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

Date of Decision: 19th August, 2026

IN THE MATTER OF:

\# **CNR No. DLHC010096862004**

\+ CRL.A. 450/2004

AJAY SINGH GAHLOT .....Appellant

Through: Mr. Ravi Sehgal, Ms. Roopali Lakhotia, Mr. Kartikey Kakkar, Advs. with Appellant-in-person.

versus

THE STATE (NCT OF DELHI) .....Respondent

Through: Mr. Satinder Singh Bawa, APP for State with SI Vinay Kumar, PS Vasant Kunj.

CORAM:
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT (ORAL)

VIMAL KUMAR YADAV, J.

1. The judgment of conviction dated 11.05.2004 has been impugned in the instant appeal and the challenge to the same is primarily on three counts; firstly that the testimony of the victim is inconsistent, therefore, cannot be relied upon; secondly that there was, apparently, no motive with the Appellant to commit the alleged offence and finally that there is no evidence on record to connect the Appellant with the so called weapon of offence i.e. the knife and '*Thapi*' (a small wooden bat like object used for washing clothes).

2. Before adverting into the details, the indispensible facts are required to be recapitulated. Appellant Ajay Singh Gahlot was a domestic servant

with one Sushil Chandra, a Revenue Service Officer from where he left or was removed from the job. The Appellant, on the fateful day i.e. 17.10.2000 landed up at the place of his former employer and somehow gained entry in Flat No. C-2/3491, Vasant Kunj, New Delhi on the pretext of having water. At that time, his employer was not at home, rather a domestic servant i.e. victim Meena was there, who had opened the door for the Appellant albeit the employer had instructed her not to allow entry to Appellant. The Appellant was seemingly looking for his diary, which he could not find and suddenly out of anger or frustration, he assaulted the victim by a *thapi* (a small wooden bat like object, which is used in washing clothes) first and thereafter, with a knife. Five injuries were sustained by the victim, as per the MLC Ex. PW-6/A.

3. The matter was reported to the local police and SI O.P. Thakur alongwith Const. Surinder reached at the place of occurrence, from where he came to know that the victim Meena, who had received the injuries, has been removed to Safdarjung Hospital by a Police Control Room (PCR) vehicle. The police team went to Safdarjung Hospital and recorded the statement of victim, based upon which the FIR bearing registration No. 540/2000 dated 17.10.2000, under Section 307 of Indian Penal Code, 1860 ('IPC') was registered at Police Station Vasant Kunj. The investigation was carried out which ultimately culminated into the chargesheet under Section 307 IPC. However, based upon the allegations contained in the chargesheet, charge was framed against the Appellant under Section 452 also, in addition to Section 307 IPC.

4. Since the Appellant sought trial, therefore, the prosecution brought in seven witnesses to bring home its case and thereafter, statement of the Appellant was recorded under Section 313 of the Code of Criminal

Procedure, 1973 ('Cr.P.C.'). Learned Trial Court after considering rival contentions and the evidence on record, held the Appellant guilty under Section 324 IPC and through the Order on Sentence dated 25.05.2004, sentenced the Appellant to undergo Rigorous Imprisonment (RI) for a period of 1 year and to pay a fine of Rs. 5,000/-, in default of which, he was to further to undergo Simple Imprisonment ('SI') for a period of 6 months.

5. Against the backdrop of aforesaid facts and circumstances, the instant appeal has emerged, where the learned counsel for the Appellant initially submitted that the Appellant has spent 47 days in custody and has clean record, therefore, he may be considered for the benefit of probation. A report has been called from Correctional Probation Services and since the Appellant belongs to Rajasthan, it took some time to obtain the Probation Officer's report from Ajmer, Rajasthan.

6. Now coming to the contentions raised on behalf of the Appellant that the case of the prosecution is not trustworthy so as to record a conviction even under Section 324 IPC. The first aspect taken is the inconsistency in the statement of the victim. The learned counsel for the Appellant, however, has pointed out certain trivial facts, which are not potent enough to render the testimony of the witness untrustworthy or unreliable. How the knife used in the offence came to his possession? Learned counsel for the Appellant has pointed out that the victim has stated about the knife being given by her to the Appellant and in another part of her testimony, she has deposed that the Appellant had himself taken out the knife from the drawer of the bed, as reflected in the report/complaint made to the police i.e. Ex. PW-4/A. Incidentally, this fact has not been put to the victim in her cross-examination. In any case, this alone is not going to render the testimony of the victim vulnerable to doubt and suspicion. Apart from this, no other

inconsistency could be pointed out by learned counsel for the Appellant.

7. There are certain facts, which do not form part of the report lodged with the police, but then learned counsel for the Appellant had not confronted the witness with these facts, therefore, Appellant cannot derive any mileage out of it, as the witness did not get a chance to explain those facts.

8. Verily, learned counsel for the Appellant has tried to demolish the only testimony, which is there against him i.e. of the victim. However, if the evidence of the victim is examined and analyzed then it appears to be trustworthy, for two reasons that the victim has no concern with the Appellant and no reason to falsely implicate him or lodge a complaint against him unless something of the nature complained of by her has actually taken place. Secondly, she happens to be victim and the injured and her testimony is to be treated at a different pedestal in view of the fact that the injuries are consistent with the deposition and the weapons used in the offence i.e. a *thapi* and the knife. The MLC Ex. PW-6/A has given the details of the injuries sustained by the victim, which reads as under:

> *(i) Clear incised wound 3 cm x 0.5 cm x 0.5 cm, right perital region.*
> *(ii) Clear incised wound 2 cm x 1 cm, right neck.*
> *(iii) Clear incised wound 1 cm x 1 cm, left neck.*
> *(iv) Clear incised wound ½ x ½ at center of neck.*
> (v) *Haematomma left forehead.*

9. It is evident that except the two injuries at the most, rest all were caused by sharp weapon and the knife which has been recovered as the weapon of offence in the instant case, is apparently capable of causing such injuries. In these circumstances, there appears no reason to entertain any doubt about the deposition and trustworthiness of the victim.

10. In ***Abdul Sayeed vs. State of Madhya Pradesh,*** (2010) 10 SCC 259, the Supreme Court observed that an injured witness is unlikely to spare his actual assailant(s) and to falsely implicate someone else. Para 28 of the judgment read thus:-

> *"28. The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. "Convicting evidence is required to discredit an injured witness."*

The Hon'ble Supreme Court in ***Balu Sudam Khalde v. State of Maharashtra,*** (2023) 13 SCC 365 with respect to principles for appreciation of injured witness in a criminal case, has observed and held as under: -

> "*26. When the evidence of an injured eyewitness is to be appreciated, the undernoted legal principles enunciated by the courts are required to be kept in mind:*
>
> *26.1. The presence of an injured eyewitness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.*
>
> *26.2. Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.*
>
> *26.3. The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.*
>
> *26.4. The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.*
>
> *26.5. If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the*

evidence of injured, but not the whole evidence.

26.6. The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded."

This Court in ***Abid & Ors. v. State (NCT OF DELHI)***, CRL.A. 260/2023 has also relied upon the principles crystallized in the judgment in ***Balu Sudam Khalde's*** case (supra).

11. The next contention on behalf of the Appellant is the absence of motive with the Appellant to cause any harm or the kind of injuries, which the victim has sustained. On the face of it, there appears no apparent motive and there couldn't be any to harm the maid of the house, who incidentally, happens to be a minor and was unfortunately employed by a Revenue Service Officer against the norms. Nevertheless, employment of a child labourer in hazardous work, not being the issue here, thus, reverting back to the contention raised on behalf of the Appellant about the absence of any motive. Motive is normally searched for or looked into, but then there are judgments to the effect that in case where there is direct ocular evidence available, then there is no need to search or look for any motive. Reference in this context can be made to the certain judgments.

12. In ***Thaman Kumar v. State of Union Territory of Chandigarh***, (2003) 6 SCC 380, it was observed as under:

"*There is no such principle or rule of law that where the prosecution fails to prove the motive for commission of the crime, it must necessarily result in acquittal of the accused. Where the ocular evidence is found to be trustworthy and reliable and finds corroboration from the medical evidence, a finding of guilt can safely be recorded even if the motive for the commission of the crime has not been proved."*

Further in ***Chandan v. State (Delhi Admin)***, (2024) 6 SCC 799, the Court reiterated ***Shivaji Genu Mohite v. State of Maharashtra,*** (1973) 3 SCC 219 and held that it is a well-settled principle in criminal jurisprudence that when ocular testimony inspires the confidence of the court, the prosecution is not required to establish motive. Mere absence of motive would not impinge on the testimony of a reliable eyewitness. Motive is an important factor for consideration in a case of circumstantial evidence, but when there is direct eyewitness, motive becomes insignificant.

13. Incidentally, the record reflects that there was no motive with the Appellant, but then there is a very strong possibility of a very feeble kind of motive with the Appellant. The evidence on record reflects that the Appellant was previously employed with Sushil Chandra and Appellant was maintaining his salary records in a diary. He went to look for the same diary as he wanted to settle his salary issue with his previous employer. The evidence on record further reflects, as has been deposed by the victim/PW-4 that he tried to search for the diary, but couldn't lay his hands on the same. He was, obviously, upset and enraged, so seemingly, out of frustration, he indulged into something which was not called for that too by targeting a person, who had no concern either with the diary or with the salary of the Appellant. Conjecturably, albeit, this could be the reason, but no motive 'as such' is attributable to him.

14. It was finally argued that there is no evidence on record to connect the weapon of offence i.e. knife and the *thapi* with the Appellant, as no fingerprints have been taken nor therefore, any evidence is there to connect the Appellant with the knife and the *thapi*.

15. Learned Additional Public Prosecutor ('APP') has, however, countered this contention by asserting that this may be a lapse on the part of

the Investigating Agency, but then there is ample evidence to connect the Appellant with the offence, notwithstanding the issue of fingerprints on *thapi* and knife. Therefore, in these circumstances, the lapse on the part of the Investigating Agency if at all, cannot came to the rescue of the Appellant in any manner. Learned APP has pointed strong corroborative evidence in the shape of the blood, which was there on the spot and on the knife, *thapi*, towel and the shirt of the Appellant. The blood group of the blood on all these items is common i.e. Group A. The obvious inference which can be drawn is that it was the Appellant, who had assaulted the victim, who as a result of the attack bled, which is also why the blood of the victim, was there on the knife, *thapi* and towel, as also on the shirt of the Appellant. Therefore, the contention of learned counsel for the Appellant is not acceptable in this context. The evidence is required to be looked into and evaluated both conjunctionally, disjunctively and of course comprehensively.

16. The contentions of the rival sides when appreciated in its totality against the entire gamut of facts and circumstances, then the contention of the learned APP starts gaining ground and in the process blows away the contention raised on behalf of the Appellant. In any case, any lapse on the part of the investigating agency, which is not attributable to the victim, should not come in the way to discard or accept any evidence. In this context, reference can be made to certain important judgments on the subject:

> In ***C. Muniappan v. State of T.N. (2010) 9 SCC 567***, *the Supreme Court held that it was a case of highly defective investigation but this was not the end of the matter, for if primacy was given to omissions and lapses by perfunctory investigation, faith and confidence of the people in criminal justice administration would erode. In such case, there is a legal*

obligation on the part of the Courts to examine prosecution evidence de hors such lapses, to find out whether evidence is reliable or not, and to what extent it is reliable and whether the lapses had affected the object of finding the truth. Reference was made to several decisions in support of said ratio.

In ***Ganga Singh v. State of M.P.,*** (2013) 7 SCC 278*, it was held that Courts cannot acquit an accused on the ground that there were some defects in the investigation, unless such defects cast reasonable doubt on the prosecution case.*

Similar findings were recorded in ***Sunil Kundu & Anr. v. State of Jharkhand,*** (2013) 4 SCC, 422*, holding that lapses or irregularities in investigation would not be material if the evidence produced on record, despite the said lapses or irregularities, does not go to the root of the matter and dislodges the substratum of the prosecution case.*

In ***Surajit Sarkar v. State of West Bengal***, (2013) 2 SCC 146, *after referring to several earlier decisions, it has been held that deficiencies in investigation by way of omission and lapses by the investigating agency cannot themselves justify total rejection of the prosecution case and where prosecution evidence de hors such lapses, when carefully scrutinised and evaluated, does not affect the object of finding of truth."*

In the case of ***Rishi Malhotra v. Union of India****, W.P.(Crl.) No. 145/2017, the court referred Paras Yadav v. State Of Bihar [(1999) 2 SCC 126 : 1999 SCC (Cri) 104] and Ram Bihari Yadav v. State of Bihar and others, J.T. (1998) 3 SC 290 and stated that the principle of law is crystal clear that on the account of defective investigation the benefit will not inure to the accused persons on that ground alone. It is well within the domain of the courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eyewitnesses, medical report etc. It has been a consistent stand of this court that the accused cannot claim acquittal on the ground of faulty investigation done by the prosecuting agency.*

In ***Shailesh Kumar v. state*** U.P., (2024) 19 SCC 570, Hon'ble Supreme Court held as under:

"There is a subtle difference between a defective investigation and one brought forth by a calculated and deliberate action or inaction. A defective investigation per se would not enure to the

benefit of the accused unless it goes into the root of the very case of the prosecution being fundamental in nature. While dealing with a defective investigation, a court of law is expected to sift the evidence available and find out the truth on the principle that every case involves a journey towards truth. There shall not be any pedantic approach either by the prosecution or by the court as a case involves an element of law rather than morality."

17. As discussed hereinabove, the challenge to the impugned judgment on three counts is not capable enough to dislodge the case of the prosecution. On the other hand, the evidence on record unequivocally and un-mistakenly points towards the complicity of the Appellant and, therefore, in these circumstances, the conclusion arrived at by the learned Trial Court, being in-tandem with the evidence, facts and the law, cannot be questioned. As a result, the judgment of conviction is upheld.

18. Learned counsel for the appellant on the aspect of sentence has come up with the plea that in view of the clean antecedents and keeping in view the socio economic situation of the Appellant, he deserves to be considered for the benefit of probation. In addition to that, he has also submitted that the Appellant had spent nearly 02 months in custody also, therefore, he advocated for the release of the Appellant on probation.

19. The Probation Officer's report is indeed in favour of the Appellant. Apart from that, there are certain other aspects, which played a kind of mitigating circumstance so far as the sentence is concerned. Through the order on sentence, the Appellant has been ordered to undergo Rigorous Imprisonment for a period of one year. The incident pertains to the year 2000 i.e. more than a quarter of a century old and the Appellant himself was vulnerable in the sense that he was employed as a domestic servant and that he held a grudge with regard to his salary. The cross-examination of PW-4 reflects that her employer Sushil Chandra had categorically instructed the

victim Meena that the Appellant should not be allowed in the house. It shows that Sushil Chandra was apprehensive of the visit of the Appellant and that gives some strength to the contention that the Appellant went to look out for his diary, where the record of his salary was maintained. He simply wanted to settle his salary issue. Therefore, it appears that the Appellant had certain genuine grievances, which were not addressed by his employer. Seemingly, without settling the salary, the Appellant was thrown out of the employment and in his place, the minor child of about 11/12 years of age was employed by the so-called responsible Revenue Service Officer, who brought the victim Meena from his native place Ajmer, Rajasthan. Incidentally, the Appellant also belongs to Ajmer, Rajasthan.

20. In view of these facts and circumstances and taking into account that the Appellant has clean antecedents, has the responsibility of his family, which includes mother, wife, minor son and minor daughter. He belongs to a poor strata of society and somehow surviving by running a puncture making shop.

21. Thus, considering the matter in its entirety especially the prolonged criminal proceedings of 25 years or so and the fact that he was all of 23 years when he was sentenced, has clean antecedents as nothing adverse has been reported, which entitles him to be considered favourably. In any case, sending him to jail would not serve any purpose as the period spent by him in custody has already worked as a deterrent for him, which can be inferred from the fact that he has had no further involvement in any kind of criminal act or offence. Therefore, considering the matter in its entirety, the sentence is modified and that the benefit of probation is extended to him. He is released on probation for 01 year on furnishing a bond of good conduct in a sum of Rs. 20,000/- to be submitted before the learned Trial Court. It is

made clear that in case of any violation, the Appellant shall render himself liable not only to the offence in which he may get involved in future, but the punishment qua this offence shall also be fall upon him. The fine already deposited shall be treated as cost of proceedings and paid to the victim as compensation.

22. A very sorry state of affairs is lurking in the background of this case to which all concerned conveniently shut their eyes. A very sensitive issue of child labour, unfortunately was either ignored or escaped the attraction both the police and the Court, albeit, not directly in controversy. Needless to say that a responsible Revenue Service Officer behaved in an irresponsible manner and did not even bat an eyelid and engaged a minor female child as domestic help. Now it seems to be too late to take up this issue.

23. However, the issue of compensation to the child victim is still alive and certainly requires to be considered. A Victim Compensation Scheme has been brought into the statute books by the enactment and incorporation of Section 357-A Cr.P.C. in 2009. State Governments are thus, under obligation to devise and implement such a scheme. That being a welfare measure, and for the purpose of rehabilitation of the victim, therefore, there appears no reason why it should not have a retrospective effect as well. In fact, various High Courts took the same view that the victim is entitled to compensation under Section 357A (4) Cr.P.C. even if the concerned crime was committed prior to the enactment and enforcement of the Victim Compensation Scheme to be framed/framed under Section 357-A Cr.P.C.

In ***Sunil Kumar Jha v. State of Bihar***, 2024 SCC OnLine Pat 960, decided on 04.04.2024, the Court has observed in the follow manner:

> *"104. In Vakalpudi Venkanna v. State of Karnataka, 2022 SCC OnLine Kar 1828, Karnataka High Court expressing similar view observed as follows:*

"10. As can be seen from the aforesaid decisions of this Court and other High Courts, Section 357-A Cr. P.C. as well as the Karnataka Victim Compensation Scheme, 2011 are applicable even to the incidents that occurred prior to the said provision/said scheme coming into force.

105. It clearly emerges from the aforesaid statutory provisions and case laws that the Court conducting a criminal trial is duty bound to pass reasoned order, on the conclusion of the trial, regarding compensation to victims as per Section 357 and Section 357 A Cr. P.C., irrespective of conviction, acquittal or discharge. Such order has to be passed by the Trial Court even when the victim has not filed an application for compensation. In such order, the Court is required to give finding whether the alleged offence has been committed or not, and if committed who is victim of the committed offence, and if there is any victim in terms of Section 2 (wa) Cr. P.C., whether victim is entitled to compensation under Section 357 and Section 357 A Cr. P.C. and if yes, how much and from whom.

106. The Appellate and Revisional Court are equally duty bound to pass such order regarding compensation to the victims in their final judgments even if the appeals/revisions have been filed by a party other than the victim, only condition being that appeal or revision or any other proceeding arising out of the crime is pending before the Court.

107. Moreover, victims are entitled to benefits under State Victim Compensation Scheme made under Section 357A Cr. P.C. even when the concerned offence has been committed prior to the scheme coming into force if the trial, appeal or revision are pending on or after the scheme came into force.

108. In case of conviction of the Accused, compensation payable to the victim may be imposed upon the convict as per his paying capacity either by way of fine or otherwise under Section 357 Cr. P.C. and if the compensation directed to be paid under Section 357 Cr. P.C. is not sufficient to rehabilitate the victim, the Court is empowered to recommend the Legal Services Authority to pay the compensation to the victim from the State fund created under Victim Compensation Scheme made under Section 357A Cr. P.C. In case of acquittal of the Accused-Appellant, the Court is duty bound to resort to Section 357A Cr. P.C. to recommend Legal Services Authorities to pay compensation to the victim as per Victim Compensation Scheme of the State as made under Section 357A Cr. P.C."

24. In view of the aforesaid, there appears no reason as to why the victim in the instant case should not be considered for a compensation under the Victim Compensation Scheme. She was, in a way, victim on two counts. She was not only harmed and injured by the Appellant herein, but was employed as a child labour by a responsible Revenue Service Officer against all norms social, legal and human, that too in domestic work, which has been prohibited as provided in Schedule appended to The Child Labour (Prohibition and Regulation) Act, 1986 at entry no. 14 Part-A in terms of Section 3 of The Child Labour (Prohibition and Regulation) Act, which prohibits employment of children in certain occupation and processes. As such, the victim should be considered for a suitable compensation for rehabilitation or otherwise by Delhi State Legal Services Authority under the Victim Compensation Scheme within the time frame provided under Section 357A(5) Cr.P.C. and/or the scheme.

25. The appeal, accordingly, stands disposed of alongwith all pending application(s), if any. Bail bonds stand discharged after the Bond of good conduct is furnished.

26. Copy be transmitted to the Prison Authorities and the learned Trial Court and Secretary, Delhi State Legal Services Authority ('DSLSA') for information and necessary compliance.

VIMAL KUMAR YADAV, J

AUGUST 19, 2026/*akc/vs*