

IN THE COURT OF ADDITIONAL SESSIONS JUDGE  
(FAST TRACK COURT), SOUTH-WEST DISTRICT,  
DWARKA COURT, NEW DELHI  
Presided by: Mr. Himanshu Raman Singh

Sessions Case No. 573/2018  
CNR No. DLSW010139982018



FIR No. : 138/2018  
Police Station : Dabri  
Under Section : 307/506/34 IPC and 25/27/54 Arms Act

In the matter of :

State  
versus

1. **Navneet Tiwari @ Vikash @ Vikesh,**  
S/o Sh. Guru Prasad Tiwari,  
R/o A-420, Gali no. 12, Mahavir Enclave,  
Part-II, New Delhi.
2. **Arun Kumar,**  
S/o Sh. Amar Nath Singh,  
R/o A-553, Gali no. 15, Mahavir Enclave,  
Part-II, New Delhi.

Date of institution : 01.06.2018  
Date of conclusion of arguments : 18.12.2025  
Date of judgment : 23.12.2025  
Decision : Both the accused persons, namely, Navneet Tiwari @ Vikash @ Vikesh and Arun Kumar are acquitted of the offence punishable U/s 307 r/w Section 34 IPC.

Accused Navneet Tiwari @ Vikash @ Vikesh is further acquitted for the offence punishable U/s 506 IPC and Section 27 Arms Act.

## **JUDGMENT**

1. The accused, namely, Navneet Tiwari @ Vikash @ Vikesh and Arun Kumar have been sent up to face trial in the instant case FIR no. 138/2018 PS Dabri on the allegations that on 26.03.2018, at about 07.25 am, in front of Sarwani Jewellers, Shukar Bazar Road, Mahavir Enclave, Delhi, they both in furtherance of their common intention stabbed the injured Mr. Rakesh Tiwari with a knife on his back and hips with an intention to cause his death and that accused Navneet Tiwari had also threatened to kill him and his children. It is further alleged that a button actuated knife was recovered from the possession of accused Navneet Tiwari.

## **CASE OF PROSECUTION**

2. The case of the prosecution as gleaned from the charge-sheet is that on 26.03.2018, at about 07.33 pm, on receipt of DD no. 46 A, ASI Bhagwan Singh alongwith Ct. Kamal reached at the spot i.e. Shukar Bazar Road, Gali no. 12, in front of Sarwani Jewellers, Mahavir Enclave, Part-II where on inquiry, he came to know that the injured had already been shifted to an unknown hospital. Blood was found scattered inside shop no. A-405. Crime team was called at the spot and the spot was got photographed. IO lifted the exhibits i.e. blood stained earth control from the spot and seized the same. In the meantime, IO

received DD no. 64 A regarding admission of injured at DDU Hospital. IO reached at DDU Hospital where injured Mr. Rakesh Tiwari was found admitted vide MLC no. 2858/18. The doctor handed over the blood stained clothes of the injured to the IO who seized the same in the present case. IO recorded the statement of the injured wherein he alleged that on 24.03.2018, an altercation took place between his wife and the mother of Navneet Tiwari @ Vikash @ Vikesh and on the date of incident i.e. 26.03.2018 while he was going to a shop to buy milk, accused Navneet Tiwari stabbed him on his back. He added that accused Navneet Tiwari was being accompanied by one more person whom he did not know. He further stated that Navneet Tiwari stabbed him twice on his right hip and once on his left hand. In order to save himself, he entered a grocery shop nearby where the shopkeeper, namely, Sh. Manish Kumar saved him. He stated that accused Navneet Tiwari alongwith his associate ran away from the spot hurling threats to kill him and his children. On the basis of the statement of the injured, IO prepared tehrir and got the present FIR registered.

3. During the course of investigation, IO prepared site plan, arrested accused Navneet Tiwari at the instance of the complainant/injured. Upon interrogation, accused Navneet Tiwari got recovered the button actuated knife, used in the commission of offence from the diggi of his scooty. IO prepared the sketch of the knife, sealed it with the seal of BS and seized the same in the present case. The scooty bearing no. DL9SBK 6183 was also seized by the IO in the present case. The IO also seized the blood stained jacket of accused Navneet Tiwari whiche was allegedly

wearing at the time of the incident. Accused Arun Kumar @ Heeru was formally arrested by the IO in the present case after he was granted anticipatory bail by the Ld. Additional Sessions Judge. During the course of the investigation, the exhibits were sent to the FSL for expert analysis, statements of witnesses were recorded and after completion of the investigation, charge-sheet was filed in the court.

4. Later on, FSL report was filed in the court by way of a supplementary charge-sheet.

## **COURT PROCEEDINGS**

5. In light of the police report and the documents filed alongwith the same, cognizance was taken vide order dated 01.06.2018 passed by the learned Metropolitan Magistrate.

6. After complying with the provisions of Section 207 of Cr.PC, the learned Metropolitan Magistrate, vide order dated 09.07.2018, committed the case for trial to the Court of Sessions.

7. The case was received by way of transfer by this Court on 22.09.2022.

## **ADMISSION/DENIAL OF DOCUMENTS**

8. Vide order dated 03.08.2022, in compliance with the provisions of Section 294 of the Cr.P.C., accused persons, namely, Navneet Tiwari and Arun Kumar were called upon to admit or deny the genuineness of FIR no. 0138/2018, DD no. 46 A dated 26.03.2018, DD no. 64 A dated 26.03.2018, MLC no. 3822/18 of Navneet Tiwari, MLC no. 3969/18 of Rakesh Tiwari,

MLC no. 2858 of Rakesh Tiwari, X-Ray Report of Rakesh Tiwari and the subsequent opinion dated 25.04.2018, which were admitted by the accused persons and in view of the admissions made, the evidence of the concerned witnesses were dispensed with.

9. Thereafter, again vide order dated 20.08.2025, in compliance with the provisions of Section 294 of the Cr.P.C., accused persons, namely, Navneet Tiwari and Arun Kumar were called upon to admit or deny the genuineness of crime scene report and the FSL report, which were also admitted by the accused persons and in view of the admissions made, the evidence of the concerned witnesses were dispensed with.

## **PROSECUTION EVIDENCE**

10. To prove the charge against the accused persons, the prosecution has examined as many as nine (9) witnesses.

11. **PW-1** Mr. Rakesh Tiwari is the complainant/injured/victim of the incident. It is, however, a matter of record that he has not supported the case of prosecution while appearing in the witness box. His testimony in detail shall be dealt with in the later part of the judgment.

12. **PW-2** ASI Suresh is the Incharge Crime Team who inspected the spot with his team and gave his report to the IO.

13. **PW-3** Manish Kumar Jha is an eye witness of the incident, as per the case of prosecution. It is, however, a matter of record that he has also not supported the case of prosecution while appearing in the witness box. His testimony in detail shall

be dealt with in the later part of the judgment.

14. **PW-4** Sh. Ashwani Kumar Jha is another eye witness of the incident. His testimony in detail shall be dealt with in the later part of the judgment.

15. **PW-5** Sh. Om Prakash and **PW-6** Sh. Rakesh Pandey are the persons who took the injured Rakesh Tiwari to the hospital after the incident. As per the case of prosecution, injured Rakesh Tiwari had told them the name of the assailant. However, it is a matter of record that they have not supported the case of prosecution in this regard.

16. **PW-7** HC Kamal had joined the investigation of this case with the IO ASI Bhagwan Singh.

17. **PW-8** Ms. Archana is the wife of the injured. As per the case of prosecution, she reached at the spot after the incident on being informed by someone, where her husband Mr. Rakesh Tiwari informed her that he was stabbed by accused Navneet Tiwari. It is, however, a matter of record that she has also not supported the case of prosecution in this regard.

18. **PW-9** SI Bhagwan Singh is the investigating officer of this case. He has deposed in the court about the investigation carried out by him in this case.

## **DEFENCE OF THE ACCUSED**

19. In their statements recorded under Section 313 Cr.PC, both the accused persons, namely, Navneet Tiwari @ Vikash @ Vikesh and Arun Kumar denied all the incriminating

evidence against them. They claimed innocence and stated that they have been falsely implicated in the present case. The accused persons preferred not to lead any evidence in their defence.

20. The record has been carefully perused. The respective submissions of Ld. Additional Public Prosecutor for the State and Ld. Counsel for both the accused persons have been heard and duly considered.

### **ARGUMENTS ON BEHALF OF THE ACCUSED**

21. It has been argued on behalf of the accused persons that they have been falsely implicated in the present case. It is argued that the injured/complainant has not supported the case of prosecution. It is asserted that except one PW-4 Sh. Ashwani Kumar Jha, none of the public witnesses cited by the prosecution has supported the case of prosecution. It is contended that PW-4 Sh. Ashwani Kumar Jha has deposed falsely against the accused on account of previous grudges. It is stated that nothing was recovered at the instance of the accused persons and that the alleged recoveries have been planted upon accused Navneet Tiwari with a view to implicate him in the present case.

### **ANALYSIS AND FINDINGS**

22. To establish commission of offence under Section 307 read with Section 34 IPC, the prosecution was required to establish that on the date and time as alleged, in furtherance of the common intention of accused persons, namely, Navneet Tiwari @ Vikas @ Vikesh and Arun Kumar, accused Navneet

Tiwari stabbed injured Mr. Rakesh Tiwari with an intent to kill him.

23. Further, to establish the commission of offences under Section 506 IPC against accused Navneet Tiwari, the prosecution was required to prove that on the alleged date, time and place, after the incident, accused Navneet Tiwari had criminally threatened the complainant to kill him and his children.

24. In order to prove the aforesaid allegations, the star witnesses of the case of prosecution are PW-1 Mr. Rakesh Tiwari (complainant/injured/victim), PW-3 Mr. Manish Kumar and PW4 Mr. Ashwani Kumar (eye witnesses of the incident as per the case of prosecution), PW-5 Mr. Om Prakash and PW-6 Mr. Rakesh Pandey (who shifted the injured to the hospital) and PW-8 Ms. Archana (Wife of the injured).

25. It is, however, a matter of record that while appearing in the witness box, in their examination on oath before the court, none of these witnesses, except PW-4 Mr. Ashwani Kumar Jha, have supported the case of prosecution on material aspects including the identity of the accused persons.

26. PW-1 Mr. Rakesh Tiwari, who is the complainant/injured in the present case, deposed on oath that on 26.03.2018, when he returned back from his office, his wife informed him that there were some hot talks between her and the mother of accused Navneet Tiwari. He further deposed that on 6.03.2018, at about 08.00-08.30 pm, when he was going to fetch milk and reached Shukar Bazar, two or three persons came

from his behalf and attacked him with a knife, due to which he became unconscious. He further deposed that when he regained his consciousness, he was in Deen Dayal Hospital. He added that on the same day, at about 12.00 - 01.00 mid night police met him at the hospital and obtained his signatures on 3-4 blank papers. He specifically deposed that he cannot identify the accused persons as he was not able to see them at the time when they stabbed him.

27. PW-1 Mr. Rakesh Tiwari was declared hostile and was cross-examined at length by the Ld. Addl. PP for the State.

28. During his cross-examination by the Ld. Addl. PP for the State, PW-1 Mr. Rakesh Tiwari stated that police did not record his statement. He denied that police had recorded his statement as a complaint. On his statement Ex.PW1/A having been shown to him, PW-1 identified his signatures on the same but voluntarily deposed that police had obtained his signatures on blank papers. He admitted that two-three days prior to the incident, hot talks between his wife and mother of accused Navneet @ Vikas had taken place. He, however, could not tell if the date of the said incident was 24.03.2018. He denied the suggestion that on 24.03.2018, he was going to fetch milk from the milk shop and at about 07.25 pm, he reached at the corner of Gali no. 12, Shukar Bazar, when suddenly accused Navneet Tiwari came and one other accused attacked him on his back and they started beating him by legs and fists. He further denied the suggestion that accused Navneet had also hit him on his left hand and right hip with a knife and that thereafter, he started shouting and ran away from there and entered into the shop of a

general store. He further denied the suggestion that on seeing the shop keeper Manish and other persons, accused Navneet Kumar @ Vikas ran away from there with the knife and threatened him that "*tere bacho ko maar kar hi dum lunga*". He denied the suggestion that accused Navneet had attacked him with a knife to kill him. He denied that the police had prepared site plan at his instance or that accused Navneet was arrested in his presence. He denied that police had recorded his statement U/s 161 Cr.P.C. on 27.03.2018. He denied that on 26.03.2018, accused Arun was also accompanying accused Navneet and that he had also beaten him with legs and fist blows. He denied that accused Arun was arrested in his presence or that he had put his signatures on his arrest memo. During his further cross-examination by Ld. Addl. PP for the State, PW-1 deposed that he knew the accused persons, namely, Navneet and Arun as they were residing in his locality. He, however, volunteered that they are not the same persons who had inflicted injuries upon him. He denied that he was deliberately not telling the truth and not identifying the accused persons as the assailants to save them as he had been won over by them or due to their fear.

29. PW-1 was offered for cross-examination, however, he was not cross-examined on behalf of the accused persons.

30. PW-3 Mr. Manish Kumar Jha could not remember the date, month or year of the incident. He, however, deposed that he was present in a tea shop when he heard the scream of his mother 'mar gaya mar gaya' from outside the shop. He stated that he went out of the shop thinking that somebody had hit his brother Ashwani Jha. He further deposed that on coming out, he

saw that blood was oozing out from the body of one person, whom he did not know. He stated that he had gone to the police station but could not recollect as to whether his statement was recorded or not. He categorically stated that he had not seen the incident in question.

31. PW-3 Mr. Manish Kumar Jha was also declared hostile and was cross-examined at length by the Ld. Addl. PP for the State. In his cross-examination by the Ld. Addl. PP for the State, PW-3 Mr. Manish Kumar Jha deposed that he knew Navneet Tiwari but he had not seen him when he arrived at the spot. He further deposed that accused Navneet Tiwari was not present at the spot when he came out. PW-3 denied the suggestion that when accused Navneet Tiwari came there, he was also present at his shop and saw accused Navneet Tiwari threatening Rakesh Tiwari to kill him and his children. He further denied the suggestion that he alongwith his brother Ashwani Kumar tried to snatch the knife from him but he ran away from the spot. He further denied the suggestion that he had seen the wife of injured taking him away or that police had also lifted the exhibits from the spot. He denied that he was deliberately not telling the true facts and not identifying the accused persons or that he was under any threat or coercion imparted upon by the accused.

32. PW-3 was also offered for cross-examination by the Ld. Counsel for the accused persons, however, he was not cross-examined on behalf of the accused persons.

33. PW-5 Mr. Om Prakash deposed that on 6.03.2018,

at about 07.00-07.30 pm, he was present at his house and on hearing some commotion, he came out from his house and saw that Rakesh Tiwari in injured condition was being brought by his wife in the street. He further stated that he alongwith Rakesh Pandey, who was also their neighbour, took Rakesh Tiwari to DDU Hospital in a TSR. He further deposed that on that day, Rakesh Tiwari did not tell him anything as to who had injured him. He deposed that on the next day, Rakesh Tiwari had told him that he had an altercation with some person who had stabbed him, however, he did not tell him the name of the assailant.

34. PW-5 was also cross-examined by the Ld. Addl. PP for the State. During his cross-examination he denied the suggestion that Rakesh Tiwari had told him on the day of the incident, Navneet Tiwari had stabbed him with a knife.

35. PW-5 was not cross-examined on behalf of the accused persons.

36. Similarly, PW-6 Mr. Rakesh Pandey, while appearing in the witness box deposed that on 26.03.2018, at about 07.00 - 07.30 pm, he heard some commotion of fight in front of gali no. 12, Mahavir Enclave and he saw that injured Rakesh Tiwari in blooded condition was being helped from the street by his wife. He added that he and Om Prakash Tiwari took injured Rakesh Tiwari to DDU Hospital in a TSR where he was given medical treatment. He stated that he came to know from the wife of accused Rakesh Tiwari that Navneet Tiwari had stabbed Rakesh Tiwari with a knife. He identified accused

Navneet Tiwari in the court.

37. PW-6 was cross-examined on behalf of the accused persons. During his cross-examination on behalf of the accused persons, PW-6 admitted that the incident did not happen in his presence and volunteered that he had only seen Rakesh Tiwari being brought in injured condition by his wife. He stated that police did not record his statement and also did not make any inquiry from him. He stated that he did not see Navneet Tiwari at the spot at that time and volunteered that he was returning from his job. He stated that he knew Navneet Tiwari as he was residing in the same locality at a distance of about 50 meters from his house.

38. PW-8 Ms. Archana is the wife of injured Mr. Rakesh Tiwari (PW-1). She while appearing in the witness box could not tell the exact date of incident. She, however, stated that in March, 2018, on the day of the incident, she was present in her house when somebody came at about 07.00-07.30 pm and told her that her husband is injured near her house. She stated that she went to the said place which was near her house and saw that her husband was sitting in the shop and was having injuries and blood on his body. She further deposed that her husband did not tell her anything as to how he had suffered injuries. She stated that she took her husband to the hospital with Om Prakash Tiwari and some other public persons.

39. PW-8 Ms. Archana was also declared hostile by the Ld. Addl. PP for the State. During her cross-examination by the Ld. Addl. PP for the State, she denied that her husband had told

her that Navneet Tiwari had given him knife blows whereas one Arun had grabbed him. She admitted that they had compromised the matter with the accused persons. She denied that because of the compromise, she was not revealing the true facts about this case or that she had been won over by the accused persons.

40. PW-8 Ms. Archana was also not cross-examined on behalf of the accused persons.

41. From the above recapitulation of the testimonies of PW-1 Mr. Rakesh Tiwari, PW-3 Manish Kumar Jha, PW-5 Sh. Om Prakash, PW-6 Mr. Rakesh Pandey and PW-8 Ms. Archana, it is clear that none of them has supported the case of prosecution on any material aspect i.e. identity or the involvement of the accused persons in the alleged offence, despite grilling cross-examination by the Ld. Addl. PP for the State. Their testimonies therefore are of no use to the case of prosecution.

42. Besides PW-1 Mr. Rakesh Tiwari, PW-3 Manish Kumar Jha, PW-5 Sh. Om Prakash, PW-6 Mr. Rakesh Pandey and PW-8 Ms. Archana, prosecution has also examined PW-4 Mr. Ashwani Kumar Jha as an eye witness of the alleged incident. While appearing in the witness box, PW-4 Mr. Ashwani Kumar Jha deposed that he had been running a grocery shop since 2003 and on 26.03.2018, in the evening, he was at his shop alongwith his mother when victim Rakesh Tiwari came into his shop and fell down and that blood was oozing out from the back side of his body. He further deposed that he saw that after a few seconds, accused Navneet Tiwari came into his shop

and that he was having a knife in his right hand and as he tried to hit the knife on the body of Rakesh Tiwari, he held his hand and stopped him. He further added that his mother started screaming on seeing the incident and his brother came from inside. He asserted that accused Navneet Tiwari was under the influence of liquor and he threatened Rakesh Tiwari to kill him. He stated that his brother Manish had informed the police by dialing at 100 number. He further deposed that after some time, wife of Rakesh Tiwari and his relative came and took Rakesh Tiwari. He stated that police took the photographs of his shop and lifted the blood samples from his shop.

43. From the above recapitulation of the testimony of PW-4 Mr. Ashwani Kumar Jha, it is clear that though he has identified accused Navneet Tiwari as the person who had come to his shop, holding a knife in his hand and tried to hit the injured with the said knife, he has neither named nor identified accused Arun Kumar as an assailant. Therefore, so far as accused Arun Kumar is concerned, none of the public witnesses cited by the prosecution including the injured himself has identified him as an assailant.

44. So far as the testimony of PW-4 Mr. Ashwani Kumar Jha, it is concerned, it is relevant to note that PW-3 Sh. Manish Kumar Jha and PW-4 Mr. Ashwani Kumar Jha are the real brothers and as per the case of prosecution, the incident took place in the grocery shop of PW-4 Sh. Ashwani Kumar Jha. Further, as per the case of prosecution, both PW-3 and PW-4 alongwith their mother Smt. Ashwari Devi were present in their shop when the incident took place. However, it is matter of

record that Smt. Ashawari Devi has not been examined in the present case.

45. In view of the fact that the injured/PW-1 Mr. Rakesh Tiwari has already turned hostile and has not supported the case of prosecution, the testimonies of these two eye witnesses i.e. PW-3 and PW-4 have to be analyzed carefully. As has already been discussed above, PW-3 Sh. Manish Kumar has also not supported the case of prosecution and denied the suggestion of the Ld. Addl. PP for the State that when accused Navneet Tiwari came there, he was also present there at his shop and saw accused Navneet Tiwari threatening Rakesh Tiwari. Further, as per PW-3 Sh. Manish Kumar Jha, when he came out, he saw that blood was oozing out from the body of one person whom he did not know. In his cross-examination, PW-3 had claimed that accused Navneet Tiwari was not present at the spot when he came out. To the contrary, PW-4 Sh. Ashwani Kumar Jha has stated that his mother started screaming on seeing the incident and his brother Manish came from inside. He added that accused Navneet Tiwari was under the influence of liquor and threatened Rakesh Tiwari to kill him and that his brother Manish informed the police by dialing 100 number. Interestingly, no such claim of informing the police has been made by PW-3. Further, as per PW-4 Mr. Ashwani Jha, when he caught hold of hand of the accused, he saw that the knife was of the type which could not be removed from the hand of the accused and that he accordingly told his brother to call police control room and did not try to snatch the knife from the accused. Therefore, according to PW-4 when he caught hold of

the hand of accused Navneet Tiwari, his brother Mr. Manish Jha had already arrived in the shop, however, his brother PW-3 has claimed that accused Navneet Tiwari was not present at the shop when he came out. Therefore, both PW-3 and PW-4 have given contradictory statements before the court. It is also not out of place to mention here that as per the statements U/s 161 Cr.P.C. of PW-3 and PW-4, they had tried to snatch the knife from the hand of accused Navneet Tiwari, however, none of them have made any such claim while appearing in the witness box.

46. It is also noteworthy here that while in the site plan Ex.PW9/B, the shop of PW-4 Sh. Ashwani Kumar Jha has been depicted, the signatures of Sh. Ashwani Kumar Jha on the site plan have not been obtained.

47. Further, while blood sample, blood stained earth control and a blood stained plastic bag were seized from the shop of PW-4 Sh. Ashwani Kumar, none of the seizure memos bear his signatures.

48. From the above detailed discussions, it is clear that the testimony of PW-4 Mr. Ashwani Kumar Jha suffers from various inconsistencies and is contrary not only to the testimonies of other prosecution witnesses including the injured/complainant but also contrary to the case set up by the prosecution.

49. It is well settled that conviction can be based on the sole testimony of a witness if the witness is found to be a sterling witness. The law as to when a witness can be called a sterling witness is well settled and it would be pertinent here to refer to

the settled proposition of law on the point.

50. It has been held in *Santosh Prasad @ Santosh Kumar Vs. State of Bihar dated 14.02.2020 Criminal Appeal no. 264 of 2020 arising out of SLP (Criminal) no. 3780/18* as under:-

*5.4.2. In the case of Rai Sandeep alias Deepu (supra), this Court had an occasion to consider who can be said to be a “sterling witness”. In paragraph 22, it is observed and held as under:*

*“22 In our considered opinion, the “sterling witness” should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such similar tests to be applied, can it be held that such a witness can be called as a “sterling witness” whose version can*

*be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.”*

*5.4.3 In the case of Krishna Kumar Malik v. State of Haryana (2011) 7 SCC 130, it is observed and held by this Court that no doubt, it is true that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality.*

*5.5 With the aforesaid decisions in mind, it is required to be considered, whether is it safe to convict the accused solely on the solitary evidence of the prosecutrix? Whether the evidence of the prosecutrix inspires confidence and appears to be absolutely trustworthy, unblemished and is of sterling quality?*

*6. Having gone through and considered the deposition of the prosecutrix, we find that there are material contradictions. Not only there are material contradictions, but even the manner in which the alleged incident has taken place as per the version of the prosecutrix is not believable.”*

51. In ***Suraj Mal Vs State (Delhi Admn.) AIR 1979 S.C. 1408*** it has been observed by the Hon'ble Supreme Court that "Where witness makes two inconsistent statements in their evidence either at one stage or at two stages, the testimony of such witnesses becomes unreliable and unworthy of credence and in the absence of special circumstances no conviction can be based on the evidence of such witness." Similar view was also

taken in *Madari @ Dhiraj & Ors. v. State of Chhattisgarh 2004(1) C.C. Cases 487.*

52. In *Namdeo Daulata Dhayagude and others Vs. State of Maharashtra AIR 1977 SC 381*, it was held that where the story narrated by the witness in his evidence before the Court differs substantially from that set out in his statement before the police and there are large number of contradictions in his evidence not on mere matters of detail, but on vital points, it would not be safe to rely on his evidence and it may be excluded from consideration in determining the guilt of accused. If one integral part of the story put forth by a witness was not believable, then entire case fails. Reliance may also be placed upon *Ashok Narang Vs. State 2012 (2) LRC 287 (Del).*

53. In view of the above, this court is of the view that the testimony of PW-4 Sh. Ashwani Kumar Jha is unworthy of any credence or reliability and he cannot be held to be sterling witnesses by any stretch of imagination as his testimony does not inspire confidence of the court.

54. Besides the ocular testimonies of the witnesses discussed hereinabove, the prosecution has also placed reliance upon the recovery of the weapon of offence i.e. a button actuated knife at the instance of the applicant/accused. As per the case of prosecution, on 27.03.2018, accused Navneet Tiwari was arrested at the instance of the injured/complainant Mr. Rakesh Tiwari and that pursuant to his interrogation, he made a disclosure statement and got recovered the weapon of offence i.e. a button actuated knife. It has been argued by the Ld. Addl.

PP for the State that subsequent opinion regarding injuries has been obtained from the concerned doctor who had opined that the injuries on the person of injured Rakesh Tiwari were possible with the knife recovered at the instance of the accused and therefore, conviction of accused Navneet Tiwari can be based on this circumstance alone.

55. As per record, a button actuated knife was recovered at the instance of accused Navneet Tiwari on 27.03.2018 by IO SI Bhagwan Singh in the presence of Ct. Kamal and Ct. Nagesh. IO SI Bhagwan Singh has been examined in the Court as PW-9 and Ct. (now HC) Kamal has been examined in the court as PW-7. The other recovery witness i.e. Ct. Nagesh has not been examined by the prosecution.

56. So far as PW-7 and PW-9 are concerned, there are material contradictions in their testimonies rendering their testimonies unworthy of credence. While as per the IO/PW-9 SI Bhagwan Singh, he received an information vide DD no. 64 A that the injured Rakesh Tiwari was admitted in the hospital on which they reached there where the doctor had declared him fit for statement and he recorded the statement of the injured, got the FIR registered and prepared the site plan at the instance of the complainant, PW-7 HC Kamal has contradicted him by deposing that on 27.03.2018, he alongwith the IO reached at the house of the complainant where he was joined in the investigation and the IO prepared site plan at the instance of the complainant. Therefore, while as per the IO the complainant was joined in the investigation from the hospital, as per PW-7 HC Kamal, the complainant was joined in the investigation

from his house.

57. Further, while as per PW-7 HC Kamal, Ct. Nagesh who was beat officer had also come to the spot, in his entire testimony, PW-9 SI Bhagwan Singh has not named Ct. Nagesh. It is pertinent to mention that besides the signatures of Ct. Kamal and SI Bhagwan Singh, the sketch of the knife Ex.PW7/F, the seizure memo of knife Ex.PW7/G, seizure memo of scooty Ex.PW7/H, seizure memo of pant Ex.PW7/K and the seizure memo of blood stained jacket Ex.PW7/H bear the signatures of Ct. Nagesh, which suggests that as per the case of prosecution, Ct. Nagesh had joined investigation with the IO at the time of recoveries of all these articles, however, the IO SI Bhagwan Singh failed/skipped to name such important witness in his testimony.

58. While the seizure memo of the scooty bearing registration no. DL9SBK6183 Ex.PW7/H bears the signatures of PW-7 HC Kamal, in his testimony PW-7 has not deposed anything regarding the seizure of the said scooty.

59. Another interesting aspect in the present case is that as per the MLC of accused Navneet Tiwari Ex.PX4, the alleged history has been noted as "*beaten by public as told by self and b/b*". However, neither PW-7 HC Kamal nor PW-9 SI Bhagwan Singh (IO of the case) stated in their testimonies that at the time of apprehension, accused Navneet Tiwari was given beatings by any public persons. No explanation for the injuries on the person of accused Navneet Tiwari has been furnished by the prosecution.

60. Further, the knife which is being claimed to be a weapon of offence was neither shown to the injured/complainant PW-1 Sh. Rakesh Tiwari, nor was shown to PW-3 Sh. Manish Kumar Jha and PW-4 Sh. Ashwani Kumar Jha, the alleged eye witnesses of the incident, who as per the case of prosecution had tried to snatch the knife from the hand of accused Navneet Tiwari.

61. As per the FSL result Ex.A2, the knife was having brown stains. As per the seizure memo of the knife Ex.PW7/G "चाकू के फल पर ब्लड लगा हुआ था जो कपड़े की मदद से पूछा हुआ था ", however, while being examined in the court neither PW-7 nor PW-8 have deposed that at the time of the recovery, the knife was having any brown stains or blood stains. Also, no such brown stains have been depicted in the sketch of the knife Ex.PW7/F. No such brown stains were also observed by the doctor who had given the subsequent opinion regarding the nature of injuries nor any such brown stains can be seen in the black and white photograph of the knife attached with the subsequent opinion.

62. Another crucial glitch in the story of the prosecution is that no efforts were made by the IO to lift the chance prints from the weapon of offence. These facts when taken together damage the veracity of the prosecution version with regard to the recovery of the alleged weapon of offence at the instance of accused Navneet Tiwari.

63. So far as the jacket and pant of the accused are concerned, the same were also not put to the injured or eye

witnesses to establish that at the time of the incident, the accused was wearing the said jacket and pant.

64. In view of the above circumstances, this court is of the view that the prosecution has failed to prove its case against the accused persons.

65. Resultantly, the accused persons, namely, Navneet Tiwari and Arun Kuamr are acquitted of the offence punishable under Section 307 read with Section 34 IPC. Accused Navneet Tiwari is also acquitted of the offence punishable 506 IPC and Section under Section 25/27 Arms Act.

66. File be consigned to the Record Room after compliance of provisions of Section 437 A Cr.P.C.

**Announced in the open Court on 23<sup>th</sup> December, 2025.**

(Himanshu Raman Singh)  
Additional Sessions Judge (Fast Track Court)  
South West District, Dwarka Courts/New Delhi.

It is certified that this Judgment contains twenty four (24) pages and each page bears my initials / signatures.

(Himanshu Raman Singh)  
Additional Sessions Judge (Fast Track Court)  
South West District, Dwarka Courts/New Delhi.