

(2022) 08 DEL CK 0097
In the Delhi High Court
Case No : Criminal Appeal No. 1107 Of 2019

Satish Kumar Khurana

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 22-08-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 313, 374(2), 383, 428
Indian Penal Code, 1860 — Section 302, 307, 324
Evidence Act, 1872 — Section 134

Citation : (2022) 08 DEL CK 0097

Hon'ble Judges : Siddharth Mridul, J; Anup Jairam Bhambhani, J

Bench : Division Bench

Advocate : Sunil Kumar, Ashish Dutta

Final Decision : Dismissed

Judgement

Anup Jairam Bhambhani J

1. By way of the present appeal under section 374(2) read with section 383 of the Code of Criminal Procedure, 1973 ('CrPC'), the appellant Satish Kumar Khurana, assails judgement of conviction dated 01.05.2019 and order on sentence dated 07.05.2019 rendered by the learned Additional Sessions Judge/ Special Judge (NDPS), Dwarka Courts, Delhi in Sessions Case No. 440781/16 titled 'State vs. Satish Kumar Khurana' emanating from F.I.R No. 225/2012 registered at P.S.: Bindapur under sections 324/307/302 of the Indian Penal Code, 1860 ('IPC').

2. By way of the impugned judgement the appellant was convicted for committing the murder of one Sanjay Goel s/o Ram Avtar Goyal ('victim/deceased') by inflicting deadly injury using two knives and a meat 'chopper'. By way of the sentencing order the appellant was sentenced to rigorous imprisonment for life for the offence under section 302 IPC alongwith fine of Rs.50,000/-, with a default sentence of simple imprisonment for 03 months; and further, to rigorous imprisonment for 03 years for offence under section 307 IPC

alongwith fine of Rs.20,000/-, with a default sentence of simple imprisonment for 02 months; in addition to rigorous imprisonment of 01 year for the offence under section 324 IPC alongwith fine of Rs.10,000/-, with a default sentence of simple imprisonment for 01 month. Affording to the appellant the benefit of section 428 CrPC, all sentences were directed to run concurrently.

Prosecution Case :

3. The case of the prosecution is that on the evening of 21.07.2012 between 6:30 p.m. and 8:00 p.m., the appellant, who owned and ran a store under the name and style of 'Perna Fashion' at the Sriram Complex located at Arya Samaj Road, Uttam Nagar, New Delhi, entered the complex and started attacking the victim with two knives [Exb. PW-8/I and Exb. PW-8/K] and a meat 'chopper' [Exb. PW-8/L], which caused multiple serious injuries to the victim and ultimately led to his death. It is the prosecution case that the appellant attacked the victim for speaking ill of the appellant's wife.

4. The incident is stated to have been witnessed by : PW-1 Sh. Kamal Kishore Verma, who was the owner of a neighbouring store and also an injured eye-witness; by PW-2 Sh. Rajkumar Dabbas who is also stated to have been an eye-witness, who however turned hostile during trial; by PW-3 Sh. Deepak Chawla, also a neighboring store-owner and injured eye-witness; and by PW-4 Sh. Pawan Nagpal, again a neighboring store-owner and injured eye-witness.

5. It is the prosecution's case that when the appellant entered the Sriram Complex at about 6:30/7:00 pm on 21.07.2012 and started attacking the victim, PW-1 attempted to intervene; whereupon the appellant also attacked PW-1 with the meat 'chopper' and knives, due to which PW-1 sustained injuries on his chest and right hand, at which point he retreated into his shop. The meat 'chopper' is stated to have fallen inside PW-1's shop.

6. Subsequently, PW-3 states that he also saw the appellant hitting the victim as well as PW-1; and when PW-3 attempted to intervene, the appellant assaulted him as well with the knife and caused injuries on PW-3's abdomen and right hand.

7. Similarly, PW-4 is also stated to have attempted to intervene and the appellant is stated to have assaulted PW-4 on his neck and chest.

8. Apart from that, the prosecution says that PW-9 HC Mahendar Singh, who was the Beat Constable of the area, was on patrol duty at the time of the incident, and arrived at the Sriram Complex in time to see the appellant running away from the victim and towards the back of the complex; at which point, it is alleged that PW-2 stopped the appellant but to no avail; and in pursuit of the appellant, PW-9 raised his service pistol towards the appellant in warning, after which the appellant laid-down the knives he was carrying and was apprehended by PW-9.

9. Upon receipt of DD. No. 36-A [Exb. PW-23/A], Ct. Giriraj [PW-8] along with Insp. Jatinder Kumar [PW-22] arrived at the Sriram Complex at around 8:15 p.m., where PW-9 HC Mahender Singh produced the appellant as well as the two

daggers/knives which were recovered from the appellant on the spot. At this point, because of the growing crowd, the appellant was sent-off to the police station in an Emergency Response Vehicle for his safety.

10. Thereafter, PW-22 is stated to have gone to the Deen Dayal Upadhyay Hospital ('DDU Hospital') where the victim, PW-1, PW-3 and PW-4 were admitted but only PW-1 was found fit to give a statement. After recording PW-1's statement, PW-22 went to Kalra Nursing Home where PW-2 was admitted but he too was not fit for recording his statement.

11. Upon returning to the spot, PW-22 is stated to have prepared a rukka [Exb. PW-1/A, 7/A, 22/A] pursuant to which F.I.R No. 225/2012 was registered [Exb. PW-6/A]. Thereafter, PW-1 also returned to the spot of the incident; and PW-22 made a rough site-plan [Exb. PW-22/B] on PW-1's instructions. The crime team was also called to inspect the spot and take photographs [Exb. PW-19/A1 to A15]. PW-22 then collected an earth control sample and a blood sample on a cotton swab [seized vide Seizure Memo Exb. PW-8/A].

12. Prior to being taken to the DDU Hospital, PW-1 handed to PW-11 Const. Rinku, the 'chopper' type knife used by the appellant, that had fallen into his store. [seized vide Seizure Memo Exb. PW-8/M]

13. The appellant was arrested at the police station on 22.07.2012 by PW-22 and his personal search was conducted. [Arrest Memo and Personal Search Memo are Exb. PW-1/B and Ex-8/B respectively]. At the time of the appellant's arrest, two visiting cards of 'Prerna Fashion' were recovered from his possession, on the reverse of one of which were written the words : "Jin logon ne mujhe pareshan kiya hai unki jaankari diary mein likhi hai" and on the other was written "agar mere bachche mare jate hain to unka antim sanskar in poison se kar dein" [seized vide Seizure Memo Exb. PW-8/F].

14. Upon the appellant's disclosure statement [Exb. PW-8/G] a diary is stated to have been recovered from the appellant's shop 'Prerna Fashion' located in the Sriram Complex [seized vide Seizure Memo Exb. PW-8/H].

15. Simultaneously on 21.07.2012, the victim Sanjay Goel was taken to the DDU Hospital and was treated for his injuries, as documented in his MLC [Exb. PW-25/A].

16. However, at about 6:40 a.m on 22.07.2012, information was received from the DDU Hospital stating that the victim Sanjay Goel had succumbed to his injuries, which was recorded as DD No. 10A [Exb. PW-7/B]. Pursuant to this information, section 302 of the IPC was added to FIR No. 225/2012 and PW-22 handed-over the investigation to PW-30, Inspector Subhash Chand.

17. In his post-mortem report [Exb. PW-28/A] PW-28 Doctor B.N Mishra, has opined that "(t)he cause of death is due to haemorrhagic shock associated with compromised mechanical respiratory function as result of tearing of multiple vital organs and fractured multiple ribs consequent upon multiple incised stab wounds

and blunt impact on the chest.”, while also observing that 60 to 70% of the injuries sustained by the deceased were sufficient to cause death in the ordinary course of nature. PW-28 has also stated that the manner of death is ‘homicide’ and that brutality/cruelty on the part of the assailant cannot be ruled-out.

18. On 23.07.2012, PW-30 Insp. Subhash Chand is stated to have collected the MLC of PW-2 from Kalra Nursing Home, in which it was opined that the nature of injuries was ‘dangerous’, and that the victim had suffered a “3½ inches stab wound depth till peritoneum ... and very active and profuse bleeding” [Exb. PW-26/A]. PW-30 also made an application for recording PW-2’s statement [Exb. PW-30/A]. On 24.07.2012, PW-30 collected the MLC of PW-3 from the DDU Hospital, in which it was also opined that the nature of PW-3’s injuries was ‘dangerous’ [Exb. PW-25/C]. PW-3 also moved an application at the B.L.K Memorial Hospital for recording PW-3’s statement [PW-30/B]. On the same day PW-30 collected the MLC of PW-4 from DDU Hospital, in which also it was said that the nature of PW-4’s injuries was ‘dangerous’ [Exb. PW-25/B]. PW-30 also moved an application for collecting PW-4’s statement [Exb. PW- 30/C]. PW-1’s MLC was proved by PW-5 Dr. Neeraj Garg, wherein it was opined that the nature of PW-1’s injuries was ‘simple’ and that the injuries were caused by sharp and blunt weapons.

19. On 26.07.2012 PW-30 moved an application before PW-28, the Doctor at the DDU Hospital, requesting an opinion on the weapons of offence and the clothes of the deceased. In his opinion dated 28.07.2012, PW-28 states that “... nothing came (sic) be suggestive of that the produced weapons of offence (knives) would (sic) not be used for inflicted of injuries on the body of deceased and cuts on the clothes produced. As the weapons of offence is consistent for injuries mentioned in PM report and tears on the clothes.” Also, when shown the clothes of PW-2 and PW-3, PW-28 opines that “... the cut marks (tears) as mentioned above could have possibly inflicted (sic) by the knives marked “S-1 & S-2” (as per the sketch diagram of the same) during instance of assault.” [The opinion of PW-28 is Exb. PW-28/E and PW-28/F].

20. On the same day, the DDU Hospital also handed-over to PW-30 a sealed envelope containing a blood sample of the deceased, which PW-30 is stated to have deposited in the malkhana. [seized vide Seizure Memo Exb. PW-17/A]

21. On 29.08.2012 PW-30 along with PW-9 and PW-14 Sh. Hardeep Singh, an assistant draftsman, went to the site of the incident, pursuant to which PW-14 drew-up a scaled site-plan of the Sriram Complex [Exb. PW-14/A].

22. On 03.09.2012, PW-30 moved an application to collect handwriting specimens of the appellant [Exb. PW-30/F], which application was subsequently allowed by the court and the appellant’s handwriting samples were taken and marked as S-1 & S-2 [Exb. PW-30/H-6 and PW -30/H-7 respectively] and sent to the Forensic Science Laboratory (‘FSL’) to compare the appellant’s handwriting with the handwriting on the two visiting cards of ‘Prerna Fashion’ which were

recovered from the appellant at the time of his arrest. Thereafter, FSL Report No. 2012/D-7076 dated 09.10.2014 was received, which records that "The person who wrote the blue enclosed Hindi writings & English signatures stamped and marked as S1 & S2 also wrote the red enclosed Hindi writings & English signature ..." [Exb. PW-30/H2].

23. According to the prosecution, on 11.10.2012 PW-2 went to the police station and handed-in his blood-stained clothes, which pullanda was sealed and deposited in the malkhana [Exb. PW-2/A]. On the next day, a Doctor from Kalra Nursing Home handed-over a blood sample of PW-2 in a sealed pullanda which was seized and deposited in the malkahana [seized vide Seizure Memo Exb. PW-30/G]. The two pullandas were sent to the FSL, which generated a report, being FSL 2012/B-7613 dated 19.12.2012, which records that the blood found on the clothes and the blood sample of PW-2 were both of blood-group 'O'.

24. PW-30 also sent other evidence collected during the course of investigation to the FSL, namely the clothes of the appellant, the clothes of the injured witnesses and the weapons of offence. FSL Report dated 28.02.2013 received in respect thereof records that all exhibits had 'human blood' on them and the blood type was identified as 'Group-B' for the clothes; whereas on the weapons of offence, no blood type was discernible [FSL Report is Exb. PW-30/H4].

25. During investigation, PW-30 moved an application seeking PW-28's i.e. the doctor's final opinion as to the nature of injuries on PW-3 and PW-4 [which application is Exb. PW-30/H].

Proceedings in trial :

26. Charges were framed on 05.12.2012, to which the appellant pleaded 'not guilty' and claimed trial.

27. In support of its allegations, the prosecution produced 30 witnesses, while the defence did not marshal any witness.

28. The appellant's statement under section 313 Cr.P.C. was recorded on 15.04.2019, wherein he denied all allegations; and stated that the case against him was false; and that he was not present in the market on the day of the alleged incident and was one km away from the scene of the crime.

29. An overview of the relevant prosecution witnesses is as follows :

Witness No.

Witness Name/

Relevance

PW-1

Kamal Kishore Verma

Neighbouring shop-owner and injured eye-witness

PW-2

Raj Kumar Dabbas

Neighbouring shop-owner and injured eye-witness; turned hostile in court

PW-3

Deepak Chawla

Neighbouring shop-owner and injured eye-witness

PW-4

Pawan Nagpal

Neighbouring shop-owner and injured eye-witness

PW-5

Dr. Neeraj Garg

Verified PW-1's MLC

PW-8

Ct. Giriraj

Police officer; first responder

PW-9

H.C Mahendra Singh

Police witness who apprehended the appellant

PW-11

Ct. Rinku

Police officer; first responder

PW-20

Dr R K Srivastav

MLC doctor for PW-2

PW-22

Insp. Jatinder Kumar

Investigating Officer.

PW-25

Dr. Sanjay Rai

MLC doctor for victim

PW-28

Dr. B N Mishra

Post-mortem doctor

PW- 30

Insp. Subhash Chand

Investigating Officer

30. It is pertinent to mention that PW-2 turned hostile and did not support the prosecution version during trial.

Trial court findings :

31. Shorn of unnecessary detail, the appellant's conviction is based essentially on the following evidence :

i. Ocular evidence: The learned trial court finds that the testimonies of PW-1, PW-3 and PW-4 are coherent, consistent and entirely support the prosecution case.

ii. Recovery of weapons: The learned trial court also finds the testimony of the witnesses and of the police personnel in relation to recovery of the weapons of offence to be consistent; and holds that the two knives and the meat 'chopper' recovered were not planted on the appellant.

iii. Motive: The learned trial court also holds that the two visiting cards recovered from the appellant at the time of the incident and the diary recovered pursuant to the appellant's disclosure statement, show that the appellant had motive to commit the offence because of statements made about his wife's fidelity; and that the appellant had pre-planned the offence by buying the knives before the commission of the offence.

32. We have heard Mr. Sunil Kumar, learned counsel for the appellant and Mr. Ashish Dutta, learned Additional Public Prosecutor for the State. We have also perused the impugned judgment and have carefully gone through the evidence on record, assessing the merits and demerits of the evidence marshalled by both sides.

Arguments on behalf of the appellant:

33. Learned counsel for the appellant has made the following submissions challenging the conviction :

i. In their respective court depositions, PW-1, PW-3 and PW-4 make no mention of the others; and instead narrate the same story viz. that when they attempted to intervene to help the victim, the appellant also attacked them. The absence of

any reference to each other's presence in their court testimonies creates doubt as to their credibility as eye-witnesses.

ii. PW-2 has turned hostile and does not support the prosecution case.

iii. In his cross-examination PW-3 states that "I was having serious injury on my body so I could not explain as to how I sustained injury on my person nor I can tell the name of the assailant." which, according to the appellant, creates doubt as to the credibility of PW-3's testimony.

iv. All material witnesses have deposed that the appellant was very good natured and did not misbehave with other people in the past.

v. FSL Report dated 28.02.2013 records that though human blood was found on the alleged weapons of offence, i.e. the two knives and meat 'chopper', the blood-grouping for the same was inconclusive. This creates doubt as to whether these weapons were definitively used to commit the offence.

vi. The contents of the diary allegedly recovered pursuant to the appellant's disclosure statement, were not shown to the appellant; nor were the contents read-out to the court. In order to have exhibited the diary, the prosecution ought to have shown what was written in it, which was not done.

vii. In the appellant's statement under section 313 Cr.P.C, the only questions put to him were regarding the recovery of the diary but nothing about the contents of the diary; and therefore whatever was written in the diary cannot be relied upon.

Arguments made on behalf of the prosecution:

34. Urging the court to uphold the appellant's conviction and sentence, the learned APP has made the following submissions:

i. PW-1 was an injured eye-witness to the incident, who correctly identified the appellant in court and also identified the weapons of offence i.e. the two knives and a meat 'chopper' when shown.

ii. PW-3 was also an injured eye-witness to the incident, who also correctly identified the appellant in court. PW-3 stated in his court testimony that when he tried to intervene, the appellant assaulted him with the knife and caused injuries to his right hand and abdomen.

iii. PW-4 was yet another injured eyewitness to the incident, who yet again correctly identified the appellant in court. PW-4 said that at the time of the incident, when he attempted to intervene to help the victim, the appellant assaulted him and caused injuries to his neck and chest.

iv. PW-9, a police officer who arrived at the Sriram Complex and apprehended the appellant, also correctly identified the appellant in court; and also identified the weapons of offence.

v. PW-25, who was the emergency doctor at the DDU Hospital, opined that the victim's injuries were 'sharp' in nature and referred him to surgery for further treatment. PW-28, the post-mortem doctor, opined that the manner of death is homicide, and brutality (on the part of the appellant) cannot be ruled-out. When shown the weapons of offence, PW-28 opined that there is nothing that belies that the two knives and meat 'chopper' could have been used to cause the injuries on the deceased. PW-28 also opined that the said weapons of offence were consistent with the cuts on the clothes and the injuries on the deceased. PW-28 also opined that the cut marks on the clothes of PW-3 and PW-4 could have been inflicted by the said weapons during an assault.

vi. PW-20, the doctor who examined PW-2, opined in the MLC that the nature of injuries was 'dangerous' and that PW-2 had multiple stab injuries on his chest and abdomen. This clearly indicates the seriousness of the injuries inflicted by the appellant. PW-5, the Medical Officer who attended to PW-1, opined in PW-1's MLC that the weapons used to inflict some of the injuries were sharp and the other injuries were caused by a blunt weapon.

vii. The appellant's clothes which were seized from him on the day of the incident, had blood stains on them. The two knives recovered from the appellant, and also the meat 'chopper' produced by PW-1 as handed to PW-11, also had bloodstains on them. The FSL Report as regards the clothes belonging to the appellant and to the injured persons, records that the blood detected on such clothes was of the same group, i.e. Group-B.

viii. Police witness PW-8, who arrived at the scene of the incident to find that PW-9 had apprehended the appellant, corroborates PW-9's testimony; and correctly identified the accused in court.

Discussion & Conclusions :

35. From the foregoing it is seen that the decision of the learned trial court in the present case hinges on 03 principal categories of evidence:

- i. Ocular evidence;
- ii. Medical evidence; and
- iii. Forensic Evidence.

36. In the present case the prosecution has marshalled 04 injured eye-witnesses, viz. PW-1, PW-2, PW-3 and PW-4, all of whom are owners of shops in the vicinity of the scene of crime in the Sriram Complex. Three of the four injured eye-witnesses, viz. PW-1, PW-3 and PW-4 have given fairly cogent and consistent testimonies in court, which have remained un-rebutted in cross-examination. However, PW-2 who was yet another neighbouring shop-owner, turned hostile and reneged on his earlier statements. In their statements PW-1, PW-3 and PW-4 have said that on the evening of 21.07.2012 between 06.30 p.m. and 08.00 p.m. the appellant entered the Sriram Complex and attacked the victim with two

knives and a meat 'chopper' causing multiple serious injuries; and also that when they attempted to intervene, each of them sustained injuries as detailed in their depositions. The injuries sustained by PW-3 and PW-4 have been documented and have been opined as being 'dangerous' by the attending doctors and PW-1's injuries have been said to be 'simple'.

37. Although it has been contended on behalf of the appellant, that since in their statements PW-1, PW-3 and PW-4 do not acknowledge each other's presence at the scene of the crime at the relevant time, that dents the credibility of their statements and creates doubt as to whether they were eye-witnesses. Furthermore, it is contended that in his cross-examination, PW-3 does not explain as to how he sustained the injuries on his person nor does he disclose the name of the assailant. This, it is contended, yet again creates doubts as to the credibility of PW-3's testimony.

38. For one, the very contention that the aforesaid three eye-witnesses do not acknowledge the presence of each other at the scene of the crime is not borne-out by the record, in as much as a reading of PW-1's statement shows that PW-1 does mention PW-3 and PW-4 in his testimony when he says : "I have also seen Pawan Nagpal and Deepak Chawla having injuries on their persons. Deepak Chawla was having injuries on his stomach and he was holding the same and there was heavy bleeding."

39. Before assessing the value of the testimonies of the injured eye-witnesses, it would benefit to briefly set-out the position of law as regards injured eye-witnesses and also as to whether evidence is to be 'counted' or 'weighed'. The relevant portions of some seminal judgments of the Hon'ble Supreme Court in this regard are extracted below.

In Abdul Sayeed vs. State (2010) 10 SCC 259 the Hon'ble Supreme Court says :

"30. The law on the point can be summarised to the effect that the testimony of the injured witness is accorded a special status in law. This is as a consequence of the fact that the injury to the witness is an inbuilt guarantee of his presence at the scene of the crime and because the witness will not want to let his actual assailant go unpunished merely to falsely implicate a third party for the commission of the offence. Thus, the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies therein."

(emphasis supplied)

In Vadivelu Theva vs. State of Madras AIR 1957 SC 614 the Hon'ble Supreme Court says :

"11. In view of these considerations, we have no hesitation in holding that the contention that in a murder case, the court should insist upon plurality of witnesses, is much too broadly stated. Section 134 of the Indian Evidence Act, has categorically laid it down that "no particular number of witnesses shall, in

any case, be required for the proof of any fact". The legislature determined, as long ago as 1872, presumably after due consideration of the pros and cons, that it shall not be necessary for proof or disproof of a fact, to call any particular number of witnesses. In England, both before and after the passing of the Indian Evidence Act, 1872, there have been a number of statutes as set out in Sarkar's Law of Evidence — 9th Edn., at pp. 1100 and 1101, forbidding convictions on the testimony of a single witness. The Indian Legislature has not insisted on laying down any such exceptions to the general rule recognized in Section 134 quoted above. The section enshrines the well recognized maxim that "Evidence has to be weighed and not counted". Our Legislature has given statutory recognition to the fact that administration of justice may be hampered if a particular number of witnesses were to be insisted upon. It is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of uncommon occurrence, where determination of guilt depends entirely on circumstantial evidence. If the legislature were to insist upon plurality of witnesses, cases where the testimony of a single witness only could be available in proof of the crime, would go unpunished. It is here that the discretion of the presiding judge comes into play. The matter thus must depend upon the circumstances of each case and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. Even as the guilt of an accused person may be proved by the testimony of a single witness, the innocence of an accused person may be established on the testimony of a single witness, even though a considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution. Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:

- (1) Wholly reliable.
- (2) Wholly unreliable.
- (3) Neither wholly reliable nor wholly unreliable.

"12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way — it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. There is another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses.

Situations may arise and do arise where only a single person is available to give evidence in support of a disputed fact. The court naturally has to weigh carefully such a testimony and if it is satisfied that the evidence is reliable and free from all taints which tend to render oral testimony open to suspicion, it becomes its duty to act upon such testimony. The law reports contain many precedents where the court had to depend and act upon the testimony of a single witness in support of the prosecution. There are exceptions to this rule, for example, in cases of sexual offences or of the testimony of an approver; both these are cases in which the oral testimony is, by its very nature, suspect, being that of a participator in crime. But, where there are no such exceptional reasons operating, it becomes the duty of the court to convict, if it is satisfied that the testimony of a single witness is entirely reliable. We have therefore, no reasons to refuse to act upon the testimony of the first witness, which is the only reliable evidence in support of the prosecution."

(emphasis supplied)

40. In the opinion of this court, in the present case, even discounting the testimonies of PW-2 (who turned hostile) and PW-3 (who did not completely turn hostile but gave a somewhat pusillanimous version of his earlier statement), the fact that there are two injured eye-witnesses, viz. PW-1 and PW-4, who gave clear, consistent and convincing testimonies as regards the role of the appellant in the offence, is more than sufficient to bring home guilt. As explained by the Hon'ble Supreme Court in the aforementioned decisions, an injured eye-witness enjoys special status and a high degree of credibility as a witness, inasmuch as the presence of such witness at the scene of the offence is ordinarily beyond doubt (provided the court is satisfied that the injury was sustained by the eye-witness in the same incident); and furthermore, an injured eye-witness is unlikely to implicate a wrong person to shield the actual accused. Moreover, as also explained by the Hon'ble Supreme Court, evidence is to be weighed not counted and therefore even a sole injured eye-witness could be sufficient to convict an accused.

41. It is seen that in this case, medical evidence comprised in the MLC, the post-mortem report and the opinion as to the weapons of offence, is also consistent and points conclusively to the appellant's guilt. Medical evidence shows that the victim's death is homicidal; that the injuries on his person have been caused by the two knives recovered from the appellant and the meat 'chopper' recovered from PW-1's shop; and the concerned doctor has also opined that the weapons recovered are consistent with the nature of injuries sustained by the victim and by the injured eye-witnesses.

42. If there were any need for re-affirmation, which is not necessary in a case based on ocular evidence, the appellant is also shown to have had motive to harm the victim, as evidenced by the visiting cards found on his person and the diary recovered pursuant to his disclosure statement, on which the appellant had recorded his intention to harm the victim for allegedly having made derogatory

statements about his wife's infidelity.

43. In fact, the appellant was caught on the spot, with the proverbial 'smoking gun' as it were, viz. the two knives, by PW-9, a police officer who arrived at the Sriram Complex and apprehended the appellant virtually in flagrante delicto.

44. Upon a conspectus of the foregoing, this court finds no basis or reason to disagree with the inferences arrived at by the learned trial court convicting the appellant of the offences under sections 302/307/324 IPC; nor with the sentence meted-out for such offences.

45. Accordingly, judgment of conviction dated 01.05.2019 and sentencing order dated 07.05.2019 are upheld; and the present appeal is dismissed; without however, any orders to costs.

46. Pending applications, if any, stand disposed of.

47. A copy of this judgment be given to learned counsel for the parties and be uploaded on the website of this court expeditiously.