

State Of H.P vs Rajesh Verma on 9 October, 2026

2026:HHC:44347

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 88 of 2012

Reserved on: 22.09.2026

Date of Decision: 9.10.2026.

State of H.P.

...Appellant

Versus

Rajesh Verma of

...Respondent

Coram rt
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?1 No.

For the petitioner	:	Mr Jitender Sharma,	Additional
		Advocate General.	

For the Respondent : Mr Mohan Singh, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 12.10.2011 passed by learned Judicial Magistrate First Class, Theog, District Shimla, H.P. (learned Trial Court) vide which the respondent (accused before the learned Trial Court) was acquitted of the commission of offences punishable under [Sections 279](#) and [304A](#) of the Indian Penal Code ([IPC](#)). (The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).

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Whether reporters of Local Papers may be allowed to see the judgment? Yes.

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2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan before the learned .

Trial Court against the accused for the commission of offences punishable under [Sections 279](#) and [304A](#) of the IPC. It was asserted that the informant, Prem Singh (PW2), was driving a bus bearing registration No. HP-07-5058 from Shimla to of Reckong Peo on 31.10.2007. The bus reached a curve ahead of Fagu at about 09:00 a.m. A pick-up bearing registration No. HP-

rt 63-1447 came from the opposite side at a high speed. Some bags of vegetables and boxes of apples were loaded in the Pick-up. One person was sitting on the bags and the boxes. The Pick-up suddenly swerved. The person sitting on the bags lost control, hit the front windshield of the bus and fell. His name was found to be Raju. He succumbed to his injuries. The accused, Rajesh, was driving the pick-up, and the accident occurred because of his negligence. The matter was reported to the police, and the police recorded an entry (Ext.PW9/A) in the daily diary. ASI Daulat Ram (PW10) investigated the matter. He went to the spot and recorded the informant's statement (Ext.PW2/A) and sent it to the Police Station, where FIR (Ext.PW6/A) was registered. ASI Daulat Ram (PW10) investigated the matter. He prepared the site plan :::
Downloaded on - 09/10/2026 21:57:08 :::CIS 3 2026:HHC:44347 (Ext.PW10/B) and took the photographs (Ext.P1 to Ext.P6) whose negatives are Ext.P7 to Ext.P12. ASI Daulat Ram (PW10) .

conducted the inquest on the dead body and issued the report (Ext. PB). He filed an application (Ext.PA) for conducting the postmortem examination of the deceased. Dr Daleep Tekta (PW11) conducted the postmortem examination and found that of the cause of death was head injury leading to cardiopulmonary arrest. He issued the report (Ext.PW11/A). ASI Daulat Ram (PW10) rt seized the bus bearing registration No. HP-07-5058 and a pick-

up bearing registration No. HP-63-1447 vide memos (Ext.PW3/A and Ext.PW1/A). HC Sanjeev Kumar (PW12) mechanically examined the vehicles and found that there was no defect in them which could have led to the accident. He issued the reports (Ext.PW12/A and Ext.PW12/B). The statements of witnesses were recorded as per their version, and after the completion of investigation, the challan was prepared and presented before the learned Trial Court.

3. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, a notice of accusation was put to him for the commission of offences ::: Downloaded on - 09/10/2026 21:57:08 :::CIS 4 2026:HHC:44347 punishable under [Sections 279](#) and [304A](#) of IPC, to which he pleaded not guilty and claimed to be tried.

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4. The prosecution examined thirteen witnesses to prove its case. Anil Kumar (PW1), Narender (PW3), Kamaljeet (PW7) and Het Ram (PW8) did not support the prosecution case.

Prem Singh (PW2) is the informant. Harvinder Singh (PW4) is an of eyewitness. Prem Singh (PW5) witnessed the sapurdari of the dead body. Inspector Pal Chand (PW6) proved the FIR. LHC rt Pankaj Kumar (PW9) proved the entry in the daily diary. ASI Daulat Ram (PW10) investigated the matter. Dr Daleep Tekta (PW11) conducted the postmortem examination of the deceased.

HC Sanjeev Kumar (PW12) conducted the mechanical examination of the vehicles. Constable Kamal Dev (PW13) witnessed the recoveries.

5. The accused, in his statement recorded under [Section 313](#) of the Code of Criminal Procedure ([CrPC](#)), stated that his vehicle was loaded with vegetables and apple boxes and it was ascending the road. The bus was descending the road, and it was moving at high speed. The accident had occurred because of the ::: Downloaded on - 09/10/2026 21:57:08 :::CIS 5 2026:HHC:44347 negligence of the driver of the bus. He examined Shyam Lal Verma (DW1) and Bihari Lal (DW2) to prove his defence.

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6. Learned Trial Court held that 2-3 persons were sitting in the pick-up, but their statements were not recorded. The prosecution version that the informant had stopped the bus to permit the passengers to board it was also not believable. The statements of the prosecution witnesses did not prove that the negligence of the accused had led to the accident. The evidence on record made it probable that Raju Nepali was tying the rope and the bus had hit him at a high speed. The Pick-up was going up the hill, and the bus was coming down the hill, which makes it difficult to believe that the Pick-up was at a high speed. All these circumstances made the prosecution's case suspect. Hence, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal asserting that the learned Trial Court erred in acquitting the accused. The statements of prosecution witnesses corroborated each other. The medical evidence also proved that the accident had occurred because of the negligence of the accused. The :::
Downloaded on - 09/10/2026 21:57:08 ::CIS 6 2026:HHC:44347 accused had an LMV driving licence, and he was driving an LTV.

Therefore, he did not have a proper licence to drive the vehicle.

Hence, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Jitender Sharma, learned Additional Advocate General for the appellant/State and Mr Mohan Singh, of learned counsel for the respondent/accused.

9. Mr Jitender Sharma, learned Additional Advocate General for the appellant/State, submitted that the defence taken by the accused that Raju was tying the apple boxes and vegetable bags in the Pick-up and the bus had hit him was not probable.

The photographs and the site plan show the Pick-up towards the right side of the road at some distance from the place of the accident. The statements of the witnesses corroborated each other that the deceased Raju was travelling in the Pick-up and the accused had swerved the vehicle suddenly, leading to the fall of Raju. The accused had permitted a passenger to board the goods vehicle, which was the proximate cause of the accident.

Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

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10. Mr Mohan Singh, learned counsel for the respondent/accused, submitted that the learned Trial Court had .

taken a reasonable view while appreciating the evidence and this Court should not interfere with the reasonable view of the learned Trial Court while deciding an appeal against acquittal.

Therefore, he prayed that the present appeal be dismissed.

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11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

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12. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in [Sanjay Kumar v. State of Bihar](#), 2026 SCC OnLine SC 1373, that the Court can interfere with a judgment of acquittal only if it is impossible, perverse, wholly unsustainable, or manifestly illegal.

It was observed:

Scope of interference with an acquittal:

26. At the outset, it is necessary to remind ourselves of the settled principles governing interference with an order of acquittal. An accused is presumed innocent until proven guilty. When a court of competent jurisdiction acquits the accused, the presumption of innocence is not weakened but reinforced. Where such acquittal is affirmed by the High Court, the caution to be exercised by this Court under [Article 136](#) is even greater.

27. In [Kali Ram v. State of Himachal Pradesh](#) (1973) 2 SCC 808: 1973 SCC (Cri) 1048, this Court explained the golden :::
Downloaded on - 09/10/2026 21:57:08 ::CIS 8 2026:HHC:44347 thread running through criminal jurisprudence in the following words:

"25. Another golden thread which runs through the web .

of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. A rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the Court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the Court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable; it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of [State of Punjab v. Jagir Singh](#), a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of the interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the Court has to judge the evidence by the yardstick of probabilities, intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be ::: Downloaded on - 09/10/2026 21:57:08 ::: CIS 9 2026:HHC:44347 given to the accused, the Courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures."

28. The decision in [Kali Ram](#) (supra) further cautions that wrongful acquittal and wrongful conviction do not stand on the same footing, for conviction of an innocent person causes grave injustice and shakes public confidence in the administration of criminal justice. The rule of benefit of doubt, therefore, is not a technical rule; it is a substantive safeguard flowing from the presumption of innocence.

29. In [Ghurey Lal v. State of Uttar Pradesh](#) (2008) 10 SCC 450: (2009) 1 SCC (Cri) 60, this Court reiterated the limited scope of interference with acquittals. This Court observed:

"75. The Trial Court has the advantage of watching the demeanour of the witnesses who have given evidence; therefore, the appellate court should be slow to interfere with the decisions of the Trial Court. An acquittal by the Trial Court should not be interfered with unless it is totally perverse or wholly unsustainable."

30. The decision in [Ghurey Lal](#) (supra) also crystallised certain propositions: first, there is a double presumption of innocence in favour of an acquitted accused; secondly, if two views are possible, the view favourable to the accused must prevail; thirdly, though the appellate court has the power to reappreciate evidence, it should interfere only when the acquittal is manifestly illegal, perverse or results in miscarriage of justice; and fourthly, due weight must be given to the Trial Court's findings, particularly because the trial judge had the advantage of observing the demeanour of witnesses.

31. In [Chandrappa v. State of Karnataka](#) (2007) 4 SCC 415 :

(2007) 2 SCC (Cri) 325, this Court held that though the appellate court has full power to review and reappreciate the evidence, the presumption of innocence is strengthened by an order of acquittal. It was held that ::: Downloaded on - 09/10/2026 21:57:08 ::: CIS 10 2026:HHC:44347 when two reasonable conclusions are possible on the basis of evidence on record, the appellate court should not disturb the finding of acquittal.

32. The same principle was restated in *Mrinal Das v.*

State of Tripura (2011) 9 SCC 479, wherein this Court held that an order of acquittal is to be interfered with only when there are compelling and substantial reasons for doing so. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal.

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33. Therefore, the question before us is not whether another view on the evidence is possible. The question is whether the view taken by the Trial Court and affirmed by the High Court is impossible, perverse, wholly unsustainable, or manifestly illegal. Having examined the record, we are unable to hold so.

13. The present appeal is to be decided as per the parameters [laid down by](#) the Hon'ble Supreme Court.

14. Learned Trial Court held that the defence taken by the accused that Raju was tying the rope when he was hit by the bus was highly probable. This was a complete misreading of the evidence. Shyam Lal Verma (DW1) stated that the vehicle of the accused was parked on the road on a curve and a person was tying the rope. Bihari Lal (DW2) also stated that the Pick-up was parked and a labourer was tying the rope. Thus, as per the defence version, the Pick-up had not moved. This version is falsified by the photographs (Ext.P3 and Ext. P4), wherein pieces of broken glass are lying on the spot near the tyre of the bus and :::: Downloaded on - 09/10/2026 21:57:08 ::::CIS 11 2026:HHC:44347 the Pick-up is shown at some distance towards the right side of the road. Had the Pick-up been stationary on the right side of the .

road, the damage would have been caused to the left side of the bus, whereas the photographs show that the right-side windscreen was broken. The site plan (Ext.PW10/B) also shows that the pick-up is parked towards its right side and the bus is of also towards its left side. Thus, the site plan and the photographs do not show that the accident had occurred when the Pick-up rt was stationary.

15. Shyam Lal (DW1) stated that the deceased fell while tying the vegetable bags and apple boxes. Bihari Lal (DW2) also stated that the deceased fell while tying the ropes. He admitted in his cross-examination that the bus is higher than the Pick-up.

Shyam Lal (DW1) specifically denied that the deceased was sitting above the apple boxes and vegetable boxes. Therefore, as per these witnesses, the deceased had not climbed on the Pick-

up. In these circumstances, there is no explanation as to how the front windshield could have been damaged. Had the deceased fallen on the road, the tyre of the bus would have crushed him.

However, the Medical Officer had only found injuries on the forehead, abrasion on the right knee, abrasion on the left knee, :::: Downloaded on - 09/10/2026 21:57:08 ::::CIS 12 2026:HHC:44347 lacerated wound on the scalp, and fracture of frontal bone. The absence of any crush injury to the deceased falsifies the defence .

version that the deceased had fallen while tying the vegetable bags, apple boxes, and sustained injuries.

16. Anil Kumar (PW1) stated that he was travelling in the Pick-up. Raju Nepali was also sitting in the cabin. A vegetable bag of was about to fall. Raju Nepali tried to tie it. Raju died on the spot.

When he got down, Raju was lying on the road. The Pick-up was rt stopped. He was permitted to be cross-examined. He denied that Raju was sitting on the apple boxes and vegetable bags and that he fell because the accused had swerved the Pick-up at a high speed. He stated in the cross-examination by the defence that Raju had boarded the Pick-up to tie the ropes.

17. His testimony is not as per the site plan and the photographs. He also denied his previous statement recorded by the police, wherein he had stated that Raju was sitting above the vegetable bags and apple boxes. Thus, he is shown to have made two contradictory statements: one before the police that Raju was sitting above the vegetable bags and apple boxes and one before the Court that Raju was sitting in the cabin. Both these :::: Downloaded on - 09/10/2026 21:57:08 ::::CIS 13 2026:HHC:44347 statements cannot exist together, and no reliance can be placed on his testimony. It was [laid down by](#) the Hon'ble Supreme Court .

in [Sat Paul v. Delhi Admn.](#), (1976) 1 SCC 727 that where a witness has been thoroughly discredited by confronting him with the previous statement, his statement cannot be relied upon.

However, when he is confronted with some portions of the of previous statement, his credibility is shaken to that extent, and the rest of the statement can be relied upon. It was observed:

rt "52. From the above conspectus, it emerges clearly that even in a criminal prosecution, when a witness is cross-examined and contradicted with the leave of the court by the party calling him, his evidence cannot, as a matter of law, be treated as washed off the record altogether. It is for the Judge of fact to consider in each case whether, as a result of such cross-examination and contradiction, the witness stands thoroughly discredited or can still be believed regarding a part of his testimony. If the Judge finds that in the process, the credit of the witness has not been completely shaken, he may, after reading and considering the evidence of the witness, as a whole, with due caution and care, accept, in the light of the other evidence on the record, that part of his testimony which he finds to be creditworthy and act upon it. If in a given case, the whole of the testimony of the witness is impugned, and in the process, the witness stands squarely and totally discredited, the Judge should, as a matter of prudence, discard his evidence in toto."

18. This Court also took a similar view in Ian Stilman versus State 2002(2) ShimLC 16 wherein it was observed:

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2026:HHC:44347 "12. It is now well settled that when a witness who has been called by the prosecution is permitted to be cross-

examined on behalf of the prosecution, such a witness loses credibility and cannot be relied upon by the defence.

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We find support for the view we have taken from the various authorities of the Apex Court. In [Jagir Singh v. The State \(Delhi Administration\)](#), AIR 1975 Supreme Court 1400, the Apex Court observed:

"It is now well settled that when a witness, who has been called by the prosecution, is permitted to be cross-examined on behalf of the prosecution, the result of that course being adopted is to discredit this witness altogether and not merely to get rid of a part of his testimony.

19. rt Thus, the testimony of this witness could not have been relied upon, and the learned Trial Court erred in relying upon his testimony to conclude that it proved the defence version.

20. Het Ram (PW8) has not supported the prosecution case. He stated that he was travelling in the bus bearing registration No. HP-07-5058. The bus reached at Fagu at about 09:00 a.m., and its windshield was damaged, but he could not say the reason for the damage. The passengers came out of the bus and found one person lying on the road. He was told by the other people that the person had hit the windshield of the bus. He was permitted to be cross-examined. He denied that the Pick-up came at a high speed from the opposite side. He admitted that :::: Downloaded on - 09/10/2026 21:57:08 ::::CIS 15 2026:HHC:44347 vegetables were loaded in the Pick-up. He admitted that one Gorkha was sitting on the vegetables and he had hit the front .

windshield, which damaged the windshield. He admitted that Gorkha had died on the spot. He could not say that the accident had occurred because of the negligence of the driver of the Pick-

up. He stated in cross-examination by the defence that the bus of was stopped at a distance of about 300 meters from the place of the accident. rt

21. The testimony of this witness supports the prosecution version that the deceased Raju was sitting on the vegetable bags, who fell and hit the windshield of the bus.

22. The informant, Prem Singh (PW2), stated that he was driving the bus bearing registration No. HP-07-5058. The bus reached ahead of Fagu at about 09:00 a.m. A pickup came from the opposite side at high speed. One Gorkha was sitting on the vegetable bags. The driver of the pickup swerved it. Nepali hit the bus, fell, and died on the spot. The accident occurred because of the negligence of the accused. He stated in his cross-

examination that the bus was going down the hill and the pickup was going up the hill. He had stopped the bus to allow the :::: Downloaded on - 09/10/2026 21:57:08 ::::CIS 16 2026:HHC:44347 passengers to disembark. 3-4 persons had got down from the bus. He was confronted with his previous statement, where this .

fact was not recorded. He admitted that there was a blind curve at the place of the accident. Thirty-five passengers were travelling in the bus. He denied that the pick-up was parked on the road to tie the vegetable bags. He denied that the bus had hit the of deceased at a high speed or that his negligence had led to the accident. rt

23. Narender (PW3) stated that he was travelling in the bus bearing registration No. HP-07-5058. A Pick-up came from the opposite side near Fagu. The passengers were getting down from the bus. The driver of the pick-up suddenly swerved it. One person was sitting in the Pick-up who hit the front windshield of the bus and sustained injuries in the accident. He stated in his cross-examination that the bus had stopped at 2-3 places to permit the passengers to get down or board the bus. He had told the police that the bus had stopped at 2-3 places. He was confronted with the previous statement where this fact was not recorded. He admitted that the Pick-up was going uphill and the bus was going downhill. He admitted that there was a curve at the place of the accident. The driver of the Pick-up had swerved it :::: Downloaded on - 09/10/2026 21:57:08 ::::CIS 17 2026:HHC:44347 at a distance of 5-6 feet from the bus. No portion of the Pick-up had hit the bus. He denied that Raju was tying the vegetable bags.

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24. Harvinder Singh (PW4) stated that he was travelling in the bus bearing registration No. HP-07-5058. The passengers were getting down from the bus at about 08:45 a.m. near Fagu. A Pick-up came at high speed. Vegetables were loaded in the Pick-

of up. One person was sitting above the vegetable bags. The driver of the Pick-up swerved it. The person sitting on the vegetable rt bags hit the windshield of the bus, fell and died. He stated in his cross-examination that he knew the driver for

2 years. He was also related to the driver. 30-35 passengers were travelling in the bus. He was confronted with his previous statement, wherein it was not mentioned that the driver had stopped the bus. There was a curve at the place of the accident. The bus had stopped at 3-4 places to allow the passengers to get down or board the bus.

He denied that the accident had occurred because of the negligence of the driver of the Pick-up.

25. It was submitted that the witnesses have been confronted with their previous statements, which made their testimonies unreliable. This submission cannot be accepted. The :::: Downloaded on - 09/10/2026 21:57:08 ::::CIS 18 2026:HHC:44347 previous statements of the witnesses were not proved by the Investigating Officer. Proviso to [section 162](#) of Cr.P.C. permits the .

use of the statement recorded by the police to contradict a witness. It reads:

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has of been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the [Indian Evidence Act, 1872](#) (1 of 1872) and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

26. Thus, it is apparent that the defence can use the statement to contradict a witness if the statement is proved. It was [laid down by](#) the Hon'ble Bombay High Court about a century ago in [Emperor vs. Vithu Balu Kharat](#) (1924) 26 Bom. L.R. 965 that the previous statement has to be proved before it can be used. It was observed:

"The words "if duly proved" in my opinion, clearly show that the record of the statement cannot be admitted in evidence straightaway but that the officer before whom the statement was made should ordinarily be examined as to any alleged statement or omitted statement that is relied upon by the accused for the purpose of contradicting the witness; and the provisions of [Section 67](#) of the Indian Evidence Act apply to this case, as well as to any other :::: Downloaded on - 09/10/2026 21:57:08 ::::CIS 19 2026:HHC:44347 similar case. Of course, I do not mean to say that, if the particular police officer who recorded the statement is not available, other means of proving the statement may not be availed of, e.g., evidence that the statement is in the .

handwriting of that particular officer."

27. It was [laid down by](#) the Hon'ble Supreme Court in Muthu Naicker and Others etc. Versus State of T.N. (1978) 4 SCC 385, that if the witness affirms the previous statement, no proof is of necessary, but if the witness denies or says that he did not remember the previous statement, the investigating officer should be asked about the same. It was observed: -

"52. This is the most objectionable manner of using the police statement, and we must record our emphatic disapproval of the same. The question should have been framed in a manner to point out that from amongst those accused mentioned in examination-in-chief there were some whose names were not mentioned in the police statement and if the witness affirms this no further proof is necessary and if the witness denies or says that she does not remember, the investigating officer should have been questioned about it."

28. The Hon'ble Gauhati High Court held in Md.

[Badaruddin Ahmed versus State of Assam](#), 1989 Cri. L.J. 1876 that if the witness denies having made the statement, the portion marked by the defence should be put to the investigating officer and his version should be elicited regarding the same. It was observed: -

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2026:HHC:44347 "15. The learned defence counsel has drawn our attention to the above statement of the Investigating Officer and submits that P.W. 4 never made his above statement before the police and that the same being his improved .

version cannot be relied upon. With the utmost respect to the learned defence counsel, we are unable to accept his above contention. Because, unless the particular matter or point in the previous statement sought to be contradicted is placed before the witness for an explanation, the previous statement cannot be used in evidence. In other of words, drawing the attention of the witness to his previous statement sought to be contradicted and giving all opportunities to him for explanation are compulsory. If any authority is to be cited on this point, we may conveniently refer to the case of [Pangi Jogi Naik v. State](#) reported in AIR 1965 Orissa 205 : (1965 (2) Cri LJ 661).

Further, in the case of [Tahsildar Singh v. State of U.P.](#), reported in AIR 1959 SC 1012 (1959 Cri LJ 1231), it was also held that the statement not reduced to writing cannot be contradicted and, therefore, in order to show that the statement

sought. One contradiction was recorded by the police; it should be marked and exhibited. However, in the case at hand, there is nothing on the record to show that the previous statement of the witness was placed before him and that the witness was given the chance to explain.

Again, his previous statement was not marked and exhibited. Therefore, his previous statement before the police cannot be used. Hence, his evidence that when he turned back he saw the accused Badaruddin lowering the gun from the chest is to be taken as his correct version.

16. The learned defence counsel has attempted to persuade us not to rely on the evidence of this witness on the ground that his evidence before the trial Court is contradicted by his previous statement made before the police. However, in view of the decisions made in the said cases, we have been persuaded irresistibly to hold that the correct procedure to be followed, which would be in conformity with [S.145](#) of the Evidence Act, to contradict :: Downloaded on - 09/10/2026 21:57:08 :: CIS 21 2026:HHC:44347 the evidence given by the prosecution witness at the trial with a statement made by him before the police during the investigation will be to draw the attention of the witness to that part of the contradictory statement which he made .

before the police and question him whether he did in fact make that statement. If the witness admits having made the particular statement to the police, that admission will go into evidence and will be recorded as part of the evidence of the witness and can be relied on by the accused as establishing the contradiction. However, if, on the other hand, the witness denies to have made such a statement before the police, the particular portions of the statement recorded should be provisionally marked for identification as B-1 to B-1, B-2 to B-2 etc., (any identification mark) and when the investigating officer who had actually recorded the statements in question comes into the witness box, he should be questioned as to whether these particular statements had been made to him during the investigation by the particular witness, and obviously, after refreshing his memory from the case diary the investigating officer would make his answer in the affirmative. The answer of the Investigating Officer would prove the statements B-1 to B-1, B-2 to B-2 which are then exhibited as Ext. D. 1, Ext. D. 2 etc. (exhibition mark) in the case and will go into evidence, and may, thereafter, be relied on by the accused as contradictions. In the case in hand, as was discussed above, the above procedure was not followed while cross-examining the witness on his previous statements, and, therefore, we have no alternative but to accept the statement given by this witness before the trial Court that he saw the accused Badaruddin lowering the gun from his chest as his correct version.

29. Hon'ble Andhra Pradesh High Court held in Shaik Subhani alias Bombay Subhani and Another Versus State of Andhra Pradesh, 2000 Cri. L.J. 321 that putting a suggestion to the witness :: Downloaded on - 09/10/2026 21:57:08 :: CIS 22 2026:HHC:44347 and the witness denying the same does not amount to putting the contradiction to the witness. The attention of the witness has to .

be drawn to the previous statement, and if he denies the same, the same is to be got proved by the investigating officer. It was observed: -

"24. As far as contradictions put by the defence are of concerned, we would like to say that the defence counsel did not put the contradictions in the manner in which they ought to have been put. Putting suggestions to the witness and the witness denying the same will not amount to putting a contradiction to the witness. The contradiction has to be put to the witness as contemplated under [S. 145](#) of the Evidence Act. If a contradiction is put to the witness and it is denied by him, then his attention has to be drawn to the statement made by such a witness before the police or any other previous statement, and he must be given a reasonable opportunity to explain as to why such contradiction appears, and he may give any answer if the statement made by him is shown to him and if he is confronted with such a statement and thereafter the said contradiction must be proved through the investigating officer. Then only it amounts to putting the contradiction to the witness and getting it proved through the investigating officer.

30. The Hon'ble Calcutta High Court took a similar view in Anjan Ganguly & Ors. Versus State of West Bengal, 2013 (3) DMC 760 and held:-

"22. It was held in [State of Karnataka v. Bhaskar Kushali Kothakar & Ors.](#), (2004) 7 SCC 487 that if any statement of the witness is contrary to the previous statement :: Downloaded on - 09/10/2026 21:57:08 :: CIS 23 2026:HHC:44347 recorded under [Section 161](#), Cr.P.C. or suffers from the omission of certain material particulars, then the previous statement can be proved by examining the Investigating Officer who had recorded the same. Thus, .

there is no doubt that for proving the previous statement, the Investigating Officer ought to be examined, and the statement of the witness recorded by him can only be proved by him, and he has to depose to the extent that he

had correctly recorded the statement, without adding or omitting, as to what was stated by the witness.

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24. Proviso to [Section 162\(1\)](#), Cr.P.C. states in clear terms that the statement of the witness ought to be duly proved. The words if duly proved, cast a duty upon the accused who wants to highlight the contradictions by confronting the witness to prove the previous statement of a witness through the police officer who has recorded the same in an ordinary way. If the witness in the cross-examination admits contradictions, then there is no need to prove the statement. But if the witness denies a contradiction and the police officer who had recorded the statement is called by the prosecution, the previous statement of the witness on this point may be proved by the police officer. In case the prosecution fails to call the police officer in a given situation, the Court can call this witness, or the accused can call the police officer to give evidence in defence. There is no doubt that unless the statement as per proviso to sub-section (1) of [Section 162](#), Cr.P.C. is duly proved, a contradiction in terms of [Section 145](#) of the Indian Evidence Act cannot be taken into consideration by the Court.

25. To elaborate on this further, it will be necessary to reproduce [Section 145](#) of the Indian Evidence Act.

"[S. 145](#). A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, :::: Downloaded on - 09/10/2026 21:57:08 :::: CIS 24 2026:HHC:44347 or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of .

contradicting him."

26. Therefore, it is appropriate that before the previous statement or statement under [Section 161](#), Cr.P.C. is proved, the attention of the witness must be drawn to the portion in the statement recorded by the Investigating Officer to bring to light the contradiction, a process called of confrontation.

27. Let us first understand what is proper procedure. A witness may have stated in the statement under Section 161, [Cr.P.C.](#) that 'X murdered Y'. In the Court, the witness stated, 'Z murdered Y'. This is a contradiction. Defence Counsel or the Court, and even the prosecution if the witness is declared hostile having resiled from the previous statement, is to be confronted to bring the contradiction on record. The attention of the witness must be drawn to the previous statement or statement under [Section 161](#), Cr. P.C., where it was stated that 'X murdered Y'. Since [Section 145](#) of the Indian Evidence Act uses the word ' being proved ', therefore, in the course of the examination of the witness, the previous statement or statement under [Section 161](#), Cr.P.C. will not be exhibited but shall be assigned a mark, and the portion contradicted will be specified. The trial Court, in the event of contradiction, has to record it as under.

28. Attention of the witness has been drawn to portions A to A of the statement marked as 1, and confronted with the portion where it is recorded that 'X murdered Y'. In this manner, by way of confrontation, contradiction is brought on record. Later, when the Investigating Officer is examined, the prosecution or defence may prove the statement; after the Investigating Officer testifies that the statement assigned the mark was correctly recorded by him at that stage, the statement will be exhibited by the Court. Then contradiction will be proved by the :::: Downloaded on - 09/10/2026 21:57:08 :::: CIS 25 2026:HHC:44347 Investigating Officer by stating that the witness had informed or told him that 'X murdered Y' and he had correctly recorded this fact.

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29. Now a reference to the explanation to [Section 162](#), Cr.P.C. which says that an omission to state a fact or circumstance may amount to contradiction. Say, for instance, if a witness omits to state in Court that 'X murdered Y', what he had stated in a statement under [Section 161](#), Cr.P.C. will be a material contradiction for the Public Prosecutor, as the witness has resiled from the of previous statement, or if 'W' has been sent for trial for a charge of murder, omission to state 'X murdered Y' will be a material omission and amount to contradiction so far as the defence of 'W' is concerned. At that stage also the attention of the witness will be drawn to a significant portion of the statement recorded under [Section 161](#), Cr.P.C., which the witness had omitted to state, and note shall be given that the attention of the witness was drawn to the portion A to A wherein it is recorded that 'X murdered Y'. In this way, the omission is brought on record. The rest of the procedure stated earlier qua confrontation shall be followed to prove the statement of the witness and the fact stated by the witness.

30. Therefore, to prove the statement for the purpose of contradiction, it is necessary that the contradiction or omission must be brought to the notice of the witness. His or her attention must be drawn to the portion of the previous statement (in the present case, statement under [Section 161](#), Cr.P.C.)

31. It was [laid down in](#) Mata Din versus State, AIR 1979 S.C. 1234, that the statements made under [Section 161](#) of the CrPC are brief and do not contain the complete details. It was observed:

"The Sessions Judge did not realise that the statements given by the witnesses before the Police are meant to be brief statements and could not take the place of evidence ::: Downloaded on - 09/10/2026 21:57:08 :::CIS 26 2026:HHC:44347 in the Court. Where the omissions are vital, they merit consideration, but mere small omissions will not justify a finding by a court that the witnesses concerned are .
self-contained liars."

32. Similar is the judgment in Esher Singh Versus State 2004 (11) SCC 585 wherein it was held:

"Though it is true as contended by learned counsel for the accused-appellant Esher Singh that some of statements were made for the first time in Court and not during the investigation, it has to be seen as to what extent they diluted the testimony of Balbeer Singh and rt Dayal Singh (P.Ws. 16 and 32) used to bring home the accusations. A mere elaboration cannot be termed as a discrepancy. When the basic features are stated, unless the elaboration is of such nature that it creates a different contour or colour of the evidence, the same cannot be said to have changed the complexion of the case."

33. This position was reiterated in [Shamim vs. State](#), 2018 (10) SCC 509, where it was held:

"12. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole inspires confidence. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly, keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, a hypertechnical approach by taking sentences torn out of context here or there from the evidence, and attaching importance to some technical error without going to the ::: Downloaded on - 09/10/2026 21:57:08 :::CIS 27 2026:HHC:44347 root of the matter would not ordinarily permit rejection of the evidence as a whole. Minor omissions in police statements are never considered to be fatal. The statements given by the witnesses before the police are meant to be .

brief statements and could not take the place of evidence in the court. Small/Trivial omissions would not justify a finding by the court that the witnesses concerned are liars.

The prosecution evidence may suffer from inconsistencies here and discrepancies there, but that is a shortcoming from which no criminal case is free. The of main thing to be seen is whether those inconsistencies go to the root of the matter or pertain to insignificant aspects thereof. In the former case, the defence may be justified in seeking advantage of incongruities obtained rt in the evidence. In the latter, however, no such benefit may be available to it."

34. Similar is the judgment in [Kalabhai Hamirbhai Kachhot vs State of Gujarat](#) AIR 2021 SC 2327 wherein it was observed:

30. In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to the lapse of time or due to mental dispositions such as shock and horror at the time of occurrence. Where the omissions amount to a contradiction, creating a serious doubt about the truthfulness of the witness, and other witnesses also make material improvements while deposing in court, such evidence cannot be safely relied upon. However, minor contradictions, inconsistencies, embellishments or improvements on trivial matters, which do not affect the core of the prosecution case, should not be made a ground on which the evidence can be rejected in its entirety. The court has to form its opinion about the credibility of the witness and record a finding as to whether his deposition inspires confidence.

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2026:HHC:44347 "9. Exaggerations per se do not render the evidence brittle. But it can be one of the factors to test the credibility of the prosecution version when the entire evidence is put in a crucible for .

being tested on the touchstone of credibility." [Ed.: As observed in [Bihari Nath Goswami v. Shiv Kumar Singh](#), (2004) 9 SCC 186, p. 192, para 9.] Therefore, mere marginal variations in the statements of a witness cannot be dubbed as improvements, as the same may be elaborations of the statement made by the of witness earlier. The omissions which amount to contradictions in material particulars, i.e. go to the root of the case/materially affect the trial or core of the prosecution's case, render the testimony of the witness rt liable to be discredited. [Vide State v. Saravanan (2008) 17 SCC 587, Arumugam v. State (2008) 15 SCC 590, Mahendra Pratap Singh v. State of U.P. ([2009](#)) 11 SCC 334 and [Sunil Kumar Sambhudayal Gupta \(Dr.\) v. State of Maharashtra](#) (2010) 13 SCC 657]."

Further, in the case of [Narayan Chetanram Chaudhary & Anr. v. State of Maharashtra](#) (2000) 8 SCC 457, this Court has considered the effect of the minor contradictions in the depositions of witnesses while appreciating the evidence in a criminal trial. In the aforesaid judgment, it is held that only contradictions in material particulars and not minor contradictions can be grounds to discredit the testimony of the witnesses. The relevant portion of Para 42 of the judgment reads as under:

"42. Only such omissions which amount to a contradiction in material particulars can be used to discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of the witness unreliable. When the version given by the witness in court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor :::: Downloaded on - 09/10/2026 21:57:08 ::::CIS 29 2026:HHC:44347 contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false and the sense of observation differs from person to person. The .

omissions in the earlier statement, if found to be of trivial details, as in the present case, would not cause any dent in the testimony of PW 2.

Even if there is a contradiction of the statement of a witness on any material point, that is no ground to reject the whole of the testimony of of such a witness."

20. By applying the aforesaid ratio, as [laid down by](#) this Court, coupled with the evidence on record, we are clearly of the view that the prosecution has proved the rt case against all the appellant-accused beyond a reasonable doubt. The omissions like not seizing the motorcycle and also not seizing the gold chain of one of the victims, by themselves, are no grounds to discredit the testimony of key witnesses who were examined on behalf of the prosecution, whose say is consistent, natural and trustworthy."

35. In the present case, the omission related to minor details, which is not sufficient to discard the statements of the prosecution's witnesses.

36. Even if there is some exaggeration, the same is not sufficient to discard the testimony of this witness. It was [laid down by](#) the Hon'ble Supreme Court in [Achchar Singh vs. State of H.P.](#) AIR 2021 SC 3426 that the testimony of a witness cannot be discarded due to exaggeration alone. It was observed:

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24. It is vehemently contended that the evidence of the prosecution witnesses is exaggerated and thus false.

Cambridge Dictionary defines "exaggeration" as "the fact of making something larger, more important, .

better or worse than it is". Merriam-Webster defines the term "exaggerate" as to "enlarge beyond bounds or the truth". The Concise Oxford Dictionary defines it as "enlarged or altered beyond normal proportions". These expressions unambiguously suggest that the genesis of an 'exaggerated statement' lies in a fact, to of which fictitious additions are made to make it more penetrative. Every exaggeration, therefore, has the ingredients of 'truth'. No exaggerated statement is possible without an element of truth. On the other hand, rt the Advance Law Lexicon defines "false" as "erroneous, untrue; opposite of correct, or true". Oxford Concise Dictionary states that "false" is "wrong; not correct or true". Similar is the explanation in other dictionaries as well. There is, thus, a marked difference between an 'exaggerated version' and a 'false version'. An exaggerated statement contains both truth and falsity, whereas a false statement has no grain of truth in it (being the 'opposite' of 'true'). It is well said that to make a mountain out of a molehill, the molehill shall have to exist primarily. A Court of law, being mindful of such distinction, is duty-bound to disseminate 'truth' from 'falsehood' and sift the grain from the chaff in case of exaggerations. It is only in a case where the grain and the chaff are so inextricably intertwined that in their separation no real evidence survives, that the whole evidence can be discarded.[[Sucha Singh v. State of Punjab](#), (2003) 7 SCC 643, 18.]

25. Learned State counsel has rightly relied on [Gangadhar Behera](#) (Supra) to contend that even in cases where a major portion of the evidence is found deficient, if the residue is sufficient to prove the guilt of the accused, a conviction can be based on it. This Court in [Hari Chand v. State of Delhi](#), (1996) 9 SCC 112 held that:

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2026:HHC:44347 "24. ...So far as this contention is concerned, it must be kept in view that while appreciating the evidence of witnesses in a criminal trial, especially in a case of eyewitnesses, the maxim .

falsus in uno, falsus in omnibus cannot apply and the court has to make efforts to sift the grain from the chaff. It is of course true that when a witness is said to have exaggerated in his evidence at the stage of trial and has tried to involve many more accused, and if that part of the evidence is not found acceptable, the remaining part of the evidence has to be scrutinised with care and the court must try to see whether the acceptable part of the evidence gets corroborated from other evidence on record so that the acceptable part can be safely relied upon..."

26. There is no gainsay that homicidal deaths cannot be left to *judicium dei*. The Court in its quest to reach the truth ought to make earnest efforts to extract gold out of the heap of black sand. The solemn duty is to dig out the authenticity. It is only when the Court, despite its best efforts, fails to reach a firm conclusion that the benefit of the doubt is extended.

27. An eyewitness is always preferred to others. The statements of P.W.1, P.W.11 and P.W.12 are, therefore, to be analysed accordingly, while being mindful of the difference between exaggeration and falsity. We find that the truth can be effortlessly extracted from their statements. The trial Court fell in grave error and overlooked the credible and consistent evidence while proceeding with a baseless premise that the exaggerated statements made by the eyewitnesses belie their version."

37. It was [laid down by](#) the Hon'ble Supreme Court in *Arvind Kumar @ Nemichand and others Versus State of Rajasthan*, ::: Downloaded on - 09/10/2026 21:57:08 ::: CIS 32 2026:HHC:44347 2022 Cri. L.J. 374, that the testimony of a witness cannot be discarded because he had made a wrong statement regarding .

some aspect. The principle that when a witness deposes falsehood, his entire statement is to be discarded is not applicable to India. It was observed:-

"48. The principle that when a witness deposes of falsehood, the evidence in its entirety has to be eschewed may not have a strict application to the criminal jurisprudence in our country. The principle governing sifting the chaff from the grain has to be applied. However, when the evidence is inseparable and such an attempt would either be impossible or would make the evidence unacceptable, the natural consequence would be one of avoidance. The said principle has not assumed the status of law but continues only as a rule of caution. One has to see the nature of the discrepancy in a given case. When the discrepancies are very material, shaking the very credibility of the witness, leading to a conclusion in the mind of the court that it is neither possible to separate it nor to rely upon, it is for the said court to either accept or reject."

38. It was submitted that the bus had many passengers and those passengers were not examined. Hence, the prosecution case cannot be relied upon. This submission will not help the accused. In [Appabhai and another Vs. State of Gujarat](#) AIR 1988 SC 696, the incident had taken place at the bus stand. It was contended that independent witnesses were not examined and ::: Downloaded on - 09/10/2026 21:57:08 ::: CIS 33 2026:HHC:44347 the prosecution case was doubtful. It was held by the Hon'ble Supreme Court that the prosecution case cannot be doubted due .

to the non-examination of the independent persons. It was observed:

"11. In light of these principles, we may now consider the first contention urged by the learned counsel for the appellants. The contention relates to the failure of the prosecution to examine independent witnesses. The High Court has examined this contention but did not find any infirmity in the investigation. It is no doubt true that the prosecution has not been able to produce any independent witness to the incident that took place at the bus stand.

There must have been several such witnesses. But the prosecution case cannot be thrown out or doubted on that ground alone. The experience reminds us that civilised people are generally insensitive when a crime is committed even in their presence. They withdraw both from the victim and the vigilante. They keep themselves away from the Court unless it is inevitable. They think that a crime, like a civil dispute, is between two individuals or parties and they should not involve themselves. This kind of apathy of the general public is indeed unfortunate, but it is there everywhere, whether in village life, towns or cities. One cannot ignore this handicap with which the investigating agency has to discharge its duties. The court, therefore, instead of doubting the prosecution case for want of independent witness, must consider the broad spectrum of the prosecution version and then search for the nugget of truth with due regard to probability, if any, suggested by the accused."

39. Thus, the prosecution case cannot be doubted because the passengers were not examined.

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40. It was submitted that the witness Harvinder Singh (PW4) was related to the informant and Narender (PW3) also .

knew the accused. The testimony of a related witness cannot be used as he is an interested witness. This submission cannot be accepted. It was [laid down by](#) the Hon'ble Supreme Court in [Laltu Ghosh v. State of W.B.](#), (2019) 15 SCC 344: (2020) 1 SCC (Cri) 275:

of 2019 SCC OnLine SC 2 that a related witness is not an interested witness and his testimony cannot be rejected on the ground of its interestedness. It was observed:

"12. As regards the contention that the eyewitnesses are close relatives of the deceased, it is by now well-settled that a related witness cannot be said to be an "interested"

witness merely by virtue of being a relative of the victim. This Court has elucidated the difference between "interested" and "related" witnesses in a plethora of cases, stating that a witness may be called interested only when he or she derives some benefit from the result of litigation, which in the context of a criminal case would mean that the witness has a direct or indirect interest in seeing the accused punished due to prior enmity or other reasons, and thus has a motive to falsely implicate the accused (for instance, see [State of Rajasthan v. Kalki](#), (1981) 2 SCC 752: 1981 SCC (Cri) 593; [Amit v. State of U.P.](#), (2012) 4 SCC 107 : (2012) 2 SCC (Cri) 590 and [Gangabhavani v. Rayapati Venkat Reddy](#), (2013) 15 SCC 298 : (2014) 6 SCC (Cri) 182).

13. Recently, this difference was reiterated in [Ganapathi v. State of T.N.](#), (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793, in the following terms, by referring to the three-Judge Bench decision in [State of Rajasthan v. Kalki](#), (1981) 2 SCC 752: 1981 ::: Downloaded on - 09/10/2026 21:57:08 ::: CIS 35 2026:HHC:44347 SCC (Cri) 593 : ([Ganapathi v. State of T.N.](#), (2018) 5 SCC 549 :

(2018) 2 SCC (Cri) 793), SCC p. 555, para 14)

"14. "Related" is not equivalent to "interested". A .

witness may be called "interested" only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be "interested"....

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14. In criminal cases, it is often the case that the offence is witnessed by a close relative of the victim, whose presence on the scene of the offence would be natural. The evidence of such a witness cannot automatically be discarded by labelling the witness as interested. Indeed, one of the earliest statements with respect to interested witnesses in criminal cases was made by this Court in [Dalip Singh v. State of Punjab](#), 1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465, wherein this Court observed: (AIR p. 366, para 26) "26. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted, and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely.

Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person."

15. In the case of a related witness, the Court may not treat his or her testimony as inherently tainted and needs to ensure only that the evidence is inherently reliable, probable, cogent and consistent. We may refer to the observations of this Court in [Jayabalan v. State \(UT of Pondicherry\)](#), (2010) 1 SCC 199: (2010) 2 SCC (Cri) 966 (SCC p. 213, para 23) "23. We are of the considered view that in cases where the court is called upon to deal with the evidence of the interested witnesses, the approach ::: Downloaded on - 09/10/2026 21:57:08 ::: CIS 36 2026:HHC:44347 of the court, while appreciating the evidence of such witnesses, must not be pedantic. The court must be cautious in appreciating and accepting the evidence given by the interested witnesses, but the court .

must not be suspicious of such evidence. The primary endeavour of the court must be to look for consistency. The evidence of a witness cannot be ignored or thrown out solely because it comes from the mouth of a person who is closely related to the victim."

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41. It was [laid down by](#) the Hon'ble Supreme Court in [Thoti Manohar vs State of Andhra Pradesh](#) (2012) 7 SCC 723 that the court cannot discard the testimony of a witness on the ground of a relationship. It was observed:

"31. In this context, we may refer with profit to the decision of this Court in [Dalip Singh v. State of Punjab](#) AIR 1953 SC 364, wherein Vivian Bose, J., speaking for the Court, observed as follows: -

"We are unable to agree with the learned Judges of the High Court that the testimony of the two eye-

witnesses requires corroboration. If the foundation for such an observation is based on the fact that the witnesses are women and that the fate of seven men hangs on their testimony, we know of no such rule. If it is grounded on the reason that they are closely related to the deceased, we are unable to concur. This is a fallacy common to many criminal cases and one which another Bench of this Court endeavoured to dispel in [Rameshwar v. The State of Rajasthan](#) (1952) SCR 377 at p. 390 = (AIR 1952 SC 54 at page

59)."

32. In the said case, it was further observed that:

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2026:HHC:44347 "A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted, and that usually means unless the witness has a cause, such as an enmity against .

the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true that when feelings run high, and there is a personal cause for enmity, there is a tendency to drag in an innocent person against of whom a witness has a grudge along with the guilty, but the foundation must be laid for such criticism, and the mere fact of relationship, far from being a foundation, is often a sure guarantee of truth." rt

33. In [Masalti v. State of U.P.](#) AIR 1965 SC 202, it has been ruled that normally close relatives of the deceased would not be considered to be interested witnesses who would also mention the names of the other persons as responsible for causing injuries to the deceased.

34. In [Hari Obula Reddi and others v. State of Andhra Pradesh](#) AIR 1981 SC 82, a three-judge Bench has held that evidence of interested witnesses is not necessarily unreliable evidence. Even partisanship by itself is not a valid ground for discrediting or rejecting sworn testimony. It can be laid down as an invariable rule that interested evidence can never form the basis of conviction unless corroborated to a material extent in material particulars by independent evidence. All that is necessary is that the evidence of interested witnesses should be subjected to scrutiny and accepted with caution. If, on such scrutiny, the interested testimony is found to be intrinsically reliable or inherently probable, it may, by itself, be sufficient, in the circumstances of the particular case, to base a conviction thereon.

35. In [Kartik Malhar v. State of Bihar](#) (1996) 1 SCC 614, it has been opined that a close relative who is a natural witness cannot be regarded as an interested witness, for the term 'interested' postulates that the witness must have some :::
Downloaded on - 09/10/2026 21:57:08 :::CIS 38 2026:HHC:44347 interest in having the accused, somehow or otherwise, convicted for some animus or some other reason.

36. In Pulicherla Nagaraju alias [Nagaraja Reddy v. State of .](#)

Andhra Pradesh AIR 2006 SC 3010, while dealing with the liability of interested witnesses who are relatives, a two- judge Bench observed that:

"It is well settled that evidence of a witness cannot be discarded merely on the ground that he is either partisan or interested or close relative to the deceased if it is otherwise found to be trustworthy of and credible."

The said evidence only requires scrutiny with more care and caution, so that neither the guilty escapes nor the innocent is wrongly convicted. If, on such scrutiny, the evidence is found to be reliable and probable, then it can be acted upon.

"If it is found to be improbable or suspicious, it ought to be rejected. Where the witness has a motive to falsely implicate the accused, his testimony should have corroboration in regard to material particulars before it is accepted."

42. This position was reiterated in [Rajesh Yadav vs. State of Bihar](#) 2022 Cr.L.J. 2986 (SC) as under:

"28. A related witness cannot be termed as an interested witness per se. One has to see the place of occurrence along with other circumstances. A related witness can also be a natural witness. If an offence is committed within the precincts of the deceased, the presence of his family members cannot be ruled out, as they assume the position of natural witnesses. When their evidence is clear, cogent and withstands the rigour of cross-examination, it becomes sterling, not requiring further corroboration. A related witness would become an interested witness only when he is desirous of implicating the accused in rendering a conviction, on purpose.

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29. When the court is convinced of the quality of the evidence produced, notwithstanding the classification as quoted above, it becomes the best evidence. Such testimony being natural, adding to the degree of probability, the court has to rely upon it in .

proving a fact. The aforesaid position of law has been well [laid down in Bhaskarrao v. State of Maharashtra](#), (2018) 6 SCC 591:

"32. Coming back to the appreciation of the evidence at hand, at the outset, our attention is drawn to the fact that the witnesses were interrelated, and this Court should be cautious in accepting their statements. It would be of beneficial to recapitulate the law concerning the appreciation of evidence of a related witness. In [Dalip Singh v. State of Punjab](#), 1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465, Vivian Bose, J. for the Bench, observed the law as under (AIR p. 366, para 26) "26. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted, and that usually means unless the witness has a cause, such as an enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true when feelings run high, and there is a personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but the foundation must be laid for such a criticism, and the mere fact of relationship, far from being a foundation, is often a sure guarantee of truth. However, we are not attempting any sweeping generalisation. Each case must be judged on its own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts."

33. In [Masalti v. State of U.P.](#), (1964) 8 SCR 133: AIR 1965 SC 202: (1965) 1 Cri LJ 226, a five-judge Bench of this Court ::: Downloaded on - 09/10/2026 21:57:08 :::CIS 40 2026:HHC:44347 has categorically observed as under (AIR pp. 209-210, para 14) "14. ... There is no doubt that when a criminal court .

has to appreciate evidence given by witnesses who are partisan or interested, it has to be very careful in weighing such evidence. Whether or not there are discrepancies in the evidence, whether or not the evidence strikes the court as genuine, whether or not the story disclosed by the evidence is probable, are all matters that must be taken into account. But it would, of we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses. Often enough, where factions prevail in rt villages and murders are committed as a result of enmity between such factions, criminal courts have to deal with evidence of a partisan type. The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to the failure of justice. No hard-and-fast rule can be laid down as to how much evidence should be appreciated. The judicial approach has to be cautious in dealing with such evidence, but the plea that such evidence should be rejected because it is partisan cannot be accepted as correct."

34. In [Darya Singh v. State of Punjab](#) [(1964) 3 SCR 397: AIR 1965 SC 328: (1965) 1 Cri LJ 350], this Court held that evidence of an eyewitness who is a near relative of the victim should be closely scrutinised, but no corroboration is necessary for acceptance of his evidence. In [Harbans Kaur v. State of Haryana](#) [(2005) 9 SCC 195: 2005 SCC (Cri) 1213: 2005 Cri LJ 2199], this Court observed that: (SCC p. 227, para 6) "6. There is no proposition in law that relatives are to be treated as untruthful witnesses. On the contrary, reason has to be shown when a plea of partiality is raised to show that the witnesses had reason to shield the actual culprit and falsely implicate the accused."

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35. The last case we need to concern ourselves with is [Namdeo v. State of Maharashtra](#) (2007) 14 SCC 150: (2009) 1 SCC (Cri) 773, wherein this Court, after observing previous precedents, has summarised the law in the .

following manner: (SCC p. 164, para 38) "38. ... It is clear that a close relative cannot be characterised as an "interested" witness. He is a "natural" witness. His evidence, however, must be scrutinised carefully. If, on such scrutiny, his evidence is found to be intrinsically reliable, of inherently probable and wholly trustworthy, a conviction can be based on the "sole" testimony of such a witness. A close relationship of the witness with the deceased or the victim is no ground to reject rt his evidence. On the contrary, a close relative of the deceased would normally be most reluctant to spare the real culprit and falsely implicate an innocent one."

36. From the study of the aforesaid precedents of this Court, we may note that whoever has been a witness before the court of law, having a strong interest in the result, if allowed to be weighed in the same scales with those who do not have any interest in the result, would be to open the doors of the court for perverted truth. This sound rule, which remains the bulwark of this system and which determines the value of evidence derived from such sources, needs to be cautiously and

carefully observed and enforced. There is no dispute about the fact that the interest of the witness must affect his testimony is a universal truth. Moreover, under the influence of bias, a man may not be in a position to judge correctly, even if they earnestly desires to do so. Similarly, he may not be in a position to provide evidence in an impartial manner when it involves his interests. Under such influences, man will, even though not consciously, suppress some facts, soften or modify others, and provide favourable colour. These are the most controlling considerations in respect to the credibility of ::
Downloaded on - 09/10/2026 21:57:08 ::CIS 42 2026:HHC:44347 human testimony, and should never be overlooked in applying the rules of evidence and determining its weight in the scale of truth under the facts and circumstances of each case."

30. Once again, we reiterate with a word of caution that the trial court is the best court to decide on the aforesaid aspect, as no mathematical calculation or straightjacket formula can be made on the assessment of a witness, as the journey towards the truth can be seen better through the eyes of the trial judge. In fact, this is the real objective of behind the enactment itself, which extends the maximum discretion to the court."

43. Similar is the judgment in *M Nageswara Reddy vs. rt State of Andhra Pradesh* 2022 (5) SCC 791, wherein it was observed:

"10. Having gone through the deposition of the relevant witnesses -eye-witnesses/injured eye-witnesses, we are of the opinion that there are no major/material contradictions in the deposition of the eye-witnesses and injured eye-witnesses. All are consistent insofar as accused Nos. 1 to 3 are concerned. As observed hereinabove, PW6 has identified Accused Nos. 1 to 3. The High Court has observed that PW1, PW3 & PW5 were planted witnesses merely on the ground that they were all interested witnesses, being relatives of the deceased. Merely because the witnesses were the relatives of the deceased, their evidence cannot be discarded solely on the aforesaid ground. Therefore, in the facts and circumstances of the case, the High Court has materially erred in discarding the deposition/evidence of PW1, PW3, PW5 & PW6 and even PW7."

44. It was [laid down by](#) the Hon'ble Supreme Court in [Mohd. Jabbar Ali v. State of Assam](#), 2022 SCC OnLine SC 1440, that relationship is no reason to discard the witnesses' testimonies.

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2026:HHC:44347 The Court is required to see their testimonies with due care and caution. It was observed:

55. It is noted that great weight has been attached to the testimonies of the witnesses in the instant case. Having regard to the aforesaid fact that this Court has examined the credibility of the witnesses to rule out any tainted evidence given in the court of Law. It was contended by learned counsel for the appellant that the prosecution of failed to examine any independent witnesses in the present case and that the witnesses were related to each other. This Court, in a number of cases, has had the opportunity to consider the said aspect of rt related/interested/partisan witnesses and the credibility of such witnesses. This Court is conscious of the well-

settled principle that just because the witnesses are related/interested/partisan witnesses, their testimonies cannot be disregarded; however, it is also true that when the witnesses are related/interested, their testimonies have to be scrutinised with greater care and circumspection. In the case of [Gangadhar Behera v. State of Orissa](#), (2002) 8 SCC 381, this Court held that the testimony of such related witnesses should be analysed with caution for its credibility.

56. In *Raju alias Balachandran v. State of Tamil Nadu*, (2012) 12 SCC 701, this Court observed:

"29. The sum and substance is that the evidence of a related or interested witness should be meticulously and carefully examined. In a case where the related and interested witness may have some enmity with the assailant, the bar would need to be raised, and the evidence of the witness would have to be examined by applying a standard of discerning scrutiny. However, this is only a rule of prudence and not one of law, as held in *Dalip Singh* [AIR 1953 SC 364] and pithily reiterated in *Sarwan Singh* ::: Downloaded on - 09/10/2026 21:57:08 ::CIS 44 2026:HHC:44347 [(1976) 4 SCC 369] in the following words: ([Sarwan Singh](#) case [(1976) 4 SCC 369, p. 376, para 10) "10. ... The evidence of an interested witness .

does not suffer from any infirmity as such, but the courts require, as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of interested witnesses has a ring of truth, such evidence of could be relied upon even without corroboration."

57. Further delving into the same issue, it is noted that in the case of [Ganapathi v. State of Tamil Nadu](#), (2018) 5 SCC 549, this Court held that in several cases when only family members are present at the time of the incident and the case of the prosecution is based only on their evidence, Courts have to be cautious and meticulously evaluate the evidence in the process of trial.

45. This position was reiterated in [Baban Shankar Daphal v. State of Maharashtra](#), 2025 SCC OnLine SC 137, wherein it was observed:

"27. One of the contentions of the learned counsel for the appellants is that the eyewitnesses to the incident were all closely related to the deceased, and for prudence, the prosecution ought to have examined some other independent eyewitnesses as well who were present at the time of the unfortunate incident. This was also the view taken by the Trial Court, but the High Court has correctly rejected such an approach and held that merely because there were some more independent witnesses, who had also reached the place of the incident, the evidence of the relatives cannot be disbelieved. The law nowhere states that the evidence of the interested witness should be :::
Downloaded on - 09/10/2026 21:57:08 ::CIS 45 2026:HHC:44347 discarded altogether. The law only warrants that their evidence should be scrutinised with care and caution. It has been held by this Court in the catena of judgments that merely because a witness is a relative, their testimony .

cannot be discarded on that ground alone.

28. In criminal cases, the credibility of witnesses, particularly those who are close relatives of the victim, is often scrutinised. However, being a relative does not automatically render a witness "interested" or biased. The term "interested" refers to witnesses who have a personal stake in the outcome, such as a desire for revenge or to falsely implicate the accused due to enmity or personal gain. A "related" witness, on the other hand, is someone who may be naturally present at the scene of the crime, and their testimony should not be dismissed simply because of their relationship to the victim. Courts must assess the reliability, consistency, and coherence of their statements rather than labelling them as untrustworthy.

29. The distinction between "interested" and "related"

witnesses has been clarified in [Dalip Singh v. State of Punjab](#) 1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465, where this Court emphasised that a close relative is usually the last person to falsely implicate an innocent person. Therefore, in evaluating the evidence of a related witness, the court should focus on the consistency and credibility of their testimony. This approach ensures that the evidence is not discarded merely due to familial ties, but is instead assessed based on its inherent reliability and consistency with other evidence in the case. This position has been reiterated by this Court in:

i. [Md. Rojali Ali v. The State of Assam, Ministry of Home Affairs](#) through Secretary (2019) 19 SCC 567; ii. [Ganapathi v. State of T.N.](#) (2018) 5 SCC 549; iii. [Jayabalan v. Union Territory of Pondicherry](#) (2010) 1 SCC 199.

30. Though the eyewitnesses who have been examined in the present case were closely related to the deceased, :::
Downloaded on - 09/10/2026 21:57:08 ::CIS 46 2026:HHC:44347 namely his wife, daughter and son, their testimonies are consistent with respect to the accused persons being the assailants who inflicted wounds on the deceased. As is revealed from the sequence of events that transpired, one .

of the family members was subjected to an assault. It was thus quite natural for the other family members to rush on the spot to intervene. The presence of the family members on the spot and thus being eyewitnesses has been well established. In such circumstances, merely because the eyewitnesses are family members, their testimonies cannot be discarded solely on that ground.

46. Therefore, the testimonies of the witness cannot be discarded because he is related to the informant.

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47. The testimonies of the prosecution's witnesses are duly corroborated by the site plan and the photograph wherein the right-side windshield of the bus is shown to be damaged, which is only possible if something hits it. Bihari Lal (DW2) admitted that there is a difference in the relative heights of the Pick-up and the bus. This is also apparent from the photographs.

Thus, a person could have hit the windshield of the bus if he was on the Pick-up and not in the manner suggested by the defence that Raju was tying the ropes.

48. It is undisputed that the accident had taken place on a curve. Thus, the statements of the witnesses that the accused swerved the Pick-up while negotiating the curve and Raju lost :::
Downloaded on - 09/10/2026 21:57:08 ::CIS 47 2026:HHC:44347 balance and hit the glass of the bus are to be accepted as correct.

The fact that the accused had permitted a person to sit on the .

vegetable bags and apple boxes and had failed to take care of the possible injury to the person sitting on the Pick-up while negotiating the curve proves that the accused was negligently driving the vehicle. He should have been careful to ensure that no of person falls while driving the Pick-up, and he failed to adhere to this duty, which led to the accident.

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49. It was submitted that there are discrepancies in the statements of the witnesses regarding whether the bus was moving or the bus was stopped. This discrepancy will not make any difference because the proximate cause of the accident was permitting Raju to sit on the vegetable bag and not taking care while negotiating the curve. Thus, the movement of the bus would be immaterial in these circumstances. Further, the prosecution version that the bus was parked is duly corroborated by the fact that Raju was not crushed under the tyres of the bus, which would have been the case had the bus been moving.

50. Dr Daleep Tekta (PW11) conducted the postmortem examination of Raju and found that the cause of death was head ::: Downloaded on - 09/10/2026 21:57:08 :::CIS 48 2026:HHC:44347 injury, which could have been caused in a Motor Vehicle accident.

He was not cross-examined at all, which means that his version .

was accepted as correct by the defence. Further, the statements of defence witnesses also show that Raju had died in the Motor Vehicle accident. Thus, it was duly proved that Raju had died in the Motor Vehicle accident, which was caused because of the of negligence of the accused.

51. Learned Trial Court had completely misread the rt evidence while acquitting the accused and the judgment passed by the learned Trial Court cannot be sustained.

52. In view of the above, the present appeal is allowed, and the judgment passed by the learned Trial Court is set aside.

The accused is convicted of the commission of offences punishable under [Sections 279](#) and [304A](#) of the IPC.

53. Let he be heard on quantum of sentence on 28.10.2026.

(Rakesh Kainthla) Judge 9th October, 2026 (Chander) ::: Downloaded on - 09/10/2026 21:57:08 :::CIS