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Padam Singh Vs. State

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Court : Delhi

Decided On : Jul-24-2013

Judge : G. S. Sistani

Appellant : Padam Singh

Respondent : State

Judgement :

$~ * IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.A. 834/2012 Judgment Pronounced on :

24. h July, 2013 ..... Appellant % PADAM SINGH Through: Mr.Braham Singh, Mr.N.S.Vidhudi and Ms.Manju Advocates versus STATE Through: ..... Respondent Ms.Rajdipa Behura, APP for the State along with Inspector Madhukar Rakesh, SHO P.S. Kashmere Gate and ASI Charan Das, P.S. Mandir Marg. CORAM: HON'BLE MR. JUSTICE G.S.SISTANI HON'BLE MR. JUSTICE G.P. MITTAL G.S.SISTANI, J.

1. The trial court has convicted the appellant by a judgment dated 30.5.2012 and passed an order on sentence on 6.6.2012 by which appellant has been sentenced to RI for life and a fine of Rs.10,000/-, and in default thereof simple imprisonment for four months under Section 302 IPC. The judgment and order on sentence are subject matter of challenge in the present appeal.

2. Appellant was charge-sheeted by the prosecution under Section 302 IPC for having committed murder of one Gambhir Singh. As per the prosecution, on 9.11.2010 at about 8:30 p.m., the appellant battered to death Gambhir Singh Bhandari with a wooden baton (lakdi ka phatta), which had nails at one end. The incident was witnessed by head constable Laxmi Narain, who was present on duty in the said area and who apprehended the appellant on the spot. Constable Laxmi Narain called the ambulance; the message was intercepted by an officiating Inspector, SHO Madhukar, who also arrived at the spot; an FIR was got registered and the appellant was arrested. During the investigation, a disclosure statement was made by him. The crime team was also called at the spot who prepared their report, the scene of the crime was photographed, and one weapon of offence i.e. wooden baton was recovered and seized. The postmortem of the deceased was carried out wherein it was opined that Gambhir Singh Bhandari died on account of injuries to cranio cerebral caused as a result of blunt force impact. In the subsequent opinion it was opined that the said injuries could be caused by the baton which was recovered from the scene of the crime.

3. On 9.11.2010 at 9:00 p.m., PW-9 Head Constable Murari of PS Mandir Marg, New Delhi, received information on his wireless set through wireless set Mike Mike 12 for demand of an ambulance by PW-1 Head Constable Laxmi Narain and the said information was recorded in out message register of police station Mandir Marg which was duly exhibited during trial as Ex.PW-9/A.

4. The aforesaid information regarding demand of an ambulance given by PW-1 HC Laxmi Narain was allegedly over heard by PW-17 Inspector Madhukar Rakesh, SHO PS Mandir Marg, New Delhi on his wireless set while he was in the area of PS on patrolling duty. After hearing the said information on his wireless set, PW-17 telephonically enquired from PW1 HC Laxmi Narain regarding reasons for demand of an ambulance on which PW-1 informed him that Baba has killed a Pahari Driver.

5. After the telephonic conversation with PW-1 HC Laxmi Narain, PW-17 Inspector Madhukar Rakesh, SHO PS Mandir Marg, New Delhi along with his driver HC Trilochan Singh and operator Constable Sachin reached Doctors Lane Road, Near

D.A.V. School, Opp. Lady Harding Medical College and Sucheta Kriplani Hospital, Gole Market, New Delhi in Government Vehicle No.DL-1CN-1617. PW-1 HC Laxmi Narain and PW-2 HC Narender Kumar were found present by PW-17 Inspector Madhukar Rakesh, SHO PS Mandir Marg at Doctors Lane, Near DAV School Building, Gole Market, New Delhi, he also found that a dead body was lying and blood was coming out of the head of the dead body. The said dead body was identified by appellant Padam Singh as that of one Gambhir.

6. It is also the case of the prosecution that PW-17 Inspector Madhukar Rakesh saw one blood stained, lakdi ka phatta which was lying near the spot of the incident. PW-17 Inspector Madhukar Rakesh called the crime team at the spot and got inspected and photographed the place of occurrence. PW-17 Inspector Madhukar Rakesh recorded the statement of PW-1 HC Laxmi Narain at 10.50 PM and after making his endorsement, sent the rukka for registration of FIR through PW-2 HC Narender Kumar and thereafter at 11.45 PM, a case FIR No.198/2010 was registered at PS Mandir Marg, for offence u/s. 302 IPC by PW-11 HC Anil Kumar vide DD No.33A.

7. On 9.11.2010 at 11.30 p.m. the deceased Gambhir Singh was admitted to Lady Harding Medical College, New Delhi by PW-12 HC Subhash where he was declared brought dead. The appellant was arrested by PW-17 Inspector Madhukar Rakesh on 10.11.2010 at 4.00 a.m. in the presence of other police officials. Thereafter, appellant was medically examined in RML Hospital on 10.11.2010 at 5.20 a.m. vide MLC prepared by PW-15 Rajnish Kaushik and exhibited as Ex.PW-15/A.

8. On 11.11.2010, the post mortem of the dead body of Gambhir Singh was conducted by PW-10 Dr.Devinder Kumar Atal and post mortem report was exhibited as Ex.PW-10/A. On the same day i.e. on 11.11.2010 at the time of post mortem, the weapon of offence was given by PW-17 Inspector Madhukar Rakesh to PW-10 Dr.Devinder Kumar Atal for subsequent opinion and the opinion given by PW-10 Dr.Devinder Kumar Atal on 13.11.2010 was exhibited as Ex.PW-10/B. After investigation, charge sheet was filed and the case was committed to the Court of session for trial. The trial court on 11.3.2011 framed charge against the

appellant for the offence of murder punishable under Section 302 of Indian Penal Code and proceeded to record the prosecution evidence.

9. Counsel for the appellant submits that the judgment and order on sentence passed by the trial court is not sustainable in the eyes of law, as the prosecution miserably failed to prove its case against the appellant. It is contended that the trial court has failed to analyse the evidence in the right perspective and thus, the judgment is liable to be set aside. It is also contended that as per the FIR of the present case bearing No.198/2010 registered at the police station Mandir Marg on 9.11.2010, the place of occurrence i.e. Doctors Lane, near DAV School, Gole Market, was in beat No.5 of police station Mandir Marg and as per Ex.PW-8/A, PW-1, Head Constable Laxmi Narain along with constable Rupender and constable Raj Kumar was on patrolling duty in Beat No.2. Therefore, the presence of the Head Constable Laxmi Narain in the area of Beat No.5 was improbable. Counsel for the appellant has vehemently argued that PW-1, Head Constable Laxmi Narain has deposed that he was informed by 3 - 4 persons that Baba has killed one pahari driver, but those 3 - 4 persons were not examined by the investigating officer, nor they were cited as witnesses.

10. It is also contended by counsel for the appellant that although Head Constable Laxmi Narain has deposed on oath that the occurrence of the murder took place at 8:30 p.m. on 9.11.2010 in his presence, however, this information was not forwarded to any other police officer of Mandir Marg, Police Station or control room, despite availability of a wireless set, which creates a doubt with regard to his presence at the spot.

11. Mr.Braham Singh, counsel for the appellant also contends that PW-1 had only given a formal message in the police station at 9:00 p.m. from his mike mike 12 wireless set that an ambulance is required without giving details that a person had been murdered. This information was heard on the wireless set by PW-17, Inspector Madhukar Rakesh and the same was also recorded in the Police Station Mandir Marg in out-message register duly exhibited as Ex.PW-9/1 at 9:00 p.m., which is also extremely unusual.

12. It is also the case of the appellant that on the one hand, PW-1 in Ex.PW1/A and also in his evidence has stated that the weapon of offence was thrown by the appellant in his presence, however, PW-3, Head Constable Raj Pal Singh deposed on oath that the wooden baton i.e. the weapon of offence was traced by S.I. Vishram Meena, in charge of crime team while crime team officials and local police officials were looking around the place of occurrence. It is thus contended that examination of the evidence of PW-3 would show that PW-1 had not witnessed the occurrence, nor he had seen the appellant throwing the weapon of offence in his presence.

13. It is also contended that the appellant has been falsely implicated in this case, as despite the fact that the place of occurrence known as Gole Market, near the main gate of Lady Harding Medical College and S.K. Hospital, being a very crowded place, not a single person, either shopkeepers or public persons available in the market area or public persons adjoining BSNL quarters, was associated and made witness by the investigating officer. It is also contended that there is no explanation by the prosecution for not examining the public persons who were present at the spot or who informed PW-1 that Baba had killed one pahari driver.

14. It is also contended that the prosecution has failed to establish any motive for the appellant to commit murder of the deceased (Gambhir Singh, a pahari driver), as the said driver was an outsider and not a resident of Delhi or any nearby area and thus, he had no interaction with the appellant.

15. It is also submitted that regarding recovery of weapon of offence, PWs-1, 3 and 16 have given different statements and thus, their evidence is unreliable and not admissible and it is clear that the weapon of offence, which is a three feet long wooden baton would be easily available on an open road (footpath) or planted by the investigating officer.

16. Mr.Braham Singh, advocate further submits that there is no explanation for the delay in calling an ambulance. As per the evidence of PW-1, he reached the spot of the incident at 8:30 p.m., whereas the ambulance was called at 9:00 p.m. There is also no explanation as to why the message was not flashed with regard to

murder of the deceased or the delay in recording the statement Ex.PW-1/A, which was recorded at 10:50 p.m. and after one hour i.e. 11:45 pm DD No.33A was recorded for registration of the FIR.

17. It is also submitted by Mr.Braham Singh that the case of the prosecution is that PW-1 was an eye witness, however, a bare reading of the evidence of PW-1 would show that he is not an eye witness and on this account alone, the case of the prosecution would fail.

18. Per contra, learned APP for the State submits that PW-1 is an eye witness in whose presence the appellant had killed the deceased (Gambhir Singh, a pahari driver) with a wooden phatta. It is submitted that the delay in calling for the ambulance would not be fatal as the appellant was nabbed from the spot after he had committed the crime. It is also submitted that the blood stained clothes of the appellant were sent for examination to the forensic laboratory and an opinion was received that it contained human blood. It is further submitted that the deceased was beaten to death with the help of a wooden baton, which was recovered from the place of occurrence. Ms. Rajdipa, counsel for the State further submits that the evidence of PW-1 is duly corroborated by the evidence of PW-2, Head Constable Narinder Kumar, who reached the spot soon after the occurrence and also by the evidence of PW-17, Inspector Madhukar Rajesh, who also reached the spot of the incident. It is also contended that as per the post-mortem report, the injuries could be caused by the phatta, which was recovered from the scene of the crime.

19. Learned APP for the State has also drawn the attention of the court to the evidence of PW-6, Suman Kumar, who has deposed that at or around 8:45 p.m. or 9:00 p.m. he had received a call from Tikoo, who was the Pradhan that Gambhir Singh who was a driver by profession was killed by the appellant, Baba @ Padam Singh.

20. Ms.Rajdipa Behura, learned APP for the State further submits that the MLC of the appellant would also show that he had fresh injuries on his body which is another factor which would point out to the guilt of the appellant and his involvement in the commission of the crime. It is thus stated that the prosecution has been able to prove its case beyond any reasonable doubt, since it is a case

based on direct evidence and the murder was witnessed by PW-1.

21. We have heard learned counsel for the parties and considered their rival submissions. As the Head Constable Laxmi Narain, PW-1, is the star witness of the prosecution, we deem it appropriate to discuss his evidence in detail. As per PW-1, he was posted at Police Station Mandir Marg. On the fateful night at 8:30 p.m. he was present at Bangla Sahib Road near Bangla Sweets on beat duty; 3 - 4 persons came running and informed him that Baba had killed one pahari driver; he along with those 3 - 4 persons ran towards Doctors Lane which was stated to be the place of incident. As he reached the spot, he saw Baba hitting a person, who was lying on the road with the wooden baton (lakdi ka phatta); Baba while assaulting the victim was uttering the words that he would kill the victim (SALE TUJHE AAJ JAAN SE MAAR DUNGA); he saw Baba hitting the victim on his head with the wooden baton. PW-1 caught hold of Baba from behind and he threw the wooden baton to a side; PW-1 thereafter called for an ambulance from his wireless set while holding the appellant Baba by the other hand. Head Constable Narender also arrived at the spot after receiving the call. PW-1 also received a phone call from the SHO and he narrated the incident to him; he identified Baba whom he had caught hold of after the incident in the Court. He further deposed that Inspector Madhukar Rakesh, who was looking after the job of the SHO, Police Station at that time arrived at the spot; Inspector Madhukar Rakesh called the crime team and the photographer. There was a lot of blood lying on the spot and he did not notice any movement in the body of the victim and thus, he guessed that the victim was not alive. Custody of Baba was handed over to Head Constable Narender; Inspector Madhukar then called Head Constable Subhash and S.I. S.S. Rana from the police station and they also arrived at the spot. Statement of PW-1 was recorded by Inspector Madhukar Rakesh. Umed (nephew of the victim) identified the body of the victim, as of Gambhr Singh; rukka was sent for registration of the case; Babas name was revealed as Padam Singh and he was arrested by Inspector Rakesh. Procedural formalities were completed including lifting of blood samples and blood stained earth which were seized and sealed. The weapon, baton was also seized from the spot. Clothes and slippers of the appellant, which had blood marks were also seized by the doctor and handed over to the Duty Constable, Rajinder. The witness identified the weapon baton,

Ex.P-1, which had been seized from the spot. Wooden log is about 3-4 feet long and 3-4 inches wide. Clothes worn by the appellant were also identified by PW-1 (Ex.P-2 collectively); as also slippers of the appellant were identified as Ex.P-3. Clothes worn by the victim were also identified by PW-1 collectively marked as P-4.

22. During cross-examination, this witness admitted that various statements under Section 161 Cr.P.C. were recorded on three occasions, first when he returned back from the hospital after the medical examination on 10.11.2010; the next statement was recorded on 11.11.2010 after the postmortem proceedings and the third statement was recorded on 11.11.2010 in the evening when the site plan was drawn. This witness was also cross-examined as to whether he was assigned Beat No.2, wherein he declined the suggestion that the place of occurrence was Beat No.5 and reiterated that the same was in Beat No.2. PW-1 deposed in the cross-examination that he reached the spot within five minutes at around 8:30 p.m. and he called for the ambulance within 5 to 7 minutes of his reaching the spot i.e. around 8:45 p.m. He confirmed that the message was conveyed at Serial No.5212, which was the call sign of the police station Mandir Marg for sending the ambulance and the message was conveyed through wireless set. He further deposed that from the spot where he was standing i.e. Bangla Sweets Corner and where he received the message, he was at a distance of 4 - 5 minutes walk to the place of occurrence i.e. at a distance of about 500 to 700 meters. The persons who informed him were public persons like drivers of the area, who had stated to him BABA EK AADMI KO MAAR RAHA HAI. The witness also deposed that he did not ask those 3 - 4 persons if they were drivers, but he reached this conclusion based on the clothes they were wearing, their pants and shirts were separate and not matching and he did not ask them their names and addresses, nor did he try to record their statements. The witness confirmed that the body was removed after one and a half hours or two hours of his having arrived at the spot. There was no movement in the body and Head Constable Subhash had removed the body from the spot. It was also deposed during cross-examination that the appellant Padam Singh was taken to the hospital from the spot at or around 4:45 and 5:00 a.m. when his MLC was prepared in the hospital. He also confirmed that the police station Mandir Marg is about one and a half kilometers from the place of

occurrence. He confirmed that the gate of Lady Harding Medical College is about 30 to 35 steps distance from Gupta Sweets.

23. According to the prosecution, the evidence of PW-1 stands duly corroborated by the evidence of PW-2, Head Constable Narender Kumar, who also reached the spot immediately after the incident. PW-2 had deposed that he was present for beat patrolling duty in Gole Market area on the said date. At around 8:30 p.m., Head Constable Laxmi Narain had made a call for an ambulance and asked the ambulance to reach the spot in Doctors Lane near DAV School. On hearing this transmission from the wireless, he reached the spot and found that Head Constable Laxmi Narain was holding a person and a dead body was lying nearby, bearing injuries at various points. Laxmi Narain had then handed over the person whom he was holding i.e. the appellant and thereafter Inspector Madhukar Rakesh, Head Constable Subhash and S.I. S.S. Rana arrived at the spot. The statement of Head Constable Laxmi Narain was recorded and on the basis of his statement rukka was prepared and handed over to him for registration of the case. He further deposed that he took the rukka to the police station and the case was registered at around 2:10 a.m.

24. The trial court has noticed that the testimonies of the two police officials were further corroborated by the evidence of PW-6, Suman Kumar, a driver by profession, who deposed that at about 8:45 or 9:00 p.m. he received a phone call from Titoo, who also remained in Gole Market area and who conveyed to PW-6 that Baba had killed Gambhir. He had then conveyed this information to Umed Singh, PW-7, who also deposed that Gambhir was a driver by profession and the appellant Padam Singh, owned a vehicle. Further on 9.11.2010 at around 8:45 p.m., he had received information from PW-6 Suman Kumar that the appellant had killed Gambhir. As per the call received by him from Titoo, he had reached the spot at 11:00 p.m. and found Gambhir lying dead on the ground. He had identified the deceased.

25. The entire case of the prosecution revolves around the evidence of PW-1, who has been termed as an eye witness to the incident. A careful analysis of PW-1 would show that he was present at Bangla Sahib Road near Bangla Sweets on

beat duty on 9.11.2011. At around 8:30 p.m., 3 or 4 persons ran towards Doctors Lane and informed him Baba has killed a Pahari driver. This statement would show that 3-4 persons informed PW-1 that Baba had killed one Pahari driver. Keeping the statement in mind, the short question which would require consideration is whether PW-1 can be called an eye witness?. Was he present at the spot when the incident took place?. Or after being informed by 3 - 4 persons, he reached the spot?. In our view, the presence of PW-1 at the time when the incident took place is highly doubtful as PW-1 could not have re-witnessed the killing of the Pahari driver after being informed, as PW-1 has deposed that as he was at a distance of 500 to 700 meters from the spot of the incident and it would take 4 to 5 minutes to walk to the spot. Based on this testimony, 3 or 4 persons who came to inform PW-1 would also have travelled the same distance and taken the same time before reaching the spot to inform PW-1 of the incident which was seen by them and thereafter PW-1 along with those 3-4 persons would again have travelled the same distance, which would have taken between 8 to 10 minutes both ways. In the evidence before Court, PW-1 has made an improvement in the cross-examination wherein it has been stated that 3 to 4 persons had stated to him that BABA EK AADMI KO MAAR RAHA HAI. Even this statement cannot be believed as the post-mortem report Ex.PW-10/A shows that there were 8 injuries on the head of the deceased; sure enough it could not have taken 8 to 10 minutes for the appellant to give 8 blows on the head of the deceased with a baton and thereafter he would not have waited for PW-1 to over-power him. There is also no explanation by the prosecution as to why those 3 or 4 persons, who informed PW-1 about the incident, whom PW-1 knew and recognised to be the drivers of the area, were neither examined under section 161 Cr.P.C., nor cited as witnesses and examined during trial.

26. Counsel for the appellant has strongly urged before this court that the evidence of PW-1 is unreliable as according to him he had requested for an ambulance after he reached the spot of incident within 5 - 7 minutes of his reaching the spot. According to PW-1, he reached the spot at around 8:30 p.m., over-powered the appellant and called the ambulance by about 8:45 p.m. Exhibit PW-1/A, is the message recorded in the out message register, which records the message EK AMBULANCE BHIJWA DO at 2100 hours.

27. We also find that even after half an hour when PW-1 called for an ambulance, he did not communicate the details with regard as to where the ambulance was to be sent and for what purpose and that too without informing his superior that a person had been murdered which is highly unusual. As per the evidence of PW-1, it is only after the SHO intercepted the message that the details were sought from him (PW-1).

28. There is also no plausible explanation given by PW-1 for not removing the injured/dead body to the nearest hospital or the other nearby hospital, as Lady Harding Medical College and Suchitra Kriplani Hospital were available only at a distance of 30-35 steps. Prosecution has also not been able to explain as to why the deceased was removed to the hospital after a gap of about two and a half hours i.e. at 11:00 p.m. As per the appellant, the time between 8:30 and 9:00 p.m was utilised for cooking / fabricating the entire prosecution story. This argument of counsel for the appellant was dealt by the trial court in the following manner:

46. The arguments of learned counsel for the accused is misplaced as PW-1 had stated that he was present near Bangla Sweet House at around 8.30 p.m. when some people informed him about the accused having killed a person and he immediately reached with them to the place of incident. It is but natural that the witness would have taken some time to reach the spot and thereafter apprehended the accused before making a call for ambulance, sometime would have been used in the whole process. The testimony of PW-1 is, therefore, consistent about the events which have been narrated by him and it cannot be said that there was any manipulation in the prosecution story. It is significant to note that all the prosecution witnesses i.e. PW-1, PW-2, PW6, PW-7 and PW-12 have all given almost the same time of having received the information which is at around 9 p.m. PW-6 has also deposed that at around 8.45 p.m. he had received the information from Titu ustad, the Pardhan of tempo stand about the accused having killed deceased Gambhir and PW-6 having conveyed this information to PW7 who has also deposed on similar lines. Though efforts were made to impress that there was discrepancy in regard to the time of commission of offence but the documents coupled with the oral testimony of the prosecution witnesses clearly establishes that the offence had occurred at around 8:30 to 8:45 p.m.

29. It may be noticed that the trial court has recognised the fact that some people informed PW-1 that the appellant has killed a person and he immediately reached the place of the incident with them. The trial court also noticed the fact that it was natural that the witnesses would have taken some time to reach the spot and thereafter apprehended the appellant before making a call for the ambulance and some time would have been used in the whole process. In case PW-1 was informed by 3 or 4 persons that appellant had killed a person and he took some time to reach the spot, PW-1 cannot be treated as an eye-witness by any stretch of imagination.

30. We also find it unusual that the prosecution has failed to join those 3-4 persons who had witnessed the incident and had informed PW-1 of the same and whom the PW-1 could easily identify for investigation. In our view, the said 3-4 persons would have been material witnesses.

31. The finding of the trial court that the evidence of PW-1 stands corroborated by the evidence of PW-2 and PW-3 is also not acceptable for the reason that simply because PW-2 and PW-3 reached the spot of the incident, that by itself would not corroborate the evidence of PW-1, as PW-1 himself was not an eye-witness. The evidence of PW-6, Suman Kumar and PW-7, Umed Singh can also be of no help to the prosecution as they are not eye-witnesses to the killing of the deceased Gambhir and thus, evidence of the appellant of killing by Baba is hearsay evidence.

32. In the case of Raj Kumar Singh V. State of Rajasthan (2013) 5 SCC722it was held that :

17. Suspicion, however grave it may be, cannot take the place of proof, and there is a large difference between something that 'may be' proved and 'will be proved'. In a criminal trial, suspicion no matter how strong, cannot and must not be permitted to take place of proof. This is for the reason, that the mental distance between 'may be' and 'must be' is quite large and divides vague conjectures from sure conclusions. In a criminal case, the Court has a duty to ensure that mere conjectures or suspicion do not take the place of legal proof. The large distance between 'may be' true and 'must be' true, must be covered by way of clear, cogent

and unimpeachable evidence produced by the prosecution, before an accused is condemned as a convict, and the basic and golden rule must be applied. In such cases, while keeping in mind the distance between 'may be' true and 'must be' true, the Court must maintain the vital distance between conjectures and sure conclusions to be arrived at, on the touchstone of dispassionate judicial scrutiny based upon a complete and comprehensive appreciation of all features of the case, as well as the quality and credibility of the evidence brought on record. The Court must ensure, that miscarriage of justice is avoided and if the facts and circumstances of a case so demand, then the benefit of doubt must be given to the accused, keeping in mind that a reasonable doubt is not an imaginary, trivial or a merely probable doubt, but a fair doubt that is based upon reason and common sense. (Vide: Hanumant Govind Nargundkar and Anr. v. State of M.P. AIR 1952 SC343 Shivaji Sahabrao Bobade and Anr. v. State of Mahrashtra AIR 1973 SC2622 Sharad Birdhichand Sarda v. State of Maharashtra AIR 1984 SC1622 Subhash Chand v. State of Rajasthan (2002) 1 SCC702 Ashish Batham v. State of M.P. : AIR 2002 SC3206 Narendra Singh and Anr. v. State of M.P. : AIR 2004 SC3249 State through CBI v. Mahender Singh Dahiya AIR 2011 SC1017 and Ramesh Harijan v. State of U.P. AIR 2012 SC1979

33. In view of the above discussion, we are of the view that the prosecution has not been able to prove its case beyond doubt. The evidence of PW-1 would show that he was not present at the spot at the time of the incident and thus, he cannot be termed as an eye-witness. The prosecution has also failed to give any cogent reason for not associating the eye-witnesses who informed PW-1 about the incident.

34. For the reasons aforegoing, the present appeal is allowed. Bail bond be discharged. (G.S. SISTANI) JUDGE (G.P. MITTAL) JUDGE24h July, 2013 ssn

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