* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 29.10.2026
Date of Decision: 03.11.2026
Uploaded on: 03.11.2026

\# **CNR No. DLHC010598262018**
\+ **CRL.A. 197/2018**

STATE (GOVT OF NCT OF DELHI) .....Appellant
Through: Mr. Digam Singh Dagar, APP, Mr. Rohit, Adv. for the State.

versus

MONU @ KAMAL & ANR .....Respondents
Through: Mr. D.K. Sharma, Advocate for R-1 and R-2.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal arises out of the order dated 13.02.2018 passed by this court in ***Crl. L.P. No. 420/2015***, whereby the State was granted leave to appeal against the judgment dated 06.01.2015 passed by the learned Additional Sessions Judge (Fast Track Court), West District, Tis Hazari Courts, Delhi, in Sessions Case No. 22/2012, arising out of FIR No. 236/2011 registered at Police Station Janak Puri, Delhi. Pursuant thereto, the present appeal came to be registered as ***Crl. A. No. 197/2018***.

2. *Vide* the impugned judgment, the learned Trial Court acquitted respondent No. 1, Monu @ Kamal, and respondent No. 2, Pawan Kumar, of the offences punishable under Sections 392, 397 and 411 read with

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Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as the "IPC"), by extending to them the benefit of doubt.

BRIEF FACTS:

3. The Briefly stated, the prosecution case is that on 22.07.2011, at about 7:15 PM, the complainant, Aman Rahi (PW-1), along with his father, Sanjeev Rahi (PW-10), and his friends, Nikhil (PW-2) and Rajat Kumar (PW-8), was proceeding on foot towards District Centre, Janak Puri, Delhi. When they reached near the C-2B red light, adjacent to the MCD Office, Janak Puri, two persons, one wearing a red and black shirt and the other wearing a yellow T-shirt, allegedly approached them.

4. As per the prosecution, Sanjeev Rahi (PW-10), who was accompanying the complainant and his friends, had fallen behind while attending a telephone call. In the meantime, the person wearing the red and black shirt allegedly brandished a knife and threatened the complainant and his friends to hand over their belongings. It is alleged that the person wearing the yellow T-shirt forcibly removed a sum of Rs.1,500/- and a Nokia mobile phone from the possession of Nikhil (PW-2), whereas the person wearing the red and black shirt removed Rs.100/- and another Nokia mobile phone from the possession of Rajat Kumar (PW-8).

5. It is further alleged that immediately after committing the robbery, both persons attempted to flee from the spot, whereupon the complainant and his friends raised an alarm of "Chor Chor" and started chasing them. Upon hearing the alarm, Sanjeev Rahi (PW-10) allegedly joined the pursuit. During the chase, one of the persons, stated to be wearing the yellow T-shirt, allegedly stumbled and fell on the road, resulting in an injury to his

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mouth and the breaking of a tooth.

6. According to the prosecution, police personnel who were passing through the area joined in apprehending both persons. Upon enquiry, the person wearing the yellow T-shirt disclosed his name as Monu @ Kamal, respondent No. 1 herein, whereas the person wearing the red and black shirt disclosed his name as Pawan Kumar, respondent No. 2 herein.

7. It is alleged that upon conducting their personal searches, a Nokia mobile phone and cash amounting to Rs.1,500/- belonging to Nikhil (PW-2) were recovered from respondent No. 1, Monu @ Kamal. Similarly, another Nokia mobile phone, Rs.100/- in cash and a knife were allegedly recovered from respondent No. 2, Pawan Kumar. The recovered articles were identified by the respective complainants and taken into possession by the investigating agency.

8. On the basis of the statement of the complainant, Aman Rahi (PW-1), FIR No. 236/2011 was registered at Police Station Janak Puri for the offences punishable under Sections 392, 397, 411 and 34 IPC. Investigation was thereafter undertaken, during which the respondents were arrested, the alleged stolen articles and knife were seized, and the statements of the witnesses were recorded.

9. Upon completion of the investigation, a charge-sheet was filed before the learned Metropolitan Magistrate. After compliance with the provisions of Section 207 Cr.P.C., the case was committed to the Court of Sessions, the offence under Section 397 IPC being exclusively triable by a Court of Sessions.

10. Vide order dated 01.10.2012, the learned Trial Court framed charges

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against both respondents for the offences punishable under Sections 392 and 397 read with Section 34 IPC, as well as Section 411 IPC. Both respondents pleaded not guilty and claimed trial.

11. In order to substantiate its case, the prosecution examined eleven witnesses. The material witnesses included the complainant, Aman Rahi (PW-1); Nikhil (PW-2) and Rajat Kumar (PW-8), from whose possession the cash and mobile phones were allegedly robbed; Ct. Yashpal (PW-3) and HC Ashok Kumar (PW-4), who were associated with the apprehension of the respondents and the alleged recovery; Sanjeev Rahi (PW-10), the father of the complainant; and ASI Babu Lal (PW-11), the Investigating Officer. The testimonies of the witnesses as recorded by the learned Trial Court is reproduced hereinunder:

> *"4. Aman Rari the complainant was examined as PW1. He fully supported the prosecution case and identified both the accused persons as well as the case property. During examination in chief he stated that while running accused Pawan fell down on the ground as his foot hit with some object on the road. During cross examination he stated that it was accused Monu who fell down and one tooth was broken. He also deposed that from the possession of Pawan one mobile phone make Nokia and Rs.1500/- were recovered along with one knife and from the possession of accused Monu @ Kamal one mobile phone make Nokia and Rs.100/- were recovered. He also stated that neither he nor his friends went to the PS Janak Puri and that he along with his friends signed the memos at 7.30pm on the spot. However, he stated that his father went to the PS and returned*

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home after about one and a half hour. During further cross-examination he stated that the memos Ex.PW1/B to Ex.PW1/J were prepared in the PS.

5. Other witness Nikhil was examined as PW2. He also corroborated the testimony of PW1 and supported the prosecution case. During cross-examination he stated that the memos Ex.PW1/B to J were prepared on the spot. He also stated that all the witnesses signed the memos simultaneously.

6. Ct. Yashpal was examined as PW3. He deposed that on 22.07.2011 while he was returning with HC Ashok Kumar after attending a call assigned to HC Ashok and reached near C-2B, MCD Office JanakPuri they heard some children crying Chor Chor. They also noticed the children chasing two persons. They over powered those two persons. Those two persons during interrogation disclosed their names as Monu @ Kamal and Pawan. The children told that those two persons robbed them of their mobile phones and cash on the point of knife. HC Ashok took the formal search of Monu @ Kamal wherein one mobile phone make Nokia and cash amount of Rs. 1500/- were recovered from left side pocket of his pants which were identified by Nikhil as belonging to him. In the formal search of accused Pawan one mobile phone make Nokia, Rs.100/- and one knife were recovered. Rajat identified the mobile phone and currency notes as his. The children also identified that it is the same knife which was shown to them by accused persons at the

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time of robbery. HC Ashok passed on the information to police station Janak Puri. ASI Babu Lal reached the spot. Both the accused along with recovered articles handed over to ASI Babu Lal. ASI Babu Lal prepared he sketch of the knife which is Ex.PW1/C. The knife was thereafter put in a cloth parcel sealed with the seal of DL and was seized vide memo Ex.PW1/B. The case property recovered was also put in the cloth parcel and seized vide memo Ex.PW1/D and Ex.PW1/E. Seal after use was handed over to HC Ashok Kumar. IO recorded the statement of Aman Rari and prepared the rukka which was sent to PS through HC Ashok. Case was got registered. Both the accused persons were arrested. The witness has identified the case property as well as both the accused. During cross examination he stated that Monu was taken to DDU hospital along with Pawan at 8.30 pm. He along with HC Ashok was on motorcycle belonging to this witness. The accused persons were taken to the PS by calling QRT Gypsy. Complainant Aman Rari, his father and his friend Rajat were also taken to PS. They remained in the PS up to 10.00 pm. He stated that Ex.PW1/B to Ex.PW1/J were prepared in the PS.

7. HC Ashok was examined as PW-4. He deposed that he along with ASI Babu Lal was on emergency duty and were coming back to PS after attending a call. At about 7.15 pm when they reaching over red light C-B2 near MCD Office, Janakpuri, they heard the cries of children. They were calling Chor Chor

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and chasing two boys. In the meanwhile, Ct. Yash Pal also reached there. They over powered those two boys with the help of public persons. Those children, and the father of one of the child identified both the accused. They disclosed there names as Monu @ Kamal and Pawan Kumar. In the formal search of Monu @ Kamal, cash amount of Rs.1500/- and one Mobile phone were recovered, Nikhil identified that the mobile phone and the amount belongs to him. In the formal search of Pawan, one mobile phone, one currency note of Rs.100/- and one knife were recovered. The mobile phone and currency note was identified by Rajat as belonging to him. The children also identified the knife as the same which was shown to them by accused Pawan. The knife was put in a parcel of cloth sealed with the seal of DL and was seized vide memo Ex.PW1/D. He corroborated the testimony of PW-3 on other aspects and identified the case property. During cross-examination, he stated that he along with ASI Babu Lal were coming after attending the call which was marked to ASI Babu Lal. He stated that Ct. Yash Pal met them on the way. He stated that only the accused were taken to the PS and not the complainant. IO called extra staff from PS to take the accused.

8. ASI Ravinder was examined as PW-5. He was working as duty officer and he registered the FIR after receiving the rukka at about 9.30 pm. He stated that he handed over the copy of FIR to HC Ashok at about 10.30 pm.

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9. Ct. Rinku was examined as PW-6. He took accused Monu to DDU Hospital for medical examination to DDU hospital at about 12.30 pm.

10. HC Amar Singh was examined as PW-7. He was working as MHC(M) at PS Janakpuri. He proved the entries in register no.19 running into two pages as Ex. PW7/A.

11. Sh. Rajat Kumar was examined as PW-8. He has supported the prosecution to the extent that they were robbed and that one of the accused was apprehended. According to him accused Pawan was apprehended on the spot and the other accused was apprehended later on. He was cross-examined by the Ld. APP wherein he denied the suggestion that accused Monu was apprehended on the spot or that from the possession of accused Monu Mobile phone and Rs.500/- were recovered belonging to his friend Nikhil. He also denied the suggestion that knife was recovered from the possession of Pawan. During the cross examination he stated that father of Aman was not there and he reached there only after the incident. He further stated that police reached at the spot after 15-20 minutes of the incident. Thereafter, police took them to the police station and prepared documents and obtained the signatures. He stated that both the accused ran in different directions and first of all accused Pawan was apprehended and about 15-20 minutes thereafter accused Monu was apprehended. The search of the accused persons

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were taken in police station.

12. Dr. Kumar Narender Mohan was examined as PW-09. He proved the MLC of accused Monu Ex. PW9/A prepared by Dr. Heloiese Stanley.

13. Sh. Sanjeev Rari was examined as PW-10. He deposed that he was not present at the time of incident but was present at Uttam Nagar and on receipt of telephone of his mother that 2-3 boys had robbed money and mobile phone he reached police station Janakpuri where he found that one of the accused was apprehended by the police. At his instance, second accused was arrested in the area of Sagarpur Market. He stated that in his presence no recovery was effected from the possession of accused persons. According to him, none of those accused are present in the court. He was cross examined by Ld. APP but no material supporting the prosecution case came on the record.

14. ASI Babu Lal IO of the case was examined as PW-11. He deposed that on 22.07.2011 he was returning after attending a call with HC Ashok Kmar and Ct. Yashpal when they reached near C-2, Red Light they saw that 2-3 boys were running while raising alarm "Chor Chor, Pakdo Pakdo" and they were following two boys. He also stated that they also chased those two boys and one of those two boys fell down after hitting some object on the road. He was overpowered and he disclosed his name 'Monu'. The other boy was also overpowered by

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them whose name was revealed as Pawan and the recovery was got effected. Both the accused were arrested. He proved the investigation carried out by him. Thereafter, the prosecution evidence was closed."

12. Upon conclusion of the prosecution evidence, the statements of the respondents were recorded under Section 313 Cr.P.C., wherein they denied the incriminating circumstances appearing against them and claimed false implication. The defence examined three witnesses, namely, Suraj Singh (DW-1), Monu @ Kamal (DW-2) and Pawan Kumar (DW-3). The relevant testimonies as recorded by the learned trial court in the impugned order is reproduced hereinbelow:

"16. Accused persons examined Sh. Suraj Singh as DW-1. He stated that on 22.7.2011, he and Monu were present at Vijay Enclave, Bus Stand. A police vehicle and a private vehicle came there. In the private vehicle accused Pawan and one police person and two and three more persons were there. They caught hold of Monu and started beating him. They gave blows on his face due to which one of the teeth was broken. Monu started bleeding from his mouth and thereafter, Monu was taken away by the police official. During cross-examination he stated that those two vehicles reached there at about 5:00 or 5:15 p.m. He did not call on 100 number and also did not make any complaint in this regard."

13. After considering the oral and documentary evidence on record and hearing the submissions advanced by the parties, the learned Trial Court,

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vide judgment dated 06.01.2015, acquitted both respondents of the charges framed against them. The learned Trial Court observed that material inconsistencies existed in the testimonies of the prosecution witnesses, particularly concerning the apprehension of the respondents, the alleged recoveries and the manner in which the investigation was conducted. Consequently, the learned Trial Court held that the prosecution had failed to establish its case beyond reasonable doubt.

14. Aggrieved by the aforesaid impugned judgment, the appellant-State has challenged the same before this Court.

SUBMISSIONS ON BEHALF OF THE APPELLANT-STATE

15. Learned Additional Public Prosecutor (hereinafter referred to as the "APP") appearing on behalf of the appellant–State submits that the learned Trial Court erred in acquitting the respondents without properly appreciating the evidence brought on record by the prosecution. It is submitted that both respondents had robbed the complainant and his companions of their mobile phones and cash, and upon an alarm of "Chor Chor" being raised, they were apprehended by the police personnel who were patrolling in the vicinity. The robbed articles were allegedly recovered from their possession in the presence of PW-2 and PW-8.

16. Learned APP further submits that the testimony of the complainant, Aman Rahi (PW-1), fully supports the prosecution case. It is contended that PW-1 had specifically identified both respondents before the learned Trial Court and had supported the prosecution version concerning the occurrence, apprehension of the respondents and recovery of the robbed

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articles. According to learned APP, the learned Trial Court failed to accord due weight to his testimony while recording the judgment of acquittal.

17. It is further submitted that the alleged recoveries were effected in the presence of PW-2 and PW-8, and not PW-10, Sanjeev Rahi. Learned APP contends that the prosecution never claimed that the recovered articles were seized in the presence of PW-10. Therefore, the fact that PW-10 did not support the prosecution case concerning the apprehension of the respondents and recovery of the articles cannot, by itself, discredit the testimonies of PW-1, PW-2 and PW-8.

18. Learned APP accordingly submits that the evidence of the material prosecution witnesses, particularly PW-1, read with the alleged recoveries, was sufficient to establish the involvement of both respondents in the commission of the offences. It is, therefore, prayed that the impugned judgment of acquittal dated 06.01.2015 be set aside and the petition seeking leave to appeal be allowed.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

19. *Per contra*, learned counsel appearing on behalf of the respondents contends that the prosecution failed to establish the involvement of the respondents in the alleged offences beyond reasonable doubt, particularly in view of the material contradictions in the testimonies of the prosecution witnesses concerning the apprehension of the respondents and the alleged recovery of the robbed articles.

20. Learned counsel places particular reliance upon the testimony of PW-10, Sanjeev Rahi, the father of the complainant. It is submitted that although the prosecution case proceeds on the premise that PW-10 was

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accompanying the complainant and his friends at the time of the alleged occurrence, PW-10 categorically deposed that he was present at Uttam Nagar and came to know about the incident upon receiving a telephone call from his mother. He further stated that upon reaching Police Station Janak Puri, he found that one of the accused had already been apprehended, whereas the other was subsequently arrested from the area of Sagarpur Market. It is pointed out that PW-10 neither witnessed any recovery from the respondents nor identified them before the learned Trial Court.

21. It is further submitted that the testimonies of the prosecution witnesses are inconsistent regarding the manner and place of apprehension of the respondents. While the prosecution alleges that both respondents were apprehended at the spot immediately after the occurrence, the testimony of PW-10 indicates that the second respondent was apprehended subsequently from a different location. Learned counsel submits that these contradictions strike at the foundation of the prosecution case and cast serious doubt upon the alleged recoveries.

22. Learned counsel also draws attention to the discrepancies in the testimony of PW-1, Aman Rahi, regarding the place where his statement was recorded and the documents relating to the investigation were prepared. It is contended that the prosecution witnesses have given inconsistent versions as to whether the proceedings were conducted at the spot or at the police station. Reliance is also placed upon the defence evidence, particularly the testimony of DW-1, concerning the circumstances in which respondent No. 1 was allegedly apprehended.

23. Learned counsel accordingly submits that the inconsistencies in the

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prosecution evidence, coupled with the failure of PW-10 to support the prosecution version regarding the apprehension and identification of the respondents, create substantial doubt about their involvement in the alleged occurrence.

FINDINGS AND ANALYSIS

24. This Court has heard learned counsel for both the parties and perused the material on record.

25. The question which arises for consideration is whether the learned Trial Court erred in appreciating the prosecution evidence while acquitting the respondents of the offences punishable under Sections 392, 397 and 411 read with Section 34 IPC, and whether the findings recorded in the impugned judgment warrant interference by this Court.

26. Before examining the evidence, it would be apposite to refer to the settled principles governing interference with a judgment of acquittal. In ***Chandrappa v. State of Karnataka, (2007) 4 SCC 415***, the Hon'ble Supreme Court held that although an appellate court possesses the power to reappreciate the evidence, an order of acquittal strengthens the presumption of innocence in favour of the accused. Where two reasonable conclusions are possible on the evidence, the appellate court ought not to disturb the finding of acquittal recorded by the Trial Court.

27. Similarly, in **Mallappa v. State of Karnataka, 2024 INSC 104**, the Hon'ble Supreme Court reiterated that an acquittal cannot be reversed merely upon a different appreciation of the evidence. Interference is warranted where the findings of the Trial Court suffer from illegality,

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perversity or a material error in the appreciation of the evidence.

28. Applying the aforesaid principles, this Court proceeds to examine whether the findings returned by the learned Trial Court are supported by the evidence on record. The prosecution case primarily rests upon the testimonies of PW-1 Aman Rahi, PW-2 Nikhil and PW-8 Rajat Kumar, who were allegedly present at the time of the occurrence, together with the testimonies of the police officials concerning the apprehension of the respondents and recovery of the alleged stolen articles.

29. Learned APP has principally relied upon the testimony of PW-1 Aman Rahi, contending that he identified both respondents and supported the prosecution version. A perusal of his examination-in-chief reveals that PW-1 attributed the act of showing a knife to respondent No. 2, Pawan Kumar, and the removal of Rs.1,500/- and a Nokia mobile phone from PW-2 Nikhil to respondent No. 1, Monu @ Kamal. He further deposed that both respondents attempted to flee and were apprehended following the alarm raised by him and his companions.

30. However, certain material discrepancies emerge from his testimony regarding the circumstances in which the respondents were apprehended and the articles allegedly recovered. During his examination-in-chief, PW-1 initially stated that respondent No. 2, Pawan Kumar, had fallen while running. In his cross-examination, he stated that it was respondent No. 1, Monu @ Kamal, who had fallen and sustained the dental injury. Further, during his examination on 05.01.2013, PW-1 initially attributed recovery of Rs.1,500/- and a Nokia mobile phone to respondent No. 2, Pawan Kumar, whereas the prosecution case attributes the said recovery to

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respondent No. 1. Although he subsequently referred to the recoveries in accordance with the seizure memos, the initial variation forms part of the evidence which the learned Trial Court was required to consider.

31. More importantly, PW-1 gave inconsistent accounts regarding the preparation of the investigation documents. While he initially stated that the documents were signed at the spot, he subsequently deposed during cross-examination that the seizure memos and other documents were prepared at the police station.

32. PW-2 Nikhil also supported the prosecution case and identified both respondents. He deposed that respondent No. 1 had removed Rs.1,500/- and his Nokia mobile phone, whereas respondent No. 2 had removed a mobile phone and Rs.100/- belonging to PW-8 Rajat Kumar. He further stated that the robbed articles were recovered following the apprehension of both respondents.

33. However, during his cross-examination, PW-2 stated that the seizure memos and other investigation documents were prepared at the spot and that the witnesses had signed them simultaneously. This version differs materially from the testimony of PW-1, who stated during cross-examination that the documents were prepared at the police station.

34. The testimony of PW-8 Rajat Kumar assumes particular significance. While PW-8 supported the occurrence of the alleged robbery and identified respondent No. 2 as the person who had removed his mobile phone and Rs.100/-, he did not support the prosecution case regarding the apprehension of both respondents at the spot. He specifically stated that respondent No. 2, Pawan Kumar, was apprehended at the spot, whereas

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respondent No. 1, Monu @ Kamal, was apprehended subsequently.

35. PW-8 was cross-examined by the learned APP, during which he denied the suggestion that respondent No. 1 had been apprehended at the spot and that Rs.1,500/- and the mobile phone belonging to PW-2 had been recovered from his possession. He also denied the suggestion concerning recovery of the knife from respondent No. 2. Although PW-8 identified respondent No. 1 as a participant in the alleged robbery, he did not support the prosecution version concerning his apprehension and the recovery attributed to him.

36. Further, during cross-examination by learned defence counsel, PW-8 stated that the police had arrived approximately fifteen to twenty minutes after the occurrence and that the documents were signed at the police station. He also stated that the personal searches of the respondents were conducted at the police station. His account thus differs from the prosecution version of immediate apprehension and recovery at the spot.

37. The aforesaid discrepancies are not confined to minor variations in recollection. They concern the manner in which the respondents were allegedly apprehended and the place where the recoveries and consequent documentation took place. The prosecution case proceeds on the premise that both respondents were apprehended at the spot and that the articles were recovered from their possession immediately thereafter. The testimony of PW-8, however, materially differs from this version.

38. The evidence of PW-10 Sanjeev Rahi, the father of the complainant, also requires consideration. According to the prosecution case, PW-10 was accompanying the complainant and his friends and had fallen behind while

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attending a telephone call. However, when examined before the learned Trial Court, PW-10 stated that he was present at Uttam Nagar at the relevant time and came to know about the incident upon receiving a telephone call from his mother.

39. PW-10 further deposed that he thereafter reached Police Station Janak Puri, where one accused had already been apprehended, whereas the other was subsequently arrested from the area of Sagarpur Market. He categorically stated that no recovery was effected from the respondents in his presence. He also failed to identify the respondents before the learned Trial Court. Despite being cross-examined by the learned APP, he did not support the prosecution version regarding his presence at the spot, the apprehension of both respondents there or the alleged recoveries.

40. The contention of learned APP that the prosecution did not rely upon PW-10 as a witness to the recovery does not satisfactorily address the contradictions in his testimony. PW-10 was specifically projected as a person accompanying the complainant at the time of the incident and as having joined the pursuit of the respondents. His evidence contradicts that version regarding his presence at the place of occurrence. More importantly, his account of the subsequent apprehension of an accused from Sagarpur Market is consistent, to that extent, with the testimony of PW-8 that both respondents were not apprehended together at the spot. Thus, the discrepancy is not merely about the absence of PW-10 from the recovery proceedings but concerns the manner of apprehension itself.

41. The testimonies of the police officials also reveal material inconsistencies concerning their presence and participation in the

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investigation. PW-3 Ct. Yashpal deposed that he was returning with HC Ashok Kumar after attending a call when they heard the alarm raised by the complainant and his companions. According to him, ASI Babu Lal subsequently reached the spot after information was conveyed to the police station.

42. PW-4 HC Ashok Kumar, however, stated that he was returning with ASI Babu Lal after attending a call and that Ct. Yashpal joined them thereafter. On the other hand, PW-11 ASI Babu Lal, the Investigating Officer, deposed that he was accompanied by both HC Ashok Kumar and Ct. Yashpal when they came across the incident. These accounts do not present a consistent version concerning the presence of the police officials at the time of apprehension.

43. There are also differences concerning the place where the investigation proceedings were conducted. PW-3 stated during cross-examination that the documents were prepared at the police station. PW-11, however, maintained that the documents were prepared at the spot and that the complainant and his companions had not been taken to the police station. This stands at variance with the testimony of PW-8, who stated that the searches and documentation were carried out at the police station, as well as the relevant portion of the cross-examination of PW-1.

44. The alleged recovery of the stolen articles and knife is an important circumstance relied upon by the prosecution. However, the material witnesses have not given a consistent account of the manner and place of recovery. PW-1 gave differing accounts concerning the articles recovered from the respective respondents, PW-8 did not support the alleged recovery

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from respondent No. 1 or the recovery of the knife from respondent No. 2, and the witnesses differed as to whether the searches and documentation were undertaken at the spot or at the police station. These discrepancies assume significance because the alleged recovery is relied upon to corroborate the identity and involvement of the respondents.

45. The defence also examined DW-1 Suraj Singh, who stated that respondent No. 1, Monu @ Kamal, was apprehended by police personnel from the area of Vijay Enclave and assaulted, resulting in injury to his mouth and the breaking of a tooth. Respondent No. 1 also entered the witness box as DW-2 and denied the prosecution version concerning his apprehension. The medical evidence, proved through PW-9 Dr. Kumar Narender Mohan, records the loss of the upper left central incisor of respondent No. 1. While the medical record does not establish the circumstances in which the injury was sustained, the defence version concerning his apprehension away from the alleged place of occurrence cannot be viewed in isolation from the inconsistencies appearing in the prosecution evidence.

46. This Court is conscious that minor discrepancies in the testimonies of witnesses, particularly concerning peripheral details, do not necessarily render the prosecution case unreliable. However, the present case involves material inconsistencies concerning the identity of the person apprehended at the spot, the circumstances of apprehension, the alleged recoveries and the preparation of contemporaneous investigation documents. These matters are directly connected with the prosecution's account of the occurrence and the involvement of the respondents.

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47. The learned Trial Court, while extending the benefit of doubt to the respondents, considered the aforesaid contradictions and found that the prosecution had failed to present a consistent and reliable account of the apprehension of the respondents and the recoveries allegedly effected from them.

48. Upon an independent appreciation of the evidence, this Court finds that the reasons assigned by the learned Trial Court are borne out from the material on record. The learned Trial Court has not discarded the prosecution case merely on account of insignificant variations. Rather, it has identified inconsistencies concerning the material circumstances connecting the respondents with the alleged offences. The fact that PW-1 and PW-2 supported the prosecution case and identified the respondents was considered in the context of the remaining evidence. The inconsistencies in the testimonies of PW-8, PW-10 and the investigating witnesses furnish a reasonable basis for the doubt expressed by the learned Trial Court.

49. Insofar as the offence under Section 397 IPC is concerned, the prosecution specifically attributed the use of a knife to respondent No. 2, Pawan Kumar. However, the alleged recovery of the knife was not consistently supported by the material witnesses. Having regard to the discrepancies concerning the apprehension of the respondents and the recovery proceedings, this Court finds no sufficient ground to disturb the finding of acquittal in respect of the said offence. Likewise, the inconsistent evidence concerning the alleged recovery of the stolen articles does not warrant interference with the acquittal under Section 411 IPC.

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50. The Hon'ble Supreme Court in ***Mallappa (supra)*** has reiterated that where the view taken by the Trial Court is a legally plausible view, the appellate court ought not to reverse an acquittal merely because a different view of the evidence may also be possible. In the present case, the findings recorded by the learned Trial Court are based upon the material contradictions in the prosecution evidence. The State has not demonstrated that the impugned judgment suffers from perversity, illegality or a material misreading of evidence warranting interference.

CONCLUSION

51. Accordingly, this Court finds that the learned Trial Court adopted a reasonably possible view of the evidence in extending the benefit of doubt to both respondents. No ground is made out for setting aside the judgment of acquittal dated 06.01.2015.

52. In view of the foregoing discussion, the present appeal is dismissed. The judgment of acquittal dated 06.01.2015 passed by the learned Additional Sessions Judge (Fast Track Court), West District, Tis Hazari Courts, Delhi, in Sessions Case No. 22/2012, arising out of FIR No. 236/2011 registered at Police Station Janak Puri, is upheld.

53. All pending applications, if any, also stand(s) disposed of.

54. A copy of this judgment be forwarded to the learned Trial Court for necessary information and compliance.

MADHU JAIN
(JUDGE)

NOVEMBER 03, 2026/*PSB*

Signature Not Verified
Signed By:BHARTI
Signing Date:03.11.2026
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