreciation of evidence. There may be cases where there is direct evidence to explain the delay. Even in the absence of direct explanation there may be circumstances appearing on record which provide a reasonable explanation for the delay. There are cases where much time is consumed in taking the injured to the hospital for medical aid and, therefore, the witnesses find no time to lodge the report promptly. There may also be cases where on account of fear and threats, witnesses may avoid going to the police station immediately. The time of occurrence, the distance to the police station, mode of conveyance available, are all factors which have a bearing on the question of delay in lodging of the report. It is also possible to conceive of cases where the victim and the members of his or her family belong to such a strata of society that they may not

[14] (2007) 2 SCC 170

even be aware of their right to report the matter to the police and seek legal action, nor was any such advice available to them. …In the ultimate analysis, what is the effect of delay in lodging the report with the police is a matter of appreciation of evidence, and the court must consider the delay in the background of the facts and circumstances of each case. Different cases have different facts and it is the totality of evidence and the impact that it has on the mind of the court that is important. No straitjacket formula can be evolved in such matters, and each case must rest on its own facts. It is settled law that however similar the circumstances, facts in one case cannot be used as a precedent to determine the conclusion on the facts in another. (See *Pandurang* v. *State of Hyderabad* [(1955) 1 SCR 1083 : AIR 1955 SC 216] .) Thus mere delay in lodging of the report may not by itself be fatal to the case of the prosecution, but the delay has to be considered in the background of the facts and circumstances in each case and is a matter of appreciation of evidence by the court of fact."

(iv) **Ashok Kumar Chaudhary v. State of Bihar**[15],

"16. It is trite that mere delay in lodging the first information report is not by itself fatal to the case of the prosecution. Nevertheless, it is a relevant factor of which the court is obliged to take notice and examine whether any explanation for the delay has been offered and if offered, whether it is satisfactory or not. If no satisfactory explanation is forthcoming, an adverse inference may be drawn against the prosecution. However, in the event, the delay is properly and satisfactorily explained; the prosecution case cannot be thrown out merely on the ground of delay in lodging the FIR. Obviously, the explanation has to be considered in the light of the totality of the facts and circumstances of the case."

[15] (2008) 12 SCC 173

10. Keeping in view the above judgments, no fault can be found in the impugned judgment on the count of reliance on a single witness. The alleged delay in FIR as contended by the appellant-convicts, too, would not weaken the prosecution case.

11. In so far as the alleged conflict between eyewitness testimony and medical evidence is concerned, we may only observe that the same is difficult to comprehend. The relevant portion of the statement of PW-5 and PW-7 (Dr. Ashok Kumar Jha) is as follows:

> *PW-5:*
>
> "…Adalat Yadav instigated all accused that kill all these and dictating it, he shot in Ram Sharan Yadav's head with the pistol carrying in his hand; in consequence, he fell down and died. Annirudh Yadav also fired one bullet at Ram Sharan Yadav. After it, Bihari Yadav, Vijay Yadav, Shivji Yadav fired on us with the intention of causing death to me, Ganesh and Baijnath Yadav. The bullet fired by Shivji Yadav hit below my right knee…"
>
> *PW-7:*
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> "…Entry of the wound of deceased was on the back of the skull and exit of the wound in just as upper base of the nose."

In our view, both these testimonies are consistent for both, *albeit* in different terms, say that the deceased was shot on his head. That apart, if it was the case that there had been some contradictions between the testimonies, the generally applicable rule that eyewitness testimony would be superior to the medical

opinion which is in the nature of expert testimony, would be applicable. Since PW-5 has withstood the test of cross-examination is an undisputed eyewitness to the incident and is also an injured witness[16], his testimony would be at a higher pedestal. As such, this factor too would count towards the guilt of the appellant - convicts.

12. One additional point raised was the absence of any of the villagers to give statements about the incident, i.e., the lack of independent witnesses[17]. It is well settled that the same does not compromise the case of the prosecution. In this case particularly the Court cannot lose sight of societal realities where, allegedly at the command of an ill-reputed person, witness in his trial had been gunned down. Hesitation on the part of the common person is but natural, not wanting to be entangled, in what was clearly unpleasant and thorny business.

13. In so far as the second appellant - convict is concerned, the sterling testimony of PW-5 clearly establishes that he had also fired the weapon. He was part of the group that had surrounded PW-5 and the deceased and clearly possessed the intention to kill. It was only a matter of luck that the said bullet

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[16] Baljinder Singh v. State of Punjab, 2024 SCC OnLine SC 2622; Balu Sudam Khalde v. State of Maharashtra, (2023) 13 SCC 365

[17] Manjit Singh v. State of Punjab, (2019) 8 SCC 529; Rizwan Khan v. State of Chhattisgarh, (2020) 9 SCC 627; Mohd. Naushad v. State (NCT of Delhi), (2024) 12 SCC 494

did not hit the intended target. He has been correctly therefore, sentenced under Section 307IPC.

14. Viewed on the whole, as above, the appeals fail and are accordingly dismissed.

Pending application(s) if any shall stand closed.

……..……..J.
(SANJAY KAROL)

……..……..……..J.
(NONGMEIKAPAM KOTISWAR SINGH)

New Delhi;
April 22, 2026