



2025:AHC:175186-DB

Judgment Reserved on 05.08.2025
Judgment Delivered on 26.09.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

CAPITAL CASES No. - 18 of 2023

Ramandeep Kaur

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Atharva Dixit, Pranav Tiwary, Radhey Shyam Shukla, Rakesh Kumar Mishra, Sr. Advocate
Counsel for Respondent(s)	: G.A., Pawan Shukla, Sharukh Khan, Suresh Dhar Dwivedi

WITH

REFERENCE NO. 17 OF 2023

AND

CRIMINAL APPEAL No. - 12268 of 2023

Gurupreet Singh @
Mitthu

.....Appellant(s)

Versus

State of U.P.

.....Respondents(s)

Counsel for Appellant(s)	: Raghuvansh Misra, Rahul Misra
Counsel for Respondent(s)	: G.A., Pawan Shukla, Sharukh Khan, Suresh Dhar Dwivedi

Court No. - 44

**HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE MADAN PAL SINGH, J.**

1. Heard Shri Manish Tiwary, learned Senior Advocate, assisted by Shri Atharva Dixit, Shri Pranav Tiwary, Shri Raghuvansh Mishra and Shri Rahul Mishra for the appellants; Shri Vikas Goswami, learned A.G.A.-I for the State, Shri Suresh Dhar Dwivedi, Shri Ashok Kumar Khanna and Shri Prabhjot Singh, learned counsel for the informant and perused the record.

2. Present two Criminal Appeals (one capital and other regular criminal appeal) and Criminal Reference arise from the order of conviction dated 05.10.2023 and order of punishment dated 07.10.2023, passed by Shri Pankaj Kumar Srivastava, the learned Additional District and Sessions Judge, Court no.10, Shahjahanpur, in Sessions Trial No. 48 of 2017 (State vs Gurupreet Singh alias Mitthu and Ramandeep Kaur). The learned court below has awarded capital punishment - to be hanged till dead to the appellant Ramandeep Kaur, for offence under Section 302 read with Section 34 I.P.C together with fine Rs. 5,00,000/- and default sentence five years. It has also convicted the appellant Gurupreet Singh alias Mitthu for offence under Section 302 read with Section 34 I.P.C. and awarded him life imprisonment together with fine Rs. 3,00,000/- with default sentence five years. Also, he has been convicted for offence under Section 4/25 Arms Act, 1959 and awarded sentence of five years together with fine Rs. 10,000/-.

3. The prosecution story emerged on the strength of a Written Report submitted by Vansh Kaur (P.W.-1 at the trial), the mother of the deceased Sukhjeet Singh and mother-in-law of the appellant Ramandeep Kaur. On that, F.I.R. was lodged at Police Station Banda, District Shahjahanpur on

02.9.2016 at 8:40 AM with respect to the occurrence of murder of the deceased on the intervening night of 01/02.09.2016, at the residence of the first informant - at the distance of 7 kms from the Police Station. That F.I.R. is Ex.Ka-29 at the trial.

4. According to the prosecution, Written Report giving rise to the said F.I.R. was written by Rajpal Singh, Advocate, on the instruction of Vansh Kaur (P.W.-1 at the trial). It is Ex.Ka-2 at the trial. In that, it was narrated, the deceased Sukhjeet Singh, aged about 34 years, a British national had visited the first informant on 15.8.2016. On 01/02.9.2016, they i.e. the deceased and the accused Ramandeep Kaur along with their two sons slept in the verandah on the terrace of her house while the first informant slept in the courtyard on the ground floor of that house. At 5:00 AM, her grand-son 'A' (P.W.-5 at the trial) came down and informed her that his father was not waking up. On her reaching the terrace, she found her son Sukhjeet Singh lying in a pool of blood. He had suffered grievous injuries to his neck and head. In those facts, the Written Report further narrated, Sukhjeet Singh had been done to death by unknown assailants.

5. On 02.09.2016, in the presence of witnesses Daljeet Singh (P.W.-15 at the trial) and Gurudeep Singh (not examined at the trial), the first Investigation Officer – Inspector Rajesh Kumar Singh (P.W.-12 at the trial) recovered pieces of blood-stained and plain bed-sheet from the place of occurrence. The said Recovery Memo is Ex.Ka-9 at the trial. Later, on 02.09.2016, Vansh Kaur (P.W.-1) made a statement under Section 161 Cr.P.C. and expressed her suspicion that the occurrence was caused by the appellant-Ramandeep Kaur.

6. Also, on 02.09.2016, Sub-Inspector Yatendra Kumar (P.W.-17 at the trial) prepared the Inquest Report between 09:30 AM and 12:10 p.m. The witness of inquest are - Harvinder Singh (P.W.-8 at the trial); Daljeet Singh (P.W.-15); Jeet Singh and Charan Singh (both not examined at the trial) and Vansh Kaur (P.W.-1). That Inquest Report is Ex.Ka-28 at the trial.

7. Thereafter, on 02.09.2016 itself, between 4:10 PM and 4:50 p.m., autopsy examination was conducted on the dead body of the deceased, by Dr. Saroj Kumar (P.W.-6 at the trial). He reported the following ante-mortem injuries:

“1. I.W. 10 cm x 2 cm x brain cavity deep on right temporal parietal region of head 7 cm above to right ear. Brain matter coming out.

2. I.W. 9 cm x 2.5 cm x brain cavity deep on right side forehead 6 cm above the right eyebrow. Brain matter coming out. Margins sharp.

3. I.W. 16 cm x 3 cm x bone deep on front of Neck 4 cm below right ear 4 cm below chin and 8 cm below left ear. All the muscles, veins and organs cut-off. Margins sharp.”

8. He further noted that the right temporal; right parietal and frontal bones of the deceased, were fractured. The brain membrane was ruptured. Brain matter was lacerated and partially missing. The cause of death was recorded - ‘Coma’ due to ante-mortem injuries. Viscera was not preserved and no test was performed to detect presence of any poisonous or noxious substance that may have been administered to the deceased. The Autopsy Report is Ex.Ka.-3A at the trial.

9. On 03.09.2016, first the appellant Ramandeep Kaur and later Gurupreet Singh alias Mitthu were arrested by the police. A hammer and knife (both blood-stained) described as weapons of assault used in the occurrence, were recovered at his pointing out, at 5:15 PM, by Sub-Inspector Pooran Chand (P.W.-11 at the trial). The hammer head is described 7.5 inches long and having diameter 2.5 inches with the wooden handle 23 inches long. The dimension of the knife is described 12 inches long, with a blade 7.5 inches long and wooden handle 4.5 inches long. That Recovery Memo is Ex.Ka.-5 at the trial.

10. On that recovery, the second F.I.R. was registered against the appellant Gurupreet Singh under Section 4/25 Arms Act, 1959, by Station House Officer Rajesh Kumar Singh (P.W.-12 at the trial). That F.I.R. is Ex.Ka.-31 at the trial.

11. After those recoveries had been made, on 07.09.2016, statements of one Iqrar – the taxi driver who dropped the accused Gurupreet Singh from Durga Hotel, Shahjahanpur (where the latter had stayed), to near the place of occurrence as also of Rajan alias Pramod Gupta (P.W.-4 at the trial), the owner of that taxi vehicle, were recorded by the police under Section 161 Cr.P.C. Statements of those witnesses were also recorded under Section 164 Cr.P.C. on 03.10.2016. Those are Ex.Ka-13 and Ka-14 at the trial, respectively.

12. Thereafter, on 15.09.2016, two mobile phone devices were recovered by the first Investigation Officer Rajesh Kumar Singh (P.W.-12) from a room described – that of the appellant-Ramandeep Kaur, by the first informant Vansh Kaur (P.W.-1). Those mobile phone devices were recovered from inside a brief case at about 2:00 p.m. Their IMEI numbers were described as 359765071726480, 352813082584080 and 352814082584080. The Recovery Memo was witnessed by Vansh Kaur (P.W.-1), Paramjeet Singh (P.W.-10), Pooran Singh and Lakhan Singh (both not examined at the trial). It is Ex.Ka-8 at the trial.

13. Upon completion of the investigation, the second Investigation Officer Udaiveer Singh (P.W.-13) submitted the first charge sheet against both accused namely Gurupreet Singh alias Mitthu and Ramandeep Kaur, under Section 302 I.P.C., on 24.11.2016.

14. On 14.02.2017 i.e. after about three months, Ramandeep Kaur was granted bail. After about a week, on 23.02.2017, the first informant Vansh Kaur (P.W.-1) submitted an application to the Superintendent of Police, Shahjahanpur stating therein her knowledge of the charge sheet submitted against the two accused persons. She complained, certain important aspects of the case had not been examined by the Investigation Officers. In that, the call details of the accused over their mobile phones had not been examined; the fingerprints of Ramandeep Kaur had not been matched with those lifted from the lock placed (on the metal grill enclosure where the occurrence took place). That 'A' (P.W.-5), the 10 year old son of the deceased (who was also present at the place and time of the occurrence with his younger brother 'Aa' aged about 5 years), had

told her before they left for London that he had seen the two accused stand near the cot of the deceased; the accused Ramandeep Kaur had asked him to keep quiet. He was traumatised by the occurrence; the police did not record his statement either. Therefore, she prayed for further investigation. The typed written application signed by Vansh Kaur (P.W.-1) is Ex.Ka-1 at the trial.

15. On that application, the S.P. Saharanpur vide his order dated 23.02.2017 issued a direction for further investigation.

16. Upon that direction issued, the second Investigation Officer Udaiveer Singh (P.W.-13) recorded the statement of 'A' (P.W.-5), the child witness, through a Skype video call while that witness was in United Kingdom, since about 7 months after the occurrence. In that regard, it may be undisputed that Vansh Kaur (P.W.-1) left for United Kingdom with her two grand children 'A' and 'Aa', about 22 days after the occurrence. Both children remained in her custody since then.

17. In such circumstances, upon further investigation, the second charge sheet was submitted within five days therefrom, on 25.03.2017. Now, the appellants were charged for offence under Section 302 I.P.C. read with 34 I.P.C..

18. During the course of investigation, the Passport of the appellant Ramandeep Kaur was recovered by the police on 11.03.2017. That Recovery Memo is Ex.Ka-16 at the trial.

19. On 18.03.2017, the Forensic Science Laboratory, Lucknow submitted its report with respect to the samples of bloodstained and plain bed-sheet, bedding, 'vest/*baniyan*', '*capri pant*' and '*Kada*' worn by the deceased as also the hammer and knife recovered by the police. All seven items bore stains of human blood. That report is on record. Also, another report of the Forensic Science Laboratory, Lucknow dated 04.02.2017 exists on record with respect to the sample of fried rice and cooked daal recovered from the kitchen of the house. Both samples were found free from any chemical/poison.

20. Upon the case being committed for trial to the Court of Sessions, following charge came to be framed against the appellants :

(Against Ramandeep Kaur and Gurupreet Singh alias Mitthu, in S.T. No. 48 of 2017)

"यह कि दिनांक 01/02.09.2016 की रात्रि किसी समय बहद स्थान ग्राम बसन्तापुर, थाना बण्डा जिला शाहजहांपुर के अन्तर्गत आपने सह अभियुक्त के साथ मिलकर, एक राय होकर सामान्य आशय के अग्रसारण में वाहिनी मुकदमा वंश कौर के पुत्र सुखजीत सिंह उर्फ सोनू की चाकू व हथौड़ा से गले व सिर पर प्रहार कर उसकी हत्या कारित की और इस प्रकार आपने भा०द०वि० की धारा-302/34 अन्तर्गत दण्डनीय अपराध किया, जो कि इस न्यायालय के प्रसंज्ञान में है।"

(Against Gurupreet Singh alias Mitthu, in S.T. No. 49 of 2017)

"यह कि दिनांक 03.09.2016 को समय 17:15 बजे बहद स्थान ग्राम बसन्तापुर थाना बण्डा जिला शाहजहांपुर के अन्तर्गत आपके कब्जे से आपकी निशादेही पर एक अदद चाकू व हथौड़ा जिससे कि मु०अ०स० 797/16 के अन्तर्गत धारा 302 भा०द०वि० के मृतक सुखजीत सिंह उर्फ सोनू की हत्या कारित की गयी है, बरामद कराया गया। इस प्रकार आपने आयुध अधिनियम की धारा-4/25 के अन्तर्गत दण्डनीय अपराध किया, जो कि इस न्यायालय के प्रसंज्ञान में है।"

21. At the trial, besides the above documentary evidence, the prosecution relied on oral evidence led by 17 witnesses, in all. Of that, Vansh Kaur (P.W.-1), Ramdas (P.W.-2), Iqrar (P.W.-3), Rajan alias Pramod Gupta (P.W.-4), 'A' (P.W.-5), Gurumej Singh (P.W.-7), Faizan (P.W.-9) and Daljeet Singh (P.W.-15) were examined as witnesses of fact.

22. First, Vansh Kaur (P.W.-1) was examined on 03.01.2018 i.e. about two years after the occurrence. She proved that her son, the deceased Sukhjeet Singh alias Sonu was a resident of United Kingdom. He had married the appellant-Ramandeep Kaur about 13 years ago. The couple had two children born to them namely, 'A' (P.W.-5) and 'Aa' (then) aged about 11 years and 8 years, respectively. Sukhjeet Singh along with his wife, two children and Gurupreet Singh alias Mitthu visited her on 28.07.2016. They went to Agra and returned on 15.08.2016 along with the parents of Ramandeep Kaur and the brother of the appellant-Ramandeep Kaur. The parents of the appellant-Ramandeep Kaur as also Gurupreet Singh alias Mitthu, left on 22.08.2016.

23. She also, proved, on 01.09.2016, Ramandeep Kaur cooked the evening meal for the family – a household chore she had not performed earlier. In that, she cooked '*biryani*'. 'A' (P.W.-5) refused to eat '*biryani*'. Therefore, Vansh Kaur (P.W.-1) cooked Maggi (noodles) for him. She

ate '*biryani*' cooked by the appellant-Ramandeep Kaur. Thereafter, she and her son Sukhjeet Singh felt sleepy and lay down to sleep.

24. She also proved that the appellant Ramandeep Kaur fed '*biryani*' to their two pet dogs and thereafter put a sheet of cloth over their cage. On being questioned by Vansh Kaur (P.W.-1), the accused-Ramandeep Kaur replied that that dogs did not let her sleep through the night. Therefore, she had covered their cage with a cloth. Thereafter, Ramandeep went to sleep with the deceased Sukhjeet along with their two sons in the verandah on the first floor of her house - enclosed by a grill structure on all sides.

25. She also proved, though she used to get up at 5 a.m. in the morning, the next day, she did not get on her own. She was woken up by her grand son 'A' (P.W.-5). He told her that his father was not waking up. At that time, the appellant-Ramandeep Kaur came down and took away 'A', forcibly. The witness got up with some effort and went upstairs to find her son Sukhjeet lying in a pool of blood. Though she could not recall the exact time, she described it at about 6-6:30 a.m. She lost her senses. When she regained her composure, she found a lawyer Rajpal Singh sitting with Ramandeep Kaur. She also proved that the appellant-Ramandeep Kaur asked her to go to the Police Station to lodge the F.I.R. That she refused. Therefore, she was asked to sign on a blank paper. Thereafter, the police and media personnel arrived at her house. The police prepared the Inquest Report and got the autopsy examination done. Next day, the dead body of the deceased was cremated. However, the parents of the appellant-Ramandeep Kaur did not participate in that. She further narrated, on 02.09.2016, 'A' (P.W.-5) told the media personnel and the police officials that Ramandeep Kaur and Gurupreet Singh alias Mitthu had killed his father. Thereupon, the police first arrested Ramandeep Kaur and Gurupreet Singh alias Mitthu, thereafter.

26. She further proved, she left for United Kingdom on 05.10.2016 and appeared in proceedings for custody of her two grand children 'A' (P.W.-5) and 'Aa'. She returned after four months i.e. on 22.03.2017 and learnt that the police had spoiled her case. She filed an application before

the S.P. Shahjahanpur, and sought further investigation. It is Ex.Ka-1 at the trial.

27. Thereafter, further investigation was conducted and the statement of 'A' (P.W.-5) was recorded by the Investigation Officer, through video conferencing facility.

28. Thereafter, Ramdas the man servant of Vansh Kaur (P.W.-1) was examined as P.W.-2 at the trial. During his examination-in-chief on 04.06.2018, he proved he used to work for Vansh Kaur (P.W.-1) at her residence. He used to reach her place at about 6.30 a.m. and leave at 5.30 p.m. Apparently, with reference to the occurrence on 02.09.2016, he proved, while reaching for work at the house of Vansh Kaur (P.W.-1), at about 6.30 a.m., he saw the appellant Ramandeep Kaur speak over a phone, uttering words to the effect "*Mitthu Bhaag Ja, Bhaag Ja*". When he reached the house, he found the deceased had been slashed to death. Thereafter, the police arrived. Then, 'A' started crying and disclosed that his father had been killed by the appellants. At that time, the appellant Ramandeep Kaur took the police personnel to her room and asked Ramdas (P.W.-2) to bring an envelope. She put a lot of money in that envelope and gave it to the police.

29. He thereafter stated, Vansh Kaur (P.W.-1) and Sonu (deceased) went for a walk while the appellant stayed back. In continuation, he further stated - he saw the appellants form "*Galat Sambandh*", in the inner room. He told Vansh Kaur (P.W.-1) about it. Then, the said Vansh Kaur (P.W.-1) and the deceased went to a Gurudwara. At that the counsel for the informant stepped in and got the examination-in-chief adjourned.

30. Examination-in-chief of Ramdas (P.W.-2) recommenced after more than a month, on 11.07.2018. On that date, he stated that the appellant Ramandeep Kaur had asked him to get an envelope. She filled that with a lot of currency notes and gave it to the Investigation Officer. About 10-12 days prior to the occurrence, he had seen the appellants commit wrong ('*Galat Kaam*') in a room/garage that he described as "*Motor Wale Kamre*". He then stated, once he had seen the appellants

putting their hands over each others shoulder when Vansh Kaur (P.W.-1) had gone to visit a Gurudwara. He then identified the present appellants and claimed that he believed that they had caused the occurrence.

31. Thereafter, Iqrar was examined as P.W.-3, on 25.7.2018 i.e. after about two years from the date of occurrence. He narrated, he used to drive a taxi car bearing registration number UP34-Y-9096. He used to make payments to the owner-Rajan alias Pramod Gupta (P.W.-4). He described, his two mobile numbers as 9956446399 and 8081521714. He proved, on 01.09.2016 he was waiting at the Taxi Stand in front of Hotel Durga (at Shahjahanpur), when at about 1.30 p.m., a person came to him and enquired if his taxi was available for hire. At that stage, he identified the appellant Gurupreet Singh alias Mitthu in the dock, as that person. He further proved that the said person disclosed his name as Mitthu and further described he was a resident of Canada. He wanted to travel to Gangsara. For that journey, the fare was settled at Rs. 1100/-. He was paid Rs. 500/- in advance and he shared his phone number, with the appellant Gurupreet Singh alias Mitthu while the said appellant shared his mobile number 9872889478 with him. Thereafter, at about 2.45-3.00 p.m., he received a phone call from the appellant Gurupreet Singh alias Mitthu asking him to reach Hotel Durga as the appellant wanted to go out for shopping. He took the appellant Gurupreet Singh alias Mitthu to V-Mart where the latter bought a shoulder bag. Both consumed cold beverage at Vrindavan restaurant and Gurupreet Singh alias Mitthu got dropped at Hotel Durga at about 4.00 p.m. He instructed Iqrar (P.W.-3) to return to the taxi stand with further instruction to come when called on phone. That phone call he received between 6.45-7.00 p.m. This time the appellant Gurupreet Singh alias Mitthu enquired about a good place to eat roasted chicken dish. The witness took Gurupreet Singh alias Mitthu to Eidgah road where they consumed chicken and returned to Hotel Durga, at about 8.00 p.m. At this stage, he was informed, they would leave for Gangsara as the appellant Gurupreet Singh had to collect some property papers. At about 9.30 p.m., he received another phone call from the appellant Gurupreet Singh alias Mitthu to reach Hotel Durga. He

along with Rajan alias Pramod Gupta picked up the appellant Gurupreet Singh. At that moment, the latter was carrying the bag bought from V-Mart. It was a heavy bag. Iqrar (P.W.-3) put the bag in the car and they started their journey.

32. Upon reaching Chinnaur, the appellant Gurupreet Singh received a phone call from a lady. He spoke to her in English and Punjabi languages, which the witness could not understand. Near a college in Puwaya, the appellant Gurupreet Singh alias Mitthu informed Iqrar (P.W.-3) that they would not be travelling to Gangsara but to Basantapur, instead. After travelling for about 12-13 kilometres on Puvaya - Banda Road, the appellant Gurupreet Singh alias Mitthu asked the witness to stop the car near a godown as they had reached Basantapur. It was about 10.45 p.m. He asked Iqrar (P.W.-3) to wait for him there. The witness was unwilling – as he was alone in a jungle. Then, the accused Gurupreet Singh alias Mitthu asked him to park the vehicle near a petrol pump (of Paramjeet or Kulwinder). However, finding no one at that petrol pump/fuel station, he went to the hospital at Banda and parked his taxi car, there. Around midnight he called Gurupreet Singh alias Mitthu on phone but the call did not go through. At 12.30, he received call from Gurupreet Singh alias Mitthu, requiring the witness to reach near the paper mill. When he reached that place, he found the accused Gurupreet Singh alias Mitthu was in the company of a lady who had come to drop him. At that stage, he identified (in dock), the appellant-Ramandeep Kaur as the lady who had come to drop Gurupreet Singh alias Mitthu. He also proved, Gurupreet Singh alias Mitthu was carrying a bag. They had barely travelled about 2 Kms. when he heard a noise of something heavy thrown out of the vehicle. On enquiry, he was told - it must be some animal. They reached Hotel Durga at about 1.50 a.m. from where the appellant Gurupreet Singh alias Mitthu checked out at that time and went to the railway station, to catch a train for Delhi. For that, he bought a ticket for Rs. 500/- from the black-market. Still, he missed the first train 'Satyagrah' but was able to board another train (that made a non-

scheduled stop at Shahjahanpur railway station) after paying a bribe to the Ticket Collector.

33. He further proved, he received a phone call from the 'Line' (referring to the Police Lines) that Gurupreet Singh alias Mitthu had committed murder. On that call, he went to the Police Station. Also, he proved his statement recorded under Section 164 Cr.P.C.

34. Thereafter, Rajan alias Pramod Gupta, the owner of the vehicle bearing registration number UP34-Y-9096, was examined as P.W.-4. He identified Gurupreet Singh alias Mitthu in the dock. He proved that the said accused met him with Iqrar (P.W.-3). They drove down and met him at around 7-8 p.m. in front of 'Roadways', at Shahjahanpur. Iqrar drove the vehicle wherein he along with the accused Gurupreet Singh alias Mitthu, travelled to Banda Road village Basantapur. There, the accused Gurupreet Singh alias Mitthu got down from the vehicle while P.W.-3 and P.W.-4 waited at Banda. Thereafter, on a phone call made by the accused Gurupreet Singh alias Mitthu, they drove back to village Basantapur at around 10-11 p.m. They picked up the accused Gurupreet Singh alias Mitthu and drove back to Shahjahanpur. The witness went back to his house. During investigation, he told the police the correct facts. He also proved his statement recorded under Section 164 Cr.P.C.

35. Thereafter, 'A' aged about 12 years, the son of the deceased Sukhjeet Singh and the accused Ramandeep Kaur was examined as P.W.-5. The Court first questioned him in the context of Section 118 of the Indian Evidence Act. After that satisfaction, the witness made his statement to the Court. He proved, his grand mother Vansh Kaur (P.W.-1) lived at village Basantapur. He along with his family, i.e. his parents and younger brother had visited his grand mother at village Basantapur on 01.09.2016. That night, the accused Ramandeep Kaur had cooked rice. He did not wish to eat that. Therefore, his grand mother cooked 'Maggi' for him. Thereafter, he along with his parents, younger brother went to sleep in a room on the first floor of the house, that was locked from inside, by his father. There were three cots in that room. One was occupied by the witness while the other was occupied by his younger

brother 'Aa' and his mother (Ramandeep Kaur) and the third by the deceased. He also proved that his grand mother Vansh Kaur (P.W.-1) slept in the courtyard, on the ground floor of that house.

36. He further proved, he woke up to a noise '*tak*'. He saw the light was on. His mother Ramandeep Kaur was sitting over his father, pressing a pillow on his face. The accused Gurupreet Singh alias Mitthu hit the deceased with a hammer twice. His father resisting the assault as his body was shaking. He further proved, he heard his mother tell Gurupreet Singh alias Mitthu that the victim was alive and that he be finished. At that stage, the accused Gurupreet Singh alias Mitthu pulled out a knife and slashed the throat of the deceased.

37. Having seen that occurrence, the witness proved he was terrified. He covered his face and froze. In that petrified state, he fell asleep. In the morning he came down. As he was telling his grand mother about his father was not waking up, the accused Ramandeep Kaur pulled him back to the terrace/first floor and made him sit on the cot on which he had slept the previous night. His grand mother followed them. She pulled the sheet from over the face of Sukhjeet Singh and started crying.

38. The witness further proved, soon thereafter the police arrived. He told the police that his mother Ramandeep Kaur and Gurupreet Singh alias Mitthu had killed his father.

39. Thereafter, he proved, after the occurrence, his grand mother Vansh Kaur (P.W.-1) took him to England; he knew the accused Gurupreet Singh alias Mitthu from before as the latter had earlier received them when they had visited Dubai. Last, the witness proved that his second statement was recorded by the police over a Skype call.

40. Next, Dr. Saroj Kumar, the doctor who conducted the autopsy examination on the dead body of the deceased was examined. He proved the following ante-mortem injuries:

(i) Incised wound 10 cm x 2 cm brain cavity deep on the right temple, 7 cm above the right ear.

He proved, brain matter had oozed out of that wound and that the margins of the wound were clean.

(ii). Incised wound 9 cm x 2.5 cm brain cavity deep on the right forehead 6 cm above the eyebrow from which brain matter had oozed out. The margins of that wound were also clean.

(iii). Incised wound 16 cm x 3 cm, bone deep on the front side of the neck 4 cm below the right ear running across 4 cm below the chin up to 8 cm below the left ear.

All muscles and blood vessels were found cut. The margins of that injury were also clean.

He also proved, upon internal examination, he found the right parietal and front parietal bones of the deceased were fractured with ruptured brain membrane. 750 gm. brain matter was found inside the brain cavity and both lungs were congested.

41. Thereafter, Gurumej Singh a neighbour of Vansh Kaur (P.W.-1) aged about 70 years on the date of his evidence being recorded, was examined as P.W.-7. He proved that he was an old resident of village Rampur Heera. He had agricultural lands in the village as also village Kora. His land holding in the village Kora adjoined the agricultural lands of Baldev Singh, the pre-deceased father of the deceased Sukhjeet Singh. They had a common boundary/'Medh'. He also proved, their houses were at a distance of about 100 yards from each other. He proved, since the death of Baldev Singh, his lands were cultivated by Daljeet Singh on contractual basis. He also proved, Baldev Singh had three married daughters and a son (the deceased), who was married to the accused Ramandeep Kaur. They used to reside at England with their children. Next, he proved that Sukhjeet Singh (the deceased), accused Ramandeep Kaur and their two children had come to Basantapur in July 2016.

42. Thereafter, he proved, he had seen the accused Gurupreet Singh alias Mitthu hold hands and kiss each other on many occasions in the agricultural fields. As to the occurrence, he proved, on 01.09.2016 he went to sleep after dinner. He woke up around midnight and saw (in the light of an electric bulb in the house of the deceased), the two accused

standing on the second floor ‘*Verandah*’ of that house, talking to each other. At that time he thought there must be some guests in their house. Thereafter, that light got switched off and the witness went back to sleep. He learnt of the occurrence the next morning when he was informed by ‘A’ (P.W.-5) that the two accused had killed his father.

43. Thereafter, Harvinder Singh – one of the three brother-in-law of the deceased Sukhjeet Singh was examined as P.W.-8. He is a resident of District Shahjahanpur. He proved, upon gaining information of the occurrence, he had reached the house of the deceased on 2.9.2016. He had signed the Inquest Report when the dead body of the deceased was lying in the ‘*Verandah*’.

44. Next, Faizan – Manager of Durga Hotel was examined as P.W.-9. He proved, against entry no. 54 of the date 1.9.2016, there is a entry of the guest Gurupreet Singh, Mobile No. 9872889478, aged about 31 years. That entry, was made by the accused Gurupreet Singh alias Mitthu. He further proved, that the accused had checked-in, alone. From that Guest Entry Register, he proved that the accused had disclosed his address Sultanpur Lodhi, Kapurthala, Punjab. He proved the handwriting of that entry to be of the accused Gurupreet Singh alias Mitthu and the time of entry at 10:55 AM. He also proved, that guest checked out of that hotel on 2.9.2016, at 1:24 AM.

45. Thereafter, the said witness proved that the purpose of that visit of the accused Gurupreet Singh alias Mitthu was disclosed as personal, and that he had stayed in Room No. 310 and had gone back to Delhi. He also proved, against room rent Rs. 1,895/-, the said Gurupreet Singh alias Mitthu had deposited Rs. 2,000/-. The certified copy of the register was also proved by him as Ex.Ka.-04. He further proved that no guest is permitted to check into that hotel without deposit of Identification Document.

46. Thereafter, Paramjeet Singh, the owner of the petrol pump was examined as P.W.-10. He proved facts including the recovery of two mobile phones – one Nokia and another of Samsung make, from the

room of the accused Ramandeep Kaur. He also proved, Iqrar (P.W.-3) had driven his vehicle to his (Paramjeet's) petrol pump on 1.9.2016. He also proved 'A' (P.W.-5) had made a statement to the police and media personnel about the occurrence, in his presence. He also proved, he had spoken to Iqrar (P.W.-3), at his petrol pump between 12:30 a.m. to 01:00 a.m. in the midnight of the occurrence and he remembered registration number of vehicle of Iqrar (P.W.-3), correctly.

47. Thereafter, S.I. Pooranchand was examined as P.W.-11. He proved recovery of the weapons of assault namely the hammer and the knife, at the pointing out of the accused Gurupreet Singh alias Mitthu.

48. Thereafter, the first Investigation Officer Rajesh Kumar Singh was examined as P.W.-12. He proved that first Information Report was lodged by Vansh Kaur (P.W.-1) who was able to speak. Thereafter, he reached the place of occurrence and made enquiries. The Inquest Report was prepared. Also, the field unit, surveillance team and dog squad were called for assistance. He gathered evidence by making recoveries of clothing and samples of earth, from the place of occurrence. The field unit lifted finger prints and the dead body was sent for post-mortem.

49. At the same time, he maintained, the F.I.R. was lodged against unknown assailants. At that stage, names of the accused had not surfaced. He proved the presence of Vansh Kaur (P.W.-1), accused Ramandeep Kaur and her two sons, at that time. While he recorded the statement of the accused Ramandeep Kaur, he did not record the statement of her children as they were below 12 years of age. Though nothing came out from the statements of enquiries made from the mother but the children did indicate facts that led to the discovery that the accused Gurupreet Singh alias Mitthu was a good friend of the deceased and they knew each other well since their school days. They also used to go for vacations together. He also proved certain photographs were found lying in the house, had given direction to the investigation. The details obtained through surveillance led to the current location of the accused Gurupreet Singh alias Mitthu, at Delhi airport. On being confronted by the police that they knew that the appellants had caused

the occurrence, he confessed to the murder and agreed to accompany the police to disclose its details. That led to the recovery of the 'hammer' with a two foot handle and one foot long 'knife' used in the assault.

50. Thereafter, he proved the recovery of the two mobile phone handsets – one Samsung Galaxy Black bearing IMEI No. 359765071726480 and another bearing IMEI Nos. 352813082584080 / 352814082584080. He claimed that the black mobile phone belonged to the accused Ramandeep Kaur. It was marked as Material Ex.Ka-2 while the other was marked as Material Ex Ka-3. He also proved the weapon of assault assigned by the prosecution as Material Ex Ka-6 (hammer) and Material Ex Ka.-8 (knife). The clothing worn by the deceased at the time of the occurrence was proven as Material Ex. Ka. 10-13 while the '*Kada*' worn by him was proven as Material Ex. Ka.-13. He also proved pieces of bedding etc. recovered by him from the place of occurrence. He also proved the photography of the crime scene and other steps of the investigation.

51. Thereafter, the second Investigation Officer Udai Veer Singh was examined as P.W.-13. He proved, since the 90 days timeline was approaching, the first charge-sheet was submitted on 24.11.2016. Later, upon a written application made by Vansh Kaur (P.W.-1) to the Superintendent of Police, Shahjahanpur, on 23.2.2017 (Ex.Ka.-1), further statement of the first informant was recorded on 23.2.2017 wherein she disclosed that the statement of the son of the deceased was not recorded in the Case Diary, and vital evidence had been left out during initial investigation. He also proved that the mobile phone number of the accused Gurupreet Singh alias Mitthu was recorded in the records of Durga Hotel as 9872889478. Initially, it had been wrongly recorded as 9873889478 by the first Investigation Officer Shri Rajesh Kumar Singh in the Case Diary. He also proved, he recorded further statement of Iqrar (P.W.-3) who proved that the accused Gurupreet Singh alias Mitthu had contacted him using his mobile no. 9872889478. He also proved that on 28.2.2017, he obtained sample finger prints of the accused Ramandeep Kaur. Thereafter, he proved that mobile no.

7497922675 recovered from the accused Ramandeep Kaur had been activated against the I.D. of one Rohit Kumar, son of Sant Kumar, resident of Mukrimpur, District Lakhimpur Kheri. It was used by the accused Ramandeep Kumar, to speak of the co-accused. He also proved the C.D.R. obtained by him of those mobile phones used by the accused and Iqrar (P.W.-3) and also, with the father of the accused Ramandeep Kaur. He then proved, on 20.3.2017, he had recorded the statement of 'A' (P.W.-5) over a video call. He also proved obtaining CDRs.

52. Thereafter, Shri Kaushalendra Tripathi, Nodal Officer, Bharti Airtel Limited, the service provider whose mobile services are described to have been used by the accused persons was examined as P.W.-14. He proved the letter dated 2.3.2017 furnished by his employer company in response to the letter dated 28.2.2017 written by the Superintendent of Police, Shahjahanpur, to obtain C.D.R. of the mobile number 9872889478 of the accused Gurupreet Singh alias Mitthu at the time of his checking in at Durga Hotel on 1.9.2016 as also of the phone number 9956446399 of Iqrar (P.W.-3) – the taxi driver hired by the said Gurupreet Singh alias Mitthu. He also proved that the CAF of the mobile no. 9872889478 was in the name of the accused Gurupreet Singh alias Mitthu. He also proved the communication dated 17.3.2017 written by his employer company to the Superintendent of Police, Shahjahanpur in response to his letter dated 14.3.2017 with respect to the call details of mobile no. 7087320621. Further, he proved the letter dated 2.3.2017 written by his employer company in response to the letter dated 25.2.2017 written by the Superintendent of Police, Shahjahanpur calling for call details of the mobile number 7497922675 that the prosecution has assigned to the accused Ramandeep Kaur. It is true, all letters dated 2.3.2017 written by his employer company had been signed by his predecessor Nodal Officer – Shri Jaswant Singh. His signatures, he identified.

53. Thereafter, Daljeet Singh, the person described to have cultivated the agricultural fields of the deceased Sukhjeet Singh – on contract, was examined as P.W.-15. He proved he was a resident of Village Koora,

Police Station Banda, District Shahjahanpur. He held agricultural holdings adjoining the agricultural fields of Vansh Kaur (P.W.-1). He also proved that the deceased Sukhjeet Singh alias Sonu along with the accused Ramandeep Kaur and their two children came to the village Basantapur, prior to the occurrence. He had seen the accused Ramandeep Kaur and Gurupreet Singh alias Mitthu walk hand-in-hand (in the absence of the deceased Sukhjeet Singh alias Sonu). Then, sometime in August 2016, the appellant Ramandeep Kaur had asked for his help, to buy a SIM card for her mobile. The witness took her to a shop and got her a SIM card for the mobile no. 7497922675, against payment Rs. 500/-, without furnishing I.D. details of the subscriber/ Ramandeep Kaur.

54. Thereafter he proved, on 2.9.2016, he saw a large crowd had gathered outside the house of the Vansh Kaur (P.W.-1). Inside that house, he found, the dead body of the deceased lying inside the grilled 'verandah' on the terrace of that house. By that time, the police and media personnel had arrived. The police drew up the Inquest Report to which he became witness. He also proved the recovery of the blood-stained bed-sheets, mattress and blood-stained clothes. He further proved the recovery of the Passport of the appellant Ramandeep Kaur.

55. Thereafter, the Constable Clerk Ram Swaroop Sharma, was examined as P.W.-16. He proved the registration of the F.I.R. and the corresponding G.D. entry.

56. Last, the prosecution examined Sub-Inspector Yatendra Kumar as P.W.-17. He proved the Inquest Report as also the recovery of the blood stained hammer and knife.

57. After the prosecution evidence was thus complete, the statements of the accused were recorded under Section 313 Cr.P.C. The accused Ramandeep Kaur completely denied her involvement in the occurrence and stated as below:

"We all used to sleep together on the ground floor, as the washroom was on the groundfloor. Even on that day we were sleeping on groundfloor. When we woke up in the morning, my husband was not his bed. Whilst we were looking for him, we reached the roof only to find his dead body. Then my mother-in-law filed a report. Shortly

after my sister-in-law arrived and on her saying so and in order to rob my husband's property and assets, they entrapped me in the fake case. They repeatedly told my elder son that your mother killed your father. A false statement of his was taken by the police after almost 7 months in Punjabi language. He could speak only Punjabi and English language. He was then tutored and taught the Hindi language and in 2019 he came to court and gave a false statement against me in Hindi language. Sir, since 2016 I have not been able to travel back home to UK. I have not been able to meet my Kids or even hear their voices. These people have killed my husband and I am fearful and concerned for my kids safety."

58. Further, the accused Gurupreet Singh alias Mithu also denied his involvement in the occurrence and stated as below:

"मुझे रंजिशन इस मुकदमे में पुलिस तथा वादनी के द्वारा झूठा लिप्त किया गया है मेरा इस घटना से कोई सम्बन्ध नहीं है और न ही मेरा अनैतिक सम्बन्ध रमनदीप से रहा है।"

59. In that state of the evidence, learned court below has reached the conclusion of guilt of both the appellants. It has awarded capital punishment to the appellant Ramandeep Kaur and life sentence to the co-accused Gurupreet Singh alias Mitthu.

60. Shri Manish Tiwary, learned Senior Counsel would submit, the prosecution story has not remained consistent or credible from the stage of the F.I.R. being lodged through the investigation and at the trial. In the first place, it can never be denied that the F.I.R. was lodged by Vansh Kaur (P.W.-1) through her lawyer Rajpal Singh – the scribe. Not only the Written Report was proved by her but the first Investigation Officer Shri Rajesh Kumar Singh as also the Constable Clerk Ram Swaroop Sharma (P.W.-16) clearly proved that she went to the police station and was present there for the registration of the F.I.R. Those facts being proven, the prosecution misled the Court, by purposely withholding the scribe Rajpal Singh. Admittedly, the accused-Ramandeep Kaur was a resident of United Kingdom whereas the first informant Vansh Kaur (P.W.-1) was a permanent resident of village Basantapur. In the circumstance of the murder of the deceased who was the son of the first informant Vansh Kaur (P.W.-1), it is wholly natural that Rajpal Singh who may have been naturally known to the first informant Vansh Kaur (P.W.-1) and not the

accused Ramandeep Kaur, would have been called to help lodge the F.I.R.

61. Second, though that F.I.R. was lodged by Vansh Kaur (P.W.-1), no allegation of extra-marital/intimate relationship between the accused persons was made or voiced by way of suspicion, at that stage. That allegation emerged later, solely to set up the premise for the false accusation made against the accused Ramandeep Kaur. If that relationship had existed and was known to Vansh Kaur (P.W.-1), as was also narrated by Ramdas (P.W.-2) and suggested by her neighbour Gurumej Singh and Daljeet Singh (P.W.-15), that vital narration/allegation may never have escaped mention in the F.I.R. The prosecution miserably failed to prove any further fact in that regard. Thus, the prosecution did not disclose why in that circumstance, either the deceased or Vansh Kaur (P.W.-1) remained silent and did not offer any reaction upon gaining knowledge of such extra-marital/intimate relationship formed by the accused persons, or why no suspicion emerged against the accused persons, in the F.I.R. lodged by her.

62. Third, the allegation of existence of extra-marital affair between the accused is patently false and a vast material improvement made by Vansh Kaur (P.W.-1) as also Ramdas (P.W.-2), Gurumej Singh and Daljeet Singh. On being confronted during their respective cross-examinations why such statement was not made to the police under Section 161 Cr.P.C., during investigation, they tried to explain, though they had made such statement, it was not recorded by the Investigation Officer. That fact was confronted to the first Investigation Officer Rajesh Kumar Singh. During his cross examination, he maintained that no such statement was made to him by any witness, during the investigation.

63. It has also been submitted that a bias has been created by the prosecution by alleging three facts. First, allegation of extra-marital relationship of the accused Ramandeep Kaur with the co-accused Gurupreet Singh alias Mitthu was alleged through P.W.-2, P.W.-5 and P.W.-15. Yet, no specific act in support of that allegation was proven. Second, it was alleged that the appellant-Ramandeep Kaur prepared

dinner for her family on 1.9.2016. It was consumed by all family members except her elder son 'A' (P.W.-5). That food was also fed to the two pet dogs of the first informant Vansh Kaur (P.W.-1) and they were put in a cage covered by the accused-Ramandeep Kaur, with a cloth. Neither the sample of the food recovered from the kitchen of the house, the confirmed presence of any poisonous or intoxicant or noxious substance nor any other evidence was led, to prove that fact. However, by making that allegation, such a bias was introduced, by the prosecution.

64. Fourth, strong attack has been laid to the evidence led by 'A' (P.W.-5), the child witness. Neither any statement of that witness was recorded during initial investigation or immediately after submission of the first charge sheet on 24.11.2016. The explanation attempted to be offered by the first Investigation Officer Shri Rajesh Kumar Singh is wholly unbelievable. According to him, though crucial fact of extra marital relationship formed by the appellant Ramandeep Kaur with the co-accused Gurupreet Singh alias Mitthu was indicated upon some (undisclosed) facts indicated by the children born to the deceased and photographs found lying in the house of Vansh Kumar (P.W.-10), he did not record their statements during investigation as the children were very young; there was language problem in communicating with the children and recording of their statements would have affected their studies abroad i.e. in United Kingdom, where they normally resided. The falsity of that statement is evidenced from the fact that the attempt to record the statement of 'A' (P.W.-5) was made only after the appellant Ramandeep Kaur was granted bail by this Court vide order dated 14.02.2017.

65. At that stage, the battle for custody of the two children born to the deceased was being witnessed before the Courts in United Kingdom. There, Vansh Kaur (P.W.-1) and her daughter (resident of United Kingdom) were claiming custody of those children against the accused Ramandeep Kaur. Perhaps occasioned by that or perhaps occasioned by the bail granted to the accused Ramandeep Kaur on 18.02.2017,

suddenly, Vansh Kaur who had earlier left for United Kingdom on 05.10.2016, made an application to the Superintendent of Police, Shahjahanpur on 23.02.2017, praying for further investigation. Even though 'A' (P.W.-5) had remained in her custody since the arrest of the accused Ramandeep Kaur on 03.09.2016, she did not disclose that the said 'A' (P.W.-5) had seen the accused kill the deceased. She only disclosed that he had seen Gurupreet Singh alias Mitthu standing near the cot of his father and that his mother i.e. Ramandeep Kaur had asked him to keep quiet. Yet, the manner of the occurrence was not narrated, even at that belated stage. At that belated stage, upon tutoring offered to 'A' (P.W.-5), that child witness made his statement to the police, that too over a Skype call on the phone number of Daljeet Singh (P.W.-15), wherein he spoke in Punjabi language, but not in Hindi.

66. Beside those material improvements made during the investigation and at the trial, it has been asserted that the claim of Vansh Kaur (P.W.-1) having signed on a blank paper, on which the Written Report was submitted, is clearly false. On her own showing, the present appellant Ramandeep Kaur had hardly resided at village Basantapur to have known or engaged a local lawyer Rajpal Singh, to write that Written Report, soon after the occurrence.

67. To wriggle out of the situation as truthfully narrated in the F.I.R. lodged by her, Vansh Kaur (P.W.-1) purposefully tutored the child witness 'A' (P.W.-5) to name his mother as the accused. For that reason, she got all other witnesses who were known only to her, to parrot her otherwise false story that the said child witness had told, both the police and the media personnel, that the accused Ramandeep Kaur had committed the murder of the deceased along with her paramour Gurupreet Singh alias Mitthu.

68. The falsity of the prosecution story is further brought out by in the absence of any poison or noxious substance detected by the Forensic Science Laboratory in its report of cooked '*Daal*' (Pulses) and '*Chawal*' (Rice), recovered by the police, from the house of Vansh Kaur (P.W.-1).

69. As to the testimony of Ramdas (P.W.-2), the same has been strongly attacked as wholly set up. The said witness was a domestic help of Vansh Kaur (P.W.-1). He had served her for years. Even then, during his examination-in-chief, he stumbled and fumbled and started making statements that made absolutely no sense. Though, he tried to prove existence of extra marital relationship of Ramandeep Kaur with the co-accused Gurupreet Singh alias Mitthu but then in the same breath he narrated, on being told of that relationship existing between those parties, Vansh Kaur (P.W.-1) and the deceased went to visit a Gurudwara. Rather than the prosecution praying to the Court to declare the witness hostile, on the intervention of the informant side, his examination-in-chief was adjourned for about one month and one week. Thereafter, he tried to support the prosecution story but during his cross-examination he fumbled again and started making statements that made no sense. In any case, when confronted he could not establish that he had informed the police, during investigation that the appellant Ramandeep Kaur had formed extra marital relationship with the co-accused Gurupreet Singh alias Mitthu. Also, the CDR does not support the version of any call made by Ramandeep Kaur to the co-accused, in the morning on 02.09.2016, at about 6.30 a.m.

70. Insofar as the Taxi driver Iqrar (P.W.-3) is concerned, it has been submitted, he never proved that he went to the petrol pump of Paramjeet Singh (P.W.-10), on the intervening night of 01/02.9.2016. On the contrary, he proved that he met no one at that petrol pump, and therefore thought it safe to park his vehicle near a local hospital. Second, he claimed, he saw the accused Ramandeep Kaur around midnight on 01/02.9.2016 when she had come with face half-covered, to drop the accused Gurupreet Singh alias Mitthu. In that circumstance, he could not have seen or identified the accused Ramandeep Kaur. Therefore, his identification of the accused Ramandeep Kaur in the dock is referable and based only on the fact that he saw Ramandeep Kaur after her arrest, at the police station. Clearly, the police had presented to him - Ramandeep Kaur, as the person to be identified in the dock.

71. Even otherwise, the prosecution narration that the accused-Ramandeep Kaur came on foot to drop her co-accused Gurupreet Singh alias Mitthu, in the dead of the night at a place where Iqrar (P.W.-3), a taxi driver was not feeling safe, is absurd and unbelievable. It is a deliberate/purposeful effort of the prosecution to create a bias in favour of its fabricated story. Then, his credibility to stand as a witness in a Court, has been doubted on the other proven fact that he was picked up by the police on 03.09.2016, and detained at the Police Lines for 3 days, without formal arrest. During that time, his mobile phone had also been taken away by the police. He was released on 06.09.2016. According to Paramjeet Singh (P.W.-10), his statement was recorded thereafter on 07.09.2016. While Iqrar maintained that his statement was recorded at the police station, Paramjeet Singh (P.W.-10) maintained that that statement was recorded at the house of Vansh Kaur (P.W.-1). Clearly, the Investigation Officer had set up a witness by practicing threat and coercion. Proof of that exists in the statement made by Iqrar (P.W.-3) that it is not possible to run a taxi if the police personnel do not permit.

72. As to the testimony of Rajan alias Pramod Gupta (P.W.-4), it has been stressed that the presence of that witness is highly doubtful as he had no occasion to accompany Iqrar or Gurupreet Singh alias Mitthu, when he was engaged in taxi business, run through a driver. In any case he gave a completely different version of the occurrence from that given by Iqrar (P.W.-3). He neither mentioned, he ever reached petrol pump of Paramjeet Singh (P.W.-10) nor he proved the presence of Ramandeep Kaur to drop Gurupreet Singh alias Mitthu nor he proved that any bag was thrown by Gurupreet Singh alias Mitthu on his way back to Shahjahanpur. He too is a witness set up by the police.

73. Coming to the child witness 'A' (P.W.-5), in addition to what has been noted above, it has been stressed that his statement was recorded 7 and half month after the occurrence. Undeniably the child had lived in United Kingdom for most of his life. His statement (to the police), was recorded in Punjabi language. The Investigation Officer, amongst others, claimed that he did not record the statement of the said child

witness because of language problem. He further proved, he had been living with his aunt ('*Bua*') in United Kingdom since the arrest of his mother, and that he never received any instructions from his '*Bua*'. Yet, at the time of his examination in Court on 06.02.2019 i.e. almost one and a half year after the occurrence, he spoke fluent Hindi. It is undeniable that he was deliberately taught Hindi at United Kingdom during that time - to serve the vital purpose to lead evidence and not to make an independent statement.

74. Full compliance of Section 118 of the Indian Evidence Act was not made. The learned court below did not put any specific questions to that child witness and it did not record his answer responses thereto qua the test to be applied by the Court - to assess if the child witness was competent to furnish reasonable responses to the questions put to him. In absence of that test, and in face of his later cross-examination statements wherein he admitted that he followed the instructions of his aunt ('*Bua*') coupled with the attending facts noted above, it is clear that he had been tutored only to deprive the accused Ramandeep Kaur her share in the estate of the deceased.

75. Besides the fact that all statements made by the said child witness are a material improvement as there is absolutely no material to support his statement that he had disclosed - either the existence of extra marital relationship between the accused persons or that he had seen the occurrence, the fact that he was taken away from his mother on 03.09.2016, and he remained in the custody of his aunt ('*Bua*') in United Kingdom (i.e. the country where he had been living from before in circumstance that he may have found more comfortable and convenient and to which he as a child would have related more), his mind was poisoned and tutored, to parrot in Court as his aunt ('*Bua*') dictated to him in concert his grand mother Vansh Kaur (P.W.-1).

76. Even otherwise, the absolute falsity of the prosecution story claimed through the child witness is apparent from the fact that three vital injuries suffered by the deceased had clean margins. None of those injuries involved any lacerated wound as may be caused by a hammer

blow - a hard and blunt object. None may be caused by the relatively light blade of a knife, with a short handle/grip. By very nature of that weapon, not enough force may ever be applied by an assailant to cause such deep injuries including therein fracture to the skull bones and cutting of all muscles and tissues in the neck region. For such severe and deep injuries to arise, the weapon would have to be a heavy sharp edged weapon with long handle/grip that may be used with greater force as may result in the injuries proven by Dr. Saroj Kumar (P.W.-6). Clearly, 'A' (P.W.-5) had not seen the occurrence.

77. Referring to the statement of Dr. Saroj Kumar (P.W.-6), it has been stressed, it is clearly proven that all injuries were caused by heavy cutting weapons and not with a hammer and knife. Thus, the present is a case where medical evidence completely disapproves or at least more than reasonably doubts the ocular evidence.

78. Further, it has been stressed, if the appellant-Ramandeep Kaur had smothered the deceased with a pillow while sitting across his chest, she would have used her hands to push that pillow down on the face of the deceased. In that nature of occurrence, the hands of the accused Ramandeep Kaur would have blocked the other assailant from causing any injury to the neck of the deceased with a heavy/single blow of the knife. In view of the above, the ocular evidence set up by the prosecution is wholly unreliable, being false or untrue.

79. Then, challenge has also been raised to the recovery of knife and hammer. By very nature of disclosure made by Iqar (P.W.-3), it is impossible to believe that a person who may have travelled for 40-60 kilometres and had randomly thrown out a bag from a moving taxi car would be able to help recover the same from that unknown/unspecified place. Neither there is any disclosure statement preceding that recovery nor the recovered items were concealed by the appellant Gurupreet Singh alias Mitthu at any place known to him. In any case the bag within which they were stored and discarded was never recovered and there is no serological/forensic report to establish that the blood on any of those recovered items was either of the deceased or of human origin. In any

case, in the manner of the occurrence disclosed, the injuries suffered on the neck by the deceased would have caused gushing of blood as may have necessarily spread out on the floor. Here, no such occurrence took place. No blood was found lying on the floor and therefore no recovery of blood stained pieces of the floor had been made.

80. As to Paramjeet Singh (P.W.-10), it has been submitted he is a planted witness inasmuch as his presence at the petrol pump itself is doubtful, and the further fact that he recognized Iqar (P.W.-3), a taxi driver (at that hour), who was not known to him from before, is also equally unbelievable. In any case Rajan alias Pramod Gupta (P.W.-4) did not prove that he met the said witness. Thus, there is material inconsistency in the prosecution story to that extent.

81. It is equally unbelievable that Gurumej Singh (P.W.-7), an aged person, who was sleeping in the courtyard of his house about 200-300 yards away, would have woken up in the night and seen the accused persons talking to each other that too through a mango grove. Clearly, he too is a planted witness, set up to prove motive, as otherwise in the absence of motive, the prosecution story would fall flat to the ground. His house is not even depicted on the site plan.

82. Then, it has been submitted, the prosecution may not avail any benefit of Section 106 of the Indian Evidence Act. Besides the appellant-Ramandeep Kaur, the informant Vansh Kaur (P.W.-1), 'A' (P.W.-5) and the younger son of Ramandeep Kaur were also present with the deceased inside the house. In the conflicted circumstances and doubtful evidence led by the prosecution where Investigation Officer may have played into the hands of the informant, sufficient doubt has been raised through the statement of the accused Ramandeep Kaur, recorded under Section 313 Cr.P.C. The defence could not have proven those facts. However, the statement made under Section 313 Cr.P.C., is wholly consistent to the doubts that otherwise arise in the prosecution story, as have been referred to above.

83. To bolster his submission, learned Senior Advocate has relied on **B.N. John Vs. State of U.P. and another, 2025 SCC OnLine SC 7**, to

submit that the prosecution story that has experienced diligent development at every stage through investigation as also at the trial, may never be found free from reasonable doubts. As to the mandatory requirement of Section 118 of the Indian Evidence Act, reference has been made to **Pradeep Vs. State of Haryana, (2023) 19 SCC 221**. In the same context, reliance has been placed on the **State of M.P. Vs. Balveer Singh, (2025) SCC OnLine SC 390**; **Rajkumar Vs. State of M.P., (2014) 5 SCC 353**; **State of M.P. Vs. Ramesh, 2011 (4) SCC 786** and **Suresh Vs. State of U.P. (1981) 2 SCC 569**, with reference to alteration, inconsistencies, risk of tutoring, as require greater circumspection on the part of the Court, in relying on statements, in face of embellishments and improvements made in the context of statement of the child witness recorded by the police seven and a half month after the occurrence. Reliance has also been placed on the decisions of the Supreme Court in **Pruthiviraj Jayantibhai Vanol Vs. Dinesh Dayabhai Vala and others, (2022) 18 SCC 683**, **Kapildeo Mandal & others Vs. State Of Bihar, 2008 (16) SCC 99**; **Thaman Kumar Vs. State of Union Territory of Chandigarh, 2023 (6) SCC 380**, **Ramanand Yadav Vs. Prabhu Nath Jha and others, (2003) 12 SCC 606**; **Mani Ram and others Vs. State of U.P., 1994 (Supp) 2 SCC 289**; **Ram Narain Singh Vs. State of Punjab, (1975) 4 SCC 497** and **Mohinder Singh Vs. State, 1950 SCC 673**, to submit that in face of medical evidence completely contradicting ocular evidence as to the manner in which the occurrence may have been caused, no reliance may be placed on such ocular evidence.

84. In that context, reliance has also been placed on **Amar Singh and others Vs. State of Punjab, (1987) 1 SCC 679** and **Hallu and others Vs. State of Madhya Pradesh, (1974) 4 SCC 300**, to stress that any weapon of assault may be presumed to have been used in an occurrence in the manner of its normal use. Unless a contrary and specific fact is proven by the prosecution, the presumption of normal use may always prevail and apply. Here, the hammer in the normal use as narrated by the prosecution witness may never have caused the injury, as proven by the doctor.

85. Further, reliance has been placed on **Prem Narain and others Vs. State of M.P., (2007) 15 SCC 485** and **Jagjit Singh @ Jagga Vs. State of Punjab, (2005) 3 SCC 689**, to stress that the evidentiary value of the child witness (solitary eye-witness) 'A' (P.W.-5) appearing at a wholly belated stage, remains diluted and is not reliable. Also, for reason of the wholly inordinate delay in his statement being recorded, after seven and a half month from the occurrence.

86. With reference to presumption that may arise under Section 106 of the Indian Evidence Act, relying on **Balvir Singh Vs. State of Uttarakhand, (2023) 16 SCC 575** and **Shambu Nath Mehra Vs. State of Ajmer, 1956 SCC OnLine SC 27**, it has been stressed that it is not a rule to lighten the burden but only a rule to be applied where it may be impossible for the prosecution to prove how the occurrence was caused. Having relied on an eye-witness account, it may not have remained open to the prosecution to simultaneously rely on Section 106 of the Indian Evidence Act.

87. Last, relying on **Ajay Pandit @ Jagdish Dayabhai Patel and another Vs. State of Maharashtra, (2012) 8 SCC 43**, **Dagdu and others Vs. State of Maharashtra, (1977) 3 SCC 68** and **Santa Singh Vs. State of Punjab, (1976) 4 SCC 190**, it has been submitted that in any case the appellant-Ramandeep Kaur had a right to be fully heard separately after giving complete opportunity to produce adequate material and/or evidence that may have a material bearing on the issue of death sentence. That was completely denied in the present case.

88. Sri Rahul Mishra learned counsel for the appellant Gurupreet Singh alias Mitthu has adopted the submissions, advanced by Sri Manish Tiwary, learned Senior Counsel appearing for the appellant Ramandeep Kaur. Then, he has laid heavy emphasis on the fact that the recovery of knife and hammer against Ex. Ka-5 does not contain the disclosure statement Part-I or disclosure statement Part-II. Therefore, it is wholly unreliable. That recovery is otherwise wholly unbelievable as the knife and hammer were never concealed by the accused at any place known to him as may have later been revealed by him. Those are described to have

been thrown out randomly, with the bag (in which they were kept), from a moving car, in the dead of the night. Therefore, such recovery is not referable to Section 27 of the Indian Evidence Act. Third, no bag of any description was recovered by the police, though Iqrar (P.W.-3) clearly stated that the accused Mitthu had thrown the bag from the moving vehicle. Fourth, there are no public witnesses of the recovery which was made from an open place. Fifth, adopting the submission of Sri Tiwary learned Senior Counsel, he would submit, medical evidence completely demolishes the prosecution story that the occurrence was caused with the recovered knife and hammer.

89. Next, it has been submitted that the appellant Ramandeep Kaur was arrested on 03.09.2016. While she was in police custody, the child witness 'A' (P.W.-5) remained in the custody of his grand mother Vansh Kaur (P.W.-1) till atleast 05.10.2016 when the latter left with the child for United Kingdom. The child stayed back there. In that circumstance, neither Vansh Kaur (P.W.-1) nor Ramdas (P.W.-2) made any disclosure to the police in their statements recorded under Section 161 Cr.P.C., that Ramandeep Kaur had caused the occurrence. That case was set up on 23.02.2017 on the strength of the Written Report (Ex. Ka-1) submitted by Vansh Kaur (P.W.-1) to the Superintendent of Police Shahjahanpur. Even in that document, Vansh Kaur (P.W.-1) did not disclose either that 'A' (P.W.-5) had seen the occurrence being caused by the appellant or that he had told the police and/or media personnel, such fact, on 02.09.2016.

90. Since his return to United Kingdom, the said child witness 'A' (P.W.-5) remained in the custody of his paternal aunt ('*Bua*'). He made his statement under Section 161 Cr.P.C. only on 23.02.2017 through a Skype call not made independently by the Investigation Officer but through the agencies of the prosecution witness Daljeet Singh (P.W.-15) who was vitally interested in the properties of the deceased. Clearly, the child had been tutored to suit the needs of the key prosecution protagonist Vansh Kaur (P.W.-1) and her three daughters who stood to

gain, by excluding Ramandeep Kaur (P.W.-1) from the line of succession of the deceased.

91. Next, it has been submitted that contrary to the prosecution story that the deceased had been smothered with a pillow, no sign of smothering exists. All three wounds suffered by the deceased, two on his skull and one across his neck, were deep clean wounds, caused by heavy cutting weapon/s. Assault with a hammer and knife could not have caused such injuries.

92. Referring to the evidence of Iqrar (P.W.-3) and Faizan (P.W.-9), it has been submitted, there is no proof of identity of the appellant Gurupreet Singh alias Mitthu available with the prosecution, to establish that he stayed at the Hotel Durga. Second, Faizan (P.W.-9), the Manager of Hotel Durga failed to recognise the appellant Gurupreet Singh alias Mitthu in the dock. He could not even recollect that the accused (who was standing in the dock) had checked in at Hotel Durga, on 01.09.2016. Therefore, no reliance may be placed on that evidence.

93. Evidence of Iqrar (P.W.-3) has also been doubted as the mobile phone number attributed to him was not his but that with CAF of one Salman. In absence of examination of the said Salman, as also in absence of cross-examination of Rohit Kumar against whose ID papers the mobile phone SIM attributed to the accused-Ramandeep Kaur, was activated, the prosecution story remains wholly doubtful. The timing of the phone calls between the two appellants is not corroborated by the technical evidence led by the prosecution. Then, evidence of Iqrar (P.W.-3) and Paramjeet (P.W.-10) have also been doubted as it is conflicted. While Iqrar (P.W.-3) claimed, he went to the fuel station of Paramjeet Singh (P.W.-10), after dropping Gurupreet Singh alias Mitthu, he further stated he found no one present at that petrol pump and therefore did not park his vehicle there, but drove upto the hospital and waited for the accused Gurupreet Singh alias Mitthu to return. On the contrary, Paramjeet Singh (P.W.-10) gave a wholly imagined account of his meeting with Iqrar (P.W.-3). Iqrar's evidence has also been doubted for

reason of his illegal detention by the police for over three days. No explanation exists for difference in the phone numbers recorded by the police.

94. Last, the prosecution having set up a case of direct evidence, it could not be permitted to rely on the presumption available under Section 106 of the Indian Evidence Act. Reliance has been placed on the **Murlidhar and others Vs. State of Rajasthan, (2005) 11 SCC 133**.

95. Responding to the above, Shri Vikas Goswami, learned A.G.A.-I has submitted that no reasonable doubt arose in the truthfulness and completeness of the occurrence and therefore the guilt of the present appellants. No part of any previous statement made, by any of the witnesses produced by the prosecution, was contradicted in the manner prescribed by law. No part of the previous statement of any of the fact witnesses produced by the prosecution or even the formal witnesses was contradicted with reference to their previous statement. Merely by suggesting existence of previous statement and by eliciting responses thereto the defence did not create the legal basis for effective contradiction to arise – as may lead to a reasonable doubt. Unless any specific portion of the previous statement made by any witness was read out to that witness after being duly marked, and unless that witness was thereafter required to explain any omission or contradiction or improvement thereto, the proof arising on the strength of the examination-in-chief of that witness, may not be ignored or diluted and its effect may not be avoided by the defence. Reliance has been placed on **Tehsildar Singh and another Vs. State of U.P., AIR 1959 SC 1012** and **V.K. Mishra and another Vs. State of Uttarakhand and another, (2015) 9 SCC 588**.

96. Further, it has been submitted, the prosecution story is wholly true and duly proven. Not every contradiction or improvement or embellishment made by a prosecution witness may be cited by the defence to claim a reasonable doubt. Such improvements, embellishments and omissions are bound to arise in the process of a fair

trial wherein a truthful and reliable witness who may have no prior experience or inclination to be presented as a witness and who may have a varying degree of memory and communication skills, may inadvertently make such mistakes.

97. Referring to the evidence led by Vansh Kaur (P.W.-1), it has been stated, all material facts proven by her during her examination-in-chief involving the deceased and his family reaching Basantapur on 28.07.2016; going out for a vacation and return on 15.8.2016; arrival of Gurupreet Singh alias Mitthu and the parents of Ramandeep Kaur, on 22.08.2016; preparation of the evening meal by the appellant Ramandeep Kaur on 01.09.2016, for the time; refusal by 'A' (P.W.-5) to eat that meal; preparation of different meal for him by Vansh Kaur (P.W.-1) and its consumption; feeding of the dinner prepared by Ramandeep Kaur to two dogs of Vansh Kaur (P.W.-1); covering their dog cage with a cloth in the night; Vansh Kaur going to sleep in the courtyard of the house; deceased alongwith his two children and Ramandeep Kaur going to sleep on the first floor of the house; Vansh Kaur (P.W.-1) being woken by 'A' (P.W.-5) the next morning as she was unable to wake up of her own; Ramandeep Kaur pulling 'A' (P.W.-5) away from Vansh Kaur (P.W.-1) with the latter following her to the terrace; Vansh Kaur (P.W.-1) getting disturbed and not being in her senses and finding Ramandeep Kaur sitting with the scribe of the F.I.R.; arrival of the police and media personnel at the place of occurrence when 'A' (P.W.-5) told them that the accused had caused the occurrence, have remained undisputed and unquestioned by the defence during their prolonged/lengthy cross-examination.

98. Similarly, referring to the evidence led by Ramdas (P.W.-2), it has been submitted he was not effectively cross-examined or contradicted with any part of his previous statement.

99. Coming to the evidence led by Iqrar (P.W.-3), it has been submitted, he duly proved the registration number of the taxi used to drive Gurupreet Singh alias Mitthu to Basantapur on the fateful night of

01/02.9.2016, as also his mobile number 9956446399 and the calls made between him and Gurupreet Singh alias Mitthu on his number 9872889478; the calls received by the accused Gurupreet Singh alias Mitthu from a lady while the former was travelling in the taxi of Iqrar, were not disproved during his cross-examination. Similarly, presence of Rajan alias Pramod Gupta (P.W.-4) in that vehicle was not effectively, doubted.

100. Referring to the evidence led by the child witness 'A' (P.W.-5), it has been again stressed that as in the case of Vansh Kaur (P.W.-1), no effort was made by the defence to doubt his testimony. He was not confronted with any previous statement made by him and he was not doubted during his cross-examination with respect to the specific facts proven by him during his examination-in-chief, either with respect to the food cooked by Ramandeep Kaur - that he did not eat or the food that was cooked by his grand mother Vansh Kaur (P.W.-1) that he ate or the fact that the deceased together with the accused Ramandeep Kaur and their two children sleeping on the floor, on three cots or the fact that he heard a noise that woke him up in the night or that he saw the accused Gurupreet Singh alias Mitthu hit the deceased twice on his head and once on his neck or that he being frightened covered himself and froze, having witnessed such an occurrence or the further fact - he was pulled away by the accused Ramandeep Kaur, when he went to inform his grand mother Vansh Kaur (P.W.-1), the next morning.

101. Insofar as Dr. Saroj Kumar (P.W.-6) is concerned, learned AGA-I would submit he was not confronted by the defence with the material exhibits i.e. weapon of assault and he was not questioned if those may not have caused the injuries suffered by the deceased.

102. Similarly, it has been submitted, the defence did not seriously doubt the eye sight of Gurumej Singh (P.W.-7) who only proved the presence of the accused Gurupreet Singh alias Mitthu on the terrace of the house of the deceased, in the night of the occurrence. Due to the elevation of the terrace - where the two accused were standing, it may

not be disbelieved - that the said witness had seen the accused at that time.

103. Coming to the evidence of Faizan (P.W.-9), it has been submitted, he proved the hand writing of Gurupreet Singh alias Mitthu as also the fact that he had signed the Guest Register of Hotel Durga in his presence and that he checked out of the Hotel Durga at 1.24 a.m., on 02.09.2016. That fact was wholly corroborated by the evidence led by Iqrar (P.W.-3).

104. Similarly, it has been submitted that there is nothing to doubt the evidence led by Paramjeet Singh (P.W.-10) to establish the presence of Iqrar (P.W.-3) at his fuel station, on the intervening night of 01/02.09.2016.

105. Last, it has been submitted that the Call Detail Record (CDR) duly proven at the trial, fully corroborate the prosecution story that the accused Gurupreet Singh alias Mitthu travelled to Basantapur in the intervening night of 1/2.9.2016 with Iqrar (P.W.-3), in his taxi car - he having started from the Durga Hospital Shahjahanpur and having returned to the same place past midnight, after the occurrence. Second, the regular phone calls made between the appellants Gurupreet Singh alias Mitthu and Ramandeep Kaur were proven. The mobile phone numbers of Gurupreet Singh alias Mitthu and Iqrar (P.W.-3) are wholly admitted. Even as to the identity of the mobile handset used by the appellant, Ramandeep Kaur, there is no real doubt that she had used the same mobile handset in conjunction with the mobile phone number used in the occurrence and her U.K. mobile number. The recovery of those handsets was made from her brief case lying with her belongings.

106. Shri Ashok Kumar Khanna, learned counsel appearing for the informant would submit that the prosecution had relied on 17 witnesses, 37 exhibits and 27 material exhibits. No reasonable doubt exists on the strength of such strong evidence led by the prosecution. As to the doubts expressed by the defence, it has been submitted, the defence theory that the occurrence was caused by the sisters of the deceased in conspiracy with his brothers-in-law, is absurd. The properties were divided from

before. Therefore, his sisters had nothing to gain from the death of the deceased, Sukhjeet Singh. Second, with respect to challenge to recovery of the weapon of assault namely hammer and knife, it has been stressed that disclosure statement exists on the compact disk on which all recordings were made and in the Case Diary.

107. Third, relying on the facts proven by Vansh Kaur (P.W.-1) as confirmed by Rajesh Kumar, the Investigation Officer (P.W.-12), the said Vansh Kaur (P.W.-1) was in a state of extreme shock during the morning of 2.9.2016. Second, it was also established that the child witness 'A' (P.W.-5) had told the Investigation Officer that the appellant had killed the deceased. During his extensive cross-examination, no suggestion was thrown at the child witness that no such statement had been made by him. No suggestion was thrown to the Investigation Officer why statement of the child witness was not recorded in the Case Diary. Therefore, the submissions being advanced on that premise, are misconceived.

108. Fourth, it was duly proven by Vansh Kaur (P.W.-1) that after the family had dinner on 1.9.2016, she went to sleep in the courtyard while the deceased along with his wife Ramandeep Kaur and their two children went to sleep on the terrace. The defence has not doubted that fact. Further, 'A' (P.W.-5) categorically proved that the grill enclosure wherein the family of the deceased, his wife Ramandeep Kaur and two children slept had three cots, one each occupied by the deceased and his son 'A' (P.W.-5) and the third used by the appellant-Ramandeep Kaur who slept with her younger son. He also proved that the deceased had locked the grill enclosure from inside.

109. Shri Khanna has also referred to material exhibits that are undisputed, to submit that the terrace floor had no independent access other than the stairs with a small gate on the ground floor. Once the deceased had locked the grill enclosure from inside and that lock was neither found broken nor tampered and no damage had been caused to that grill gate, no person other than one sleeping inside the grill enclosure may have granted access to any outsider.

110. Referring to the CDR, he would submit that not less than 70 calls were made between the two appellants. In that regard, he has further stressed that the presence of Gurupreet Singh alias Mitthu is wholly established both from the guest register of the Durga Hotel namely Ex.Kha-26, CCTV recording of that hotel, evidence of the Manager of that Hotel, Faizan (P.W.-9) who proved the original entry guest register of the hotel, a copy of which placed on record as Ex.Ka-4, evidence of the taxi driver Iqrar (P.W.-3) both with respect to phone calls made between him and the accused Gurupreet Singh alias Mitthu as also identification of the appellant Gurupreet Singh alias Mitthu in the dock.

111. Besides the above, he also identified the appellant Ramandeep Kaur in the dock as the lady who dropped Gurupreet Singh alias Mitthu after the occurrence. No contradiction was established by the defence to that identification, either. Therefore, no submission may arise that the witness Iqrar (P.W.-3) could not have or did not identify the appellant-Ramandeep Kaur when she came to drop the co-accused Gurupreet Singh alias Mitthu. Referring to the statement of Vansh Kaur (P.W.-1), it has been submitted, Gurupreet Singh alias Mitthu knew the place of occurrence very well. Besides being an old friend of the deceased, he had left with the deceased and his family on 1.8.2016 on a vacation and returned on 15.08.2016. He stayed there with the family of the deceased for one week and left on 22.08.2016. Therefore, he very well knew the place as may have allowed him to reach midnight on 1.9.2016, cause the occurrence and leave thereafter.

112. Next, It has been submitted, failure on part of the Investigation Officer to record the statement of the child witness 'A' (P.W.-5), initially, during the investigation, did not create any legal impediment in his evidence being received at the trial.

113. Next, Vansh Kaur (P.W.-1) has proven that she had lost her senses upon discovery that her son had been murdered. In that state, she found Ramandeep Kaur was getting prepared a Written Report, through a lawyer Rajpal Singh. The submission that the prosecution has withheld that witness is wrong. Rather, the informant side moved an application

Paper No. 109 Kha before the learned court below to summon the said Rajpal Singh as a Court Witness. However, the learned court below rejected that application. Therefore, no adverse inference may be drawn for reason of Rajpal Singh not examined at the trial.

114. Insofar as evidence of 'A' (P.W.-5) is concerned, during his examination-in-chief, he clearly proved that he had informed the police and the media on 02.09.2016. No contradiction emerged during his extensive cross-examination, to that fact proved. He was never confronted with any part of his previous statement recorded under Section 161 Cr.P.C. Therefore, even that statement made by 'A' (P.W.-5) may not be doubted.

115. On the issue of delay in submitting the written application seeking further investigation, dated 23.02.2017, it has been submitted that there was no deliberate delay on the part of Vansh Kaur (P.W.-1). The occurrence took place on 01/02.9.2016. Within a month i.e. 05.10.2016, she had to leave for London to attend the family court proceedings against summons issued to her. She was thus compelled by law to travel abroad with the child witness 'A' (P.W.-5). Upon return from abroad, she learnt of the deficiencies of the prosecution. At that stage, she promptly filed the application dated 23.02.2017.

116. As to the doubt raised by the defence that the occurrence was caused otherwise, it has been stressed, other than the daughter of Vansh Kaur (P.W.-1), the other daughters and sons-in-law arrived 4-5 days after the occurrence.

117. On the issue of tutoring, in rebuttal, it has been claimed that there is no tutoring. The child witness 'A' (P.W.-5) has spoken at length in the language he was conversant. It is not proper to infer tutoring because he gave his statement to the Court, in Hindi. His statement is interspersed with English words. No doubt emerged during his extensive cross-examination as to his ability to understand the situation. No inconsistent statement was made by him as may lead the Court to any doubt about the truthfulness and completeness of his statement.

118. He has relied on **Kirender Sarkar and others Vs. State of Assam (2009) 12 SCC 342** and **Ramji Singh and Others Vs. State of U.P. AIR 2020 SC 169** to submit that an F.I.R. is not an encyclopedia. The prosecution story may not be doubted because the F.I.R. may not contain every aspect of the prosecution story that may be proven at the trial. Reliance has also been placed on **State through CBI Vs. Hemendhra Reddy and Another (2023) 16 SCC 779** to submit that no defect may be found in the prosecution story because further investigation was conducted by the second Investigation Officer Udaiveer Singh (P.W.-13). Relying on **Ram Gopal Vs. State of Madhya Pradesh (2023) 5 SCC 534**, it has been stressed that in face of evidence of last seen, lack of explanation would be a crucial circumstance against the defence.

119. At the same time, reliance has been placed on **Jayantilal Verma State of M.P. (Now Chhattisgarh) (2021) 12 SCC71** to submit, when the occurrence takes place inside the house of the accused, onus remains on the resident to explain the occurrence. Here, no explanation exists. Referring to **State of U.P. Vs. Krishna Master and Others (2010) 12 SCC 324** and **Siddhappa Andappa Andolgi Vs. State of Maharashtra (Criminal Appeal No. 709 of 2012, decided on 29.05.2019)**, it has been submitted that the prosecution story though based on the evidence of child witness, it may not be doubted for that reason. To the extent the child witness has consistently made statement against his mother, the accused Ramandeep Kaur and to the extent there is no reason to doubt that evidence, the prosecution story may not be therefore, doubted. Next, relying on **Gautam Joardar Vs. State of West Bengal, 2021 INSC 625**, it has been stressed that the delay in recording the statement of an eye witness may not be fatal to the prosecution case. Referring to **Suraj Singh Vs. State of U.P. AIR 2009 (Sup) SC 631** and **Chhotanney and Others Vs. State of Uttar Pradesh and Others (2009) 11 SCC 71**, it has been stressed that ocular evidence may not be doubted by giving undue primacy to medical evidence that too on the strength of hypothetical answers furnished by medical experts. Referring to **Alauddin and Others Vs. State of Assam and Another 2024 INSC 376** and **Birbal Nath Vs. The State of Rajasthan**

and Others 2023 INSC 957, it has been stressed that minor omissions or contradictions are not sufficient to disbelieve an eye witness account. Only material contradictions established after due confrontation with the previous statement may lead to any reasonable doubt. Relying on **Rakesh and another Vs. State of U.P. and Another 2021 INSC 321**, it has been submitted, even if the recovery of weapons is doubted, it may have no impact on the truthfulness of the prosecution story and the consequent guilt of the present appellants. Further, it has been stressed that any deficiency of investigation may only invite the Court to remain circumspect. Further, it may not itself lead to acquittal of the accused.

120. Last, referring to **Shabnam Vs. State of U.P. (2015) 6 SCC 632**, **Bachan Singh Vs. State of Punjab (1980) 2 SCC 684**, **Satyendra Kumar Mehra @ Satendera Kumar Mehra Vs. State of Jharkhand (2018) 15 SCC 139** and **Purushottam Dashrath Borate Vs. State of Maharashtra 2015 INSC 392**, it has been stressed that the offence committed by Ramandeep Kaur fully describes as a rarest of rare case. The said accused has shown no remorse. The occurrence was caused with pre-meditation in the most dastardly manner. She being the person who enjoyed complete trust of her husband i.e. the deceased, she not only betrayed that trust but killed him in the most brutal manner, in the presence of her children. Therefore, she may deserve no mercy.

121. Having heard learned counsel for the parties and having perused the record, we have given our consideration to the submissions advanced. In the first place, the F.I.R. giving rise to the prosecution case came to be registered at Police Station Banda on 02.09.2016, at 8.40 a.m. That fact is true beyond any reasonable doubt. Also, it does appear that the F.I.R. was lodged by Vansh Kaur (P.W.-1), the mother of the deceased. To the extent that narration is contained in the F.I.R. and to the extent there is nothing to doubt the submission of the Written Report by Vansh Kaur (P.W.-1) and further to the extent that fact was proven by the Investigation Officer Rajesh Kumar Singh (P.W.-12) and Constable Clerk Ramswaroop Sharma (P.W.-16) who established the presence of

Vansh Kaur (P.W.-1) at the police station – on that date and time, there is nothing to doubt the fact that Vansh Kaur (P.W.-1) had lodged the F.I.R.

122. Though, the said witness maintained, during her examination-in-chief that on the discovery of the dead body of her deceased son, she lost her senses, she further claims, she saw the accused Ramandeep Kaur dictating the F.I.R. to the scribe Rajpal Singh Advocate. The discovery of the occurrence was made by Vansh Kaur (P.W.-1) at about 6-6.30 a.m., as narrated by her during her examination-in-chief. There is nothing to doubt that, inasmuch as that time disclosure is within two hours of the F.I.R. being lodged. Also, there is no reason to doubt that statement for reason of no cross-examination of the witness, on that count (as to time when the occurrence first came to her notice).

123. Yet, it also appeals to reason that in a circumstance such as this, the scribe Rajpal Singh - who happens to be a local person, may have known the family of the deceased - more through Vansh Kaur (P.W.-1) who was a permanent resident of Basantapur and the deceased who had lived there, prior to migrating to the United Kingdom. Equally, it may remain less likely that such a local person may have been known to the accused Ramandeep Kaur who though married to the deceased about 13 years earlier, used to visit Basantapur, but lived in United Kingdom, along with the deceased and her two sons. In absence of any fact proven otherwise, it may be acknowledged, the F.I.R. may have been lodged on the Written Report signed by Vansh Kaur (P.W.-1).

124. That said, it may not therefore be inferred that each and every word written in the Written Report and therefore transcribed in that Written Report and every thought expressed through that document is of Vansh Kaur (P.W.-1) alone, to the exclusion of the accused Ramandeep Kaur. Clearly, there was a time gap between the occurrence caused during night hour; (when the deceased was sleeping with his wife and children on the first floor); the occurrence being discovered (by the informant Vansh Kaur (P.W.-1), who was sleeping on the ground floor), the next morning, and the F.I.R. being lodged at the Police Station. The

gap of time between the discovery of the occurrence by Vansh Kaur (P.W.-1) and the F.I.R. being lodged, is not less than two hours.

125. The prosecution narration inheres and it has not been disputed, rather, it appears admitted to the defence that up to the occurrence, the family ties/relations involving Vansh Kaur (P.W.-1), her deceased son Sukhjeet Singh, her daughter-in-law Ramandeep Kaur (accused) and their two children, were normal. In that state of family relations, the family of the deceased had come to visit Vansh Kaur (P.W.-1) on 28.07.2016. They went on a vacation and returned on 15.8.2016. Upto the occurrence, no untoward or other or unpleasant incident was reported or cited by either party, as may allow us to admit that there was anything amiss between Vansh Kaur (P.W.-1) and her daughter-in-law, the accused Ramandeep Kaur.

126. In the case of **B.N. John Vs. State of U.P. and Another, 2025 SCC OnLine SC 7**, it was held that though FIR is not supposed to be an encyclopedia containing all the detailed facts of the incident and it is merely a document that triggers and sets into motion the criminal legal process, yet it must disclose the cognizable offence committed. Otherwise, it may be doubtful.

127. In that circumstance, we note, the Written Report makes a clear and complete narration of the words "(British Citizen)" and discloses the address of the deceased as "38 Fast Wood Drive Lettel Ovea DARBY DE 236 BN". Clearly, mention of that exact address itself suggests - though the Written Report was submitted under the signatures of Vansh Kaur (P.W.-1), that address may have been provided by someone else. That could only be a person who would remember and recall that address accurately and who may also consider it of use to mention it, in that document. Such information could come only from Ramandeep Kaur who may be expected to remember her U.K. address, in full, it being her residential address. The fact that address is written in English with all correct spellings, a language with which she was conversant as is clear from her statement recorded under Section 313 Cr.P.C. but not

Vansh Kaur (P.W.-1) a simple villager who may not be expected to be conversant in that language, also points in that direction.

128. Thus, the F.I.R. may not have been registered by way of a completely independent act of Vansh Kaur (P.W.-1) but with the help of all her family members and associates, especially her daughter-in-law who she did not suspect, at that time. Thus, an inherent suggestion of such help received, exists.

129. Therefore, on the issue whether the F.I.R. had been registered at the dictation of Vansh Kaur (P.W.-1) or the accused Ramandeep Kaur, we are of the opinion that the Written Report leading to the F.I.R. had been submitted by Vansh Kaur (P.W.-1). Yet, we are unable to therefore accept the defence contention that it contained the details of the occurrence on the own/exclusive disclosure made by the said Vansh Kaur (P.W.-1), without the involvement or suggestion or participation by the accused Ramandeep Kaur. In fact, the intrinsic evidence in that Written Report, is to the contrary.

130. Even otherwise, to the extent, Ramandeep Kaur was (undisputedly) present at that place and time - to reach that inference would be to infer that Vansh Kaur (P.W.-1) alone was affected by the occurrence and that her daughter-in-law Ramandeep Kaur was so distanced from her and basic family affairs, that she was kept out of that vital event, though no foul play (by Ramandeep Kaur), was suspected, at that stage.

131. Normally, in occurrences such as this, the entire family may suffer a state of shock, irrespective of the age and gender of the individual family members of the deceased. They may all remain at loss to accept the occurrence of such unnatural death, leave alone to know or understand how the occurrence may have been caused. At the same time it is equally natural that they would interact amongst themselves, in varying degrees, based on their personality traits, upbringing and character strengths as also individual peculiarity including strength of each relationship. Yet, unless the contrary is proved, it may be safe to

assume that Written Report submitted by one may be reflective of their common/collective thought of all such individual family members who may be vitally affected by the occurrence. Here, there were only four such persons. Two were very young children who may have suffered the deepest shock. The other two were the mother and wife of the deceased.

132. In the formation of such collective thought, to what extent an individual family member may be able to persuade and therefore, influence the narration on vital aspects, may again vary on a case to case basis. No rule of thumb exists as to that, and no definite finding is required to be reached by the Court, to test the extent of individual authorship of the prosecution story, in such circumstances.

133. Insofar as presence of co-accused Ramandeep Kaur is admitted at the place of occurrence and insofar as there is no dispute to existence of normal relations between Vansh Kaur (P.W.-1) and Ramandeep Kaur, upto the date of occurrence, it may be safe to assume that the F.I.R. narration contains and includes what may have been represented by the accused Ramandeep Kaur, as well, as she is the wife of the deceased and the only other person/adult family member and crucially, the person who would have first discovered the dead body of the deceased. Further, to the extent an F.I.R. is not an encyclopedia and therefore to the extent the prosecution has a legal sanction to come up with full detailed facts, after investigation and such facts cannot be relied to throw out or debunk the F.I.R. narration, we leave the issue at that.

134. In that circumstance, it may be true, up to the time of the F.I.R. being lodged, the factum of illicit relationship alleged between the appellants (that came to be asserted later) was not known to or suspected by Vansh Kaur (P.W.-1). To that extent, it is wholly natural to expect, if such fact was known to her, suspicion may have been voiced by her against the appellants Ramandeep Kaur and Gurupreet Singh alias Mitthu, in the F.I.R. itself. It in that circumstance that the F.I.R. came to be lodged by her against unknown assailants as in the state of prior normal relations between her and the accused Ramandeep Kaur, as also

between the latter and the deceased, she could not have suspected that her daughter-in-law would have caused such a gruesome murder.

135. At the same time, we may remain reminded, the present is not the case based on circumstantial evidence. To the extent, direct evidence has been put forth by the prosecution through 'A' (P.W.-5), the issue of motive may remain secondary. Therefore, the evidence led by Ramdas (P.W.-2) that he had told Vansh Kaur (P.W.-1) about such adulterous relationship, may not be decisive. Insofar as Gurumej Singh (P.W.-7) and Daljeet Singh (P.W.-15) proved that they had seen the two appellants together either holding hands or kissing or walking with their hands on the shoulder of the other, it may not lead to an inference that therefore they had informed Vansh Kaur (P.W.-1) about such events or the relationship between the appellants, before the occurrence was caused.

136. Thus, the narration made by Vansh Kaur (P.W.-1), even at the trial is not as to existence of illicit/extra-marital relationship between the appellant Ramandeep Kaur and the co-accused Gurupreet Singh alias Mitthu. She did not claim to have seen the two, involved in such relationship. She only spoke, what she knew. Yet, her deposition that the accused Ramandeep Kaur had prepared the evening meal for the entire family; that meal was consumed by all family members of the family except 'A' (P.W.-5) and was also fed to the two pet dogs; she went to sleep in the courtyard on the ground floor of her house whereas the deceased alongwith the accused Ramandeep Kaur and two children born to them slept on the terrace of the first floor; she got up late in the morning when she was woken up by 'A' (P.W.-5); 'A' (P.W.-5) told her that the deceased was not getting up; she followed him to the terrace to find the deceased had been done to death, does not contain any material improvement made by her, nor it involves any material contradiction. To that extent, Vansh Kaur (P.W.-1) is a wholly reliable witness.

137. The only part of her deposition that the defence has doubted is that it was she and not Ramandeep Kaur who caused the F.I.R. to be lodged, through advocate Rajpal Singh and that she was present at the police

station when the F.I.R. was lodged, may not be true. As noted above, it is not of great relevance to the defence as no reasonable doubt emerged to the facts proven by her as to the occurrence.

138. There is no doubt to the place of occurrence – namely, inside the grilled disclosure on the terrace floor of the house of Vansh Kaur (P.W.-1). Though the accused Ramandeep Kaur made a statement to the contrary, under Section 313 Cr.P.C. but no evidence was led in that regard. Looking at the cross examination statement of Vansh Kaur (P.W.-1), ‘A’ (P.W.-5), both being inside the house of Vansh Kaur (P.W.-1), on the night of the occurrence, and also looking at the cross-examination of the first Investigation Officer, Rajesh Kumar Singh (P.W.-2), the second Investigation Officer, Udayveer Singh (P.W.-13) and S.I. Yatendra Kumar (P.W.-17), who prepared the Inquest Report, as also in the context of undisputed recoveries of piece of blood stained bed sheet, mattresses etc, that place of occurrence remained undisputed. Even in her statement recorded under Section 313 Cr.P.C. the accused Ramandeep Kaur stated that the dead body of the deceased was discovered on the terrace floor of the house of Vansh Kaur (P.W.-1).

139. No suggestion was thrown at Vansh Kaur (P.W.-1) and ‘A’ (P.W.-5) to suggest - either there was no wash room on the first floor of the house where the occurrence was caused or that even otherwise, the accused along with the deceased and the two children born to them, had slept on the ground floor of that house. Existence of three cots and their use by the deceased, the accused with her younger son and, her elder son ‘A’ (P.W.-5), was also not doubted.

140. Third, in the above context, Vansh Kaur (P.W.-1) also proved, she had a habit to wake up at around 5.00 a.m. Leaving aside part of her story that on 02.09.2016, she could not get up that early and assuming for a moment that she may have woken up at her usual time i.e. 5.00 a.m., no material difference may arise.

141. The fact that the said witness did not make any statement during her examination-in-chief to establish existence of extra-marital

relationship between the appellants - Ramandeep Kaur and Gurupreet Singh alias Mitthu itself shows that the said witness did not have first hand knowledge or knowledge of the said fact, up to the time of the F.I.R. being lodged.

142. Seen in that light, we find, Vansh Kaur (P.W.-1) was a wholly reliable witness to the extent she has proven the facts that preceded the occurrence and the occurrence. It is also accepted that she had lodged the F.I.R. At the same time, it is noted, she was not aware of any extra-marital relationship between the accused appellants or the motive that had arisen to them, to kill the deceased.

143. Coming to Ramdas (P.W.-2), the said witness is not an eye-witness of the occurrence. He reached the place of occurrence well after it had been committed. He proved, he overheard the appellant Ramandeep Kaur speak to the other appellant Gurupreet Singh alias Mitthu over a telephone wherein she was asking him to flee. At the same time, it cannot be missed, during his examination-in-chief, the said witness first stated that he had seen the appellants commit adultery. When he told Vansh Kaur (P.W.-1) about the same, she went to a '*Gurudwara*'. At that stage, counsel for the informant got the examination-in-chief adjourned. It recommenced after more than a month. In that, he again reiterated having seen the appellants commit adultery. He also proved, the appellant Ramandeep Kaur had paid bribe of unspecified amount of money to the first Investigation Officer. During his cross-examination, he added to his statement made during his examination-in-chief. Therein, he stated, 'A' (P.W.-5) had told the police that both the appellants had caused the occurrence. At the same time, he also stated, 'A' (P.W.-5) had also told him that the occurrence had been caused, by both the appellants.

144. For reason of such witness having practically spoken things that hardly made any sense during his examination-in-chief and further fact that at that stage his examination-in-chief stopped at the instance of the informant side and it recommended after more than a month, we are not

in as position to treat the said witness as a reliable witness. Clearly, his demeanor and conduct as an witness before the learned court below was doubtful both during his examination-in-chief and also later during his cross-examination. Further, in absence of any fact proven by Vansh Kaur (P.W.-1), to corroborate the assertion made by Ramdas (P.W.-2) that the latter had seen the accused appellants form illicit relations, we are not able to place any reliance on his testimony, to any extent.

145. Then, with respect to illicit relations between the appellants, some evidence was led by Gurumej Singh (P.W.-7) and Daljit Singh (P.W.-15). While Gurumej Singh (P.W.-7) stated, he had seen the two in the agricultural field of Vansh Kaur (P.W.-1) walking hand in hand and kissing, Daljit Singh (P.W.-15) made a statement that he had seen the two hold hands. To that extent, it is difficult to conclude that there was evidence led to establish existence adulterous relationship between the two appellants. Yet, there is no reason to doubt the facts – to the extent they were proven. We learned that issue, there.

146. The other witness of fact relied against the appellants is ‘A’ (P.W.-5). He is the son of the deceased and the accused appellant Ramandeep Kaur. He was about 9 years of age, on the date of occurrence. Initially, his statement was not recorded by the Investigation Officer. Such statement came to be recorded pursuant to application dated 23.02.2017 submitted by Vansh Kaur (P.W.-1). At the same time, before the trial court, he also did not lead any evidence of illicit relationship between the appellants. Therefore, it may be safe to conclude that the prosecution could not establish existence of illicit relationship between the appellants. At best, that may remain an unproven suspicion.

147. Insofar as the direct evidence of the occurrence is concerned, the appellant Ramandeep Kaur is the mother of the witness ‘A’ (P.W.-5). In the first place, he proved - he did not consume the meal prepared by Ramandeep Kaur, in the evening, on 01.06.2016. Second, he proved – he alongwith his younger brother ‘Aa’, his father (the deceased) and his mother (accused Ramandeep Kaur), slept on the terrace floor of the

house of his grand-mother Vansh Kaur (P.W.-1), on 01.09.2016. They slept on three separate cots. While the deceased and the eye-witness 'A' (P.W.-5) slept on two separate cots, the accused Ramandeep Kaur slept with her younger son 'Aa' on the third cot. Then, he disclosed, he woke up in the night, not of his own, but to a noise that he described as "*tak*". At that time, the light bulb was on. In that light, he saw the appellant Ramandeep Kaur sitting across his father's chest smothering him with a pillow while the other appellant Gurupreet Singh alias Mitthu was standing behind his father's head - hitting him with a hammer. He overheard the appellant Ramandeep Kaur tell the accused Gurupreet Singh alias Mitthu to finish the deceased. At that point, the latter slashed the neck of the deceased. He also saw his father shaking vigorously.

148. That direct account of the occurrence was narrated by 'A' (P.W.-5), in very clear terms. He then narrated, having seen such a gruesome occurrence, he developed fear and 'froze'. In that state, he fell asleep. To express one's state as 'froze' is to say – one was so shocked and/or horrified to have been rendered motionless or left paralyzed, to respond - out of fear and shock. Thus, 'A' (P.W.-5) clearly indicated to the Court that he felt incapacitated and unable to act/react or respond. It is not uncommon, especially with young children, extreme shock arising from such an occurrence may lead to such consequences, including temporary loss of voice, and/or locomotor functioning. During his cross-examination, he was questioned, what he had for dinner on 01.09.2016, and also it was doubted if he had seen the appellant Ramandeep Kaur sitting across his father's chest when he was done to death. He maintained his stand as to those facts. He also maintained that his father was assaulted twice with a hammer. To the extent, the said witness is a child witness who was barely nine years of age, there is absolutely no doubt that such a witness may never have the courage or be naturally equipped either physically or psychologically or emotionally, to deal with or react to the occurrence narrated by him, or be expected to offer any conduct that may be relied to doubt that statement.

149. In the first place, it is wholly natural and therefore acceptable that a child of such tender age would have been petrified upon witnessing such an occurrence and he may therefore have felt 'frozen' i.e. unable to react/respond. Therefore, what he narrated may be seen in that light. To the extent he was suddenly woken up in mid-night to the noise of the assault and at that awkward moment, he saw his mother sitting across his father's chest smothering him with a pillow and to the extent he also identified Gurupreet Singh alias Mitthu as the other assailant - killing the deceased, may not be therefore disbelieved, because he could not give a better/detailed account of the occurrence, as he 'froze'. As to how much of that traumatic experience/occurrence, a child witness may be able to rationally understood, register, remember and recall later, especially as to the exact manner of it being caused, may therefore not be over relied to throw out his testimony as unreliable, in entirety.

150. As noted above, as to the identity of the assailants, the child may have felt less or no difficulty, in correctly identifying them. One is his mother Ramandeep Kaur and other a close family friend i.e. of Gurupreet Singh alias Mitthu, a person wholly known to the family of the witness and also to the witness. They had recently gone on a vacation, together. Thereafter, that assailant also stayed with the witness and his other family members at the house of the Vansh Kaur (P.W.-1), for almost one week. Therefore, 'A' (P.W.-5), may have felt absolutely no difficulty in identifying the accused persons, correctly.

151. Second, the said witness may not be doubtful in providing the general description of the two weapons of assault used in the occurrence, namely, one that described as a hammer and the other as a knife. He may have seen objects and he may have been taught to identify items/objects by their design/structure and construction, he may have described the weapons as per his perception and understanding of similar objects, at that stage. However, shock and trauma may have intervened and his narration as to the exact identity of the perpetrators of the crime may not be tested on his ability to exactly describe the weapons of assault, especially since he was abruptly woken up to the noise caused

while the occurrence was being caused and he naturally ‘froze’ upon witnessing it.

152. Third, as to the exact manner of the occurrence that may have been caused, in the first place, ‘A’ (P.W.-5) did not prove that he was awake from before the occurrence was caused. On the contrary, he was asleep. He woke up suddenly to a noise (that he described as “*tak*”). Thus, he woke up from sleep, not prepared or expecting to witness what he saw. Having seen that gruesome murder being caused by a person of his absolute trust i.e. his mother, Ramandeep Kaur, along with a family friend and therefore also a person of his trust, namely, Gurupreet Singh alias Mitthu, that too involving the murder of his father, quite naturally, he would have been shocked to his core. In that state, he saw the assault being caused by a heavy weapon (described as hammer) and a ‘sharp’ edged weapon (described as knife). That is all a petrified and shocked child ‘A’ (P.W.-5) could relate to as the weapons of assault, post the assault.

153. The counsel for the appellants has referred to **Pruthiviraj Jayantibai Vanol Vs. Dinesh Dayabhai Vala and others**, (2022) 18 SCC 683, **Kapildeo Mandal and others Vs. State of Bihar**, (2008) 16 SCC 99, **Thaman Kumar Vs. State of Union Territory of Chandigarh**, (2003) 6 SCC 380, **Ramanand Yadav Vs. Prabhu Nath Jha and Others**, (2003) 12 SCC 606, **Maniram and Others Vs. State of U.P.**, 9 1994 Supp (2) SCC 289, **Ram Narain Singh Vs. State of Punjab**, (1975) 4 SCC 497 and **Mohinder Singh Vs. State**, 1950 SCC 673, in which it has been stated that when the court finds evidence led by an eyewitness is totally inconsistent to the medical opinion, then only medical opinion may cast a doubt on the substantive evidence led by an eye witness. At the same time, it is well settled by a series of decisions of this Court that while appreciating variance between medical evidence and ocular evidence, oral evidence of eyewitnesses has to be given primacy as medical evidence is basically opinionative.

154. Also, in the present case the Court has to be mindful of the fact that the eye witness was nine year old son of the appellant who witnessed the murder of his own father. The Court may not expect that he should be able to recall each and every detail in a photogenic manner. Also, he did not have any pre-existing reason to testify falsely against his own mother.

155. Learned senior counsel has also placed reliance on **Amar Singh and Others Vs. State of Punjab, (1987) 1 SCC 679** and **Hallu and Others Vs. State of Madhya Pradesh, (1974) 4 SCC 300**, in which the Supreme Court placed reliance on medical evidence to disbelieve the direct evidence led by the eye witness as the weapon assigned by the eye witness and the injuries did not match. Here, as discussed above, the Court has to keep its mind open to the fact that the witness in the present case is a 9 year old boy who faced with such occurrence may not have been able to describe the weapon and manner of occurrence with empirical accuracy. However, that may not create a doubt as to his truthfulness or reliability as to the basic occurrence.

156. As to why his statement may not have been recorded by the first Investigation Officer Rajesh Kumar Singh, the child witness could never have explained the same. However, he maintained, he had told the police officials that he had seen the occurrence being caused. The fact that the said Investigation Officer did not record his statement before the submission of first charge-sheet, is therefore a blemish or mistake on part of the Investigation Officer. That may never be cited to benefit the defence. However, it is also true, after about a month of the occurrence, the said child witness 'A' (P.W.-5) left for his home at London, with his grand-mother Vansh Kaur (P.W.-1). When Vansh Kaur (P.W.-1) returned from London, in February 2017, she made a written complaint to the Superintendent of Police, who directed further investigation. Promptly thereafter, the second Investigation Officer Udaiveer Singh recorded the statement of 'A' (P.W.-5) under Section 161 Cr.P.C., and submitted the second charge-sheet.

157. Clearly, the first Investigation Officer had made a mistake, in not recording the statement of 'A' (P.W.-5). Then, by the time the first charge sheet came to be submitted, the said witness had left for London. His statement came to be recorded immediately after further investigation was directed. We do not find any good reason to doubt that the statement of 'A' (P.W.-5) was recorded under Section 161 Cr.P.C., through a Skype call. The fact that such Skype call may have been arranged through Daljeet Singh (P.W.-15) through his mobile phone does not give rise to any reason to doubt if such statement was recorded by the second Investigation Officer. Nothing came out during the cross-examination of the second Investigation Officer Udaiveer Singh (P.W.-13), to doubt that fact.

158. To the extent, 'A' (P.W.-5) remained consistent to his statement recorded under Section 161 Cr.P.C. and no material improvement could be brought out during his cross-examination, we are equally unimpressed by the fact submission that the first Investigation Officer did not offer any cogent reason to not record the statement of the said witness. Plainly, the Investigation Officer made a mistake. That was cured by the second Investigation Officer before submission of the Supplementary Charge Sheet. Therefore, it is not a case where the child witness 'A' (P.W.-5) had been first produced and examined before the learned trial court. We are also mindful of the fact that the occurrence is of 01.09.2016 whereas the statement of 'A' (P.W.-5) was first recorded under Section 161 Cr.P.C. in February, 2017, that is within almost five months. Considering that the mistake committed by the Investigation Officer came to the notice of the first informant namely Vansh Kaur (P.W.-1) in February, 2017 and not earlier, and further considering the fact that she did not lose any time to make her application to the Superintendent of Police (S.P.), to conduct further investigation, no doubt may be entertained to treat the said witness as unreliable, on that count of delay, either.

159. As to the element of tutoring alleged, we note, in the first place, the relationship between the accused Ramandeep Kaur and the witness

'A' (P.W.-5) is that of mother and son. No fact or circumstance was put to the child witness 'A' (P.W.-5) as may suggest to the Court that the accused Ramandeep Kaur and 'A' (P.W.-5), did not enjoy a normal relationship, from before. On the contrary, in the present/admitted facts, that relationship may have been wholly normal. Indication of the same exists in the narration-since his birth, 'A' (P.W.-5) had been living with his parents and younger brother 'Aa', in United Kingdom where his father had a transport business where the accused Ramandeep Kaur lived with them. Thus, presumption of a normal relationship of love, trust and dependance (on the mother) exists. At times, the family travelled to India on vacations. No doubt was suggested during the cross-examination of 'A' (P.W.-5), as to existence of any fact or any instance, either when the parties stayed-either at United Kingdom or in India, that gave a grouse to 'A' (P.W.-5) against his mother, Ramandeep Kaur.

160. A second indicator exists of normal relationship between Ramandeep Kaur and her son 'A' (P.W.-5), wherein it is undisputed to the defence that a few days prior to the occurrence i.e. in July, 2016 both alongwith the deceased and younger son of Ramandeep Kaur, had arrived in India, together. Together, they went for a vacation to Agra. They returned and stayed together at the house of Vansh Kaur (P.W.-1). In that, defence does not claim that Ramandeep Kaur had left for any place including her parents leaving 'A' (P.W.-5) behind, with Vansh Kaur (P.W.-1). On the contrary, the prosecution case that the parents of Ramandeep Kaur and her brother also visited Vansh Kaur (P.W.-1) and not otherwise, remained undisputed to the defence.

161. The third indicator of a normal relationship between Ramandeep Kaur and 'A' (P.W.-5) exists-to the extent we are unable to doubt the fact proven by the prosecution that on the night of the occurrence, the deceased alongwith Ramandeep Kaur and their two children 'A' (P.W.-5) and 'Aa' went to sleep on the terrace floor of the house of Vansh Kaur (P.W.-1). They slept on three cots, one each occupied by deceased and 'A' (P.W.-5) while the third occupied by the appellant Ramandeep Kaur and her younger son 'Aa'. Besides the self serving statement made under

Section 313 Cr.P.C. by Ramandeep Kaur, absolutely no doubt emerged during the cross-examination of either Vansh Kaur (P.W.-1) or 'A' (P.W.-5), as may impress on the Court that the facts were otherwise.

162. Fourth, the background of the family as disclosed and as remained admitted indicates, the deceased came from an agriculturist family such that though he along with his wife and two children were living in United Kingdom, the mother of the deceased, namely, Vansh Kaur (P.W.-1) continued to reside at her village home. It is not uncommon, rather, it is still common in many parts of the country, especially people from non-urban areas that parents and their young children, often sleep together. To begin with, no unnatural description of that occurrence was made by the prosecution and second no doubt emerged upon the cross-examination of fact witnesses, in that regard. Further, there is no reason to doubt the recovery of three cots from the terrace floor of the house of Vansh Kaur (P.W.-1) or the blood stained pieces of mattress, clothes etc.

163. We are equally unimpressed that the statement made by 'A' (P.W.-5), is not reliable for reason of non-compliance of Section 118 of the Indian Evidence Act. Though it is true that the learned court below should have remained more vigilant in recording objectively - compliance to that provision of law, it is equally true that the subjective satisfaction reached by the learned trial Court, is on record. Then, we have gone through the statement 'A' (P.W.-5) recorded by way of his examination-in-chief and his further statement by way of cross-examination by the defence. With equal clarity of thought and expression, he has answered the queries raised coherently and elaborately, without any hesitation. He appears to have furnished his statement in Hindi, interspersed with few English words. The cross-examination statement of the said witness is fairly extensive and consistent.

164. The doubt being expressed on the strength of his fluency in 'A' (P.W.-5) in Hindi, is based on an assumption that he was not knowing that language when his statement was first recorded by the appellant under Section 161 Cr.P.C. in February, 2017 and the further assumption

that he learnt that language only to lead false evidence. At the same time, no doubt surfaced during his cross-examination that he learned a new language Hindi after his statement was recorded under Section 161 Cr.P.C.

165. Merely because one reason cited by the first Investigation Officer to not record the statement of 'A' (P.W.-5) during the initial investigation is language problem, it may be dangerous and premature to, therefore, conclude that 'A' (P.W.-5) did not know to speak in Hindi language, from before.

166. Alternatively, even if 'A' (P.W.-5) may have learned to communicate fluently in Hindi language over a period of two years since the occurrence, it may be too risky and presumptuous to conclude that therefore, his statement made to the Court was tutored. Language remains a medium for communication of thought. A witness is examined in Court not to test his communication skills but to prove relevant facts. Thus, because the witness 'A' (P.W.-5) may have acquired a better communication skill/interface to interact with the Court (conversant in Hindi language), that itself may not give rise to a reasonable doubt that therefore he was tutored. Acquiring a language skill is basically to avoid the presence of translator to communicate one's thought with the audience or the listener who may not be conversant with the medium/language used by a speaker and the speaker may not be conversant with the language understood by the listener. To want oneself to be heard and understood correctly/accurately is a most natural desire of all humans beings. To the extent, it is not the case of the defence that the witness 'A' (P.W.-5) did not understand what he was speaking to the Court (in Hindi language), the submission advanced that the witness was tutored as he spoke to the Court in Hindi language, carries no weight.

167. Further, in absence of any real doubt existing, there is no reason to believe that the child witness 'A' (P.W.-5) had been tutored, merely because he remained in the custody and company of his paternal aunts and paternal grandmother. The Court may not lose sight of the fact that the child 'A' (P.W.-5) who had wholly natural relationship with his

mother Ramandeep Kaur, would have a natural emotional connect with her. In the context of a normal relationship enjoyed between him and his mother Ramandeep Kaur, it would be presumptuous to accept that he would have made a false statement to the Court to indict his mother because he was tutored by his paternal aunt. To the extent, no doubt arose during his cross-examination with respect to his statement recorded under Section 161 Cr.P.C., barely five months after the occurrence, wherein he had indicated his mother Ramandeep Kaur, we are not impressed by the submission that the child witness 'A' (P.W.-5) was tutored. Despite such lengthy cross-examination not one statement appears to have been made by the said witness as may indicate to the Court any element of lack of ability to be a witness, or of tutoring or undue influence or coercion, exercised on him.

168. Then, the said witness proved a crucial fact that the deceased had locked the grill enclosure at the terrace floor of the house of the Vansh Kaur (P.W.-1), before the family went to sleep. Clearly, that lock would have been placed from inside the grill enclosure. No doubt emerged during the cross-examination of 'A' (P.W.-5) as may render that statement of 'A' (P.W.-5) unreliable. Once the grill enclosure was locked from inside, it remains absolutely relevant to the prosecution story that the access to another person i.e. to Gurupreet Singh alias Mitthu was gained without that lock being broken and without the grill enclosure being broken open, at any place. No doubt emerged during the cross-examination of 'A' (P.W.-5) that the deceased had locked the grill gate from inside and no doubt was attempted, to establish that that lock had been tampered.

169. Therefore, the presence of the appellant Ramandeep Kaur at the time and place of occurrence, is not doubtful. She was also sleeping or present inside that grill enclosure where the deceased went to sleep along with two minor children born to those parties. 'A' (P.W.-5) and 'Aa' being minor, she alone could have granted access to an intruder that led to the occurrence. There is absolutely no suggestion or doubt raised during the cross-examination of 'A' (P.W.-5), to the contrary.

170. Besides the above, insofar as the accused Gurupreet Singh alias Mitthu is concerned, the evidence of Iqrar (P.W.-3) and Faizan (P.W.-9) is of utmost relevance. According to the prosecution story, the said accused had left the house of Vansh Kaur (P.W.-1), on 22.08.2016. Therefore, his presence was not naturally established on 01.09.2016. Yet, Faizan (P.W.-9) who is the Manager of Durga Hotel, proved that a guest had checked in that hotel on 01.09.2016 disclosing his identity Gurupreet Singh with mobile no. 9872889478. It was also proven that the said guest checked in that hotel, at 10:55 a.m. and checked out at 01:24 a.m., the next day i.e. 02.09.2016 after staying in room no. 310, against payment Rs. 2,000/-. As to the identity of that person, there is nothing to doubt that a guest had checked at in that hotel at that time and checked out as disclosed by Faizan (P.W.-9) in the name, Gurupreet Singh, with mobile no. 9872889478. The doubt as to that identity stands removed by the deposition of Iqrar (P.W.-3) who proved that the said accused Gurupreet Singh alias Mitthu called him with his mobile no. 9872889478. Then, Iqrar (P.W.-3), drove the said accused Gurupreet Singh alias Mitthu from Durga Hotel, Shahjahanpur, to Banda. He also proved that he had received phone calls from the said accused using the same mobile no. 9872889478. He clearly identified the said Gurupreet Singh alias Mitthu as the same person who had made those phone calls as also who he picked from Durga Hotel, Shahjahanpur and drove to (i) 'V'mart to buy a bag; (ii) Idgah Road to eat a chicken dish; (iii) Banda road, late in the night; (iv) bring him back from that place in the mid of the night; (v) drop him at the railway station Shahjahanpur, from where he left for Delhi. Use of the mobile number of the accused Gurupreet Singh alias Mitthu - '9872889478' was clearly proven by Kaushalendra Tripathi (P.W.-14). We have perused the C.D.R., proven by the that witness.

171. In the present case, there is absolutely no doubt that the said phone calls were made by the accused Gurupreet Singh alias Mitthu with his mobile no. 9872889478. Though, other doubts have been raised, it

remains absolutely admitted that the said phone number belonged to the accused Gurupreet Singh alias Mitthu.

172. No reason to doubt exists as to the identification made by Iqrar (P.W.-3), on the strength of other submissions being advanced on the strength of detention of the said Iqrar (P.W.-3) for three days. To the extent, the transaction between the Iqrar (P.W.-3) and the said accused Gurupreet Singh alias Mitthu is wholly proven on the strength of technical evidence with relation to the tower locations and it also not in doubt that the said Iqrar (P.W.-3) was a taxi driver, all other discrepancies may remain minor and insignificant.

173. The defence led no evidence whatsoever to establish that the accused Gurupreet Singh alias Mitthu had not used his phone number to make calls as proven by the prosecution. Seen together, the presence of Gurupreet Singh alias Mitthu as one of the assailants who caused the occurrence, is proven beyond reasonable doubt by 'A' (P.W.-5). It is wholly corroborated by other evidence.

174. Going backwards, it is equally clear that the said accused had left the house of Vansh Kaur (P.W.-1) on 22.08.2016. Corroboratively, it is proven beyond reasonable doubt that he visited Shahjahanpur on 01.09.2016. His presence at Shahjahanpur and making phone calls with his mobile phone at that time from Shahjahanpur, using tower location of that area, is undisputed/undoubted by the defence. Absolutely no reason exists to doubt his presence from 01.09.2016 to early hours on 02.09.2016 when he left for Delhi. Further, corroboratively, his presence at Durga Hotel was also established. The defence has led absolutely no evidence to doubt the electronic evidence that corroborates with the evidence of the said accused having checked in Durga Hotel on 01.09.2016 or having contacted the taxi driver Iqrar (P.W.-3). The heavy reliance placed on the fact that the police had picked up Iqrar (P.W.-3) and kept him confined for days before recording his statement and the further doubt raised that the phone number assigned to Iqrar was activated against a different customer ID, fades into insignificance, in

view of clear identification made by Iqrar of Gurupreet Singh alias Mitthu being the person who travelled with him from Shahjahanpur to Banda and back and further in face of established multiple phone calls made by the accused Gurupreet Singh alias Mitthu and Iqrar (P.W.-3) from 01.09.2016 to midnight both 01/02.09.2016, both being located within Shahjahanpur.

175. Further corroborative evidence exists through the neighbour of Vansh Kaur (P.W.-1) namely Gurumej Singh (P.W.-7). His house is situated at a small distance of almost 100 yards from the house of Vansh Kaur (P.W.-1) with no structure, in between. He only proved and established the presence of Gurupreet Singh alias Mitthu at the house of Vansh Kaur (P.W.-1) around midnight on 01/02.09.2016. That he saw from his house. Though extensively cross-examined, no substantial doubt arose on the strength of that cross-examination that he could not have viewed or observed the two accused persons standing near or against the parapet wall of the house of Vansh Kaur (P.W.-1), on the first floor. For that fact observation, he established the light source namely, a lighted electric bulb, on the first floor of the house of Vansh Kaur (P.W.-1). In the other proven facts that Gurupreet Singh alias Mitthu was an old family friend of the deceased Sukhjeet Singh and in that capacity he not only stayed at the house of Vansh Kaur (P.W.-1) for almost a week, only a few days earlier and further in view of the fact proven that he was known to this witness Gurumej Singh (P.W.-7) who had earlier seen the accused persons in the company of each other in the agricultural field of Vansh Kaur (P.W.-1), we find no reason to completely discredit that fact proven by the said witness.

176. Old as he may be, no circumstance was established that he would have suffered disability in observing what he narrated. He only proved that he saw the two accused persons present on the terrace floor of the house of Vansh Kaur (P.W.-1), briefly, around the time of the occurrence. Considering the natural elevation of the place where the accused persons were standing i.e. the first floor of the house of Vansh Kaur (P.W.-1) and further considering the fact that the house of Gurumej Singh (P.W.-7)

was at some distance, the natural angle of sight would have allowed visibility to arise to Gurumej Singh (P.W.-7), of the fact proven by him. No reasonable doubt arose during his cross-examination that he was sleeping in a thicket or in an orchard or inside a room as may have obstructed his line of vision to the terrace floor of the house of Vansh Kaur (P.W.-1). It is a commonly known fact that even today villagers often sleep in the open/courtyard.

177. The fact that Paramjeet Singh (P.W.-10) may have attempted to prove certain facts especially as to the presence of Iqrar (P.W.-3) etc. in the night of the occurrence, may not be relied to prove the prosecution story. To the extent that witness may not have proven that fact beyond reasonable doubt may only render him a partially reliable witness. To the extent he is the owner of the fuel station where according to Iqrar (P.W.-3) the accused Gurupreet Singh alias Mitthu and had asked him to park the vehicle and which place Iqrar (P.W.-3) found not fit to wait as it was a lonely spot with no vehicle or person present, it may remain a fact proven by the prosecution that Iqrar (P.W.-3) did drive up to the fuel station of Paramjeet Singh (P.W.-10). However, he may not have waited there to travel towards the local hospital where he may have felt safe. However, to doubt Paramjeet Singh (P.W.-10) on that count, is not to doubt the prosecution story that was proven on the strength of other evidence led by the prosecution.

178. Similarly the evidence led by Rajan alias Pramod Gupta (P.W.-4) may remain doubtful. However it may not cast a shadow of doubt on facts proven beyond reasonable doubt by the wholly reliable witnesses of Vansh Kaur (P.W.-1) and 'A' (P.W.-5) as were corroborated by Iqrar (P.W.-3) and Faizan (P.W.-9).

179. Though much has been submitted on the aspect of recovery of the hammer and knife-having found 'A' (P.W.-5) to be a wholly reliable witnesses and in view of our observations made above, we find that the issue of recoveries may not be a decisive issue in the present case. The child witness 'A' (P.W.-5) narrated to the Court what he heard and saw. In that he first heard a loud noise that he described as "*tak*". He woke up to

that noise and saw his father, the deceased Sukhjeet Singh being assaulted by his mother Ramandeep Kaur and Gurpreet Singh alias Mitthu with two weapons. One was a heavy weapon that was used to assault the deceased on his head. While recalling the same, he could only relate it to a hammer. Second, weapon that he saw he could relate to as a knife. That narration is based on the memory of the traumatized child, to the extent he was able to recall what was a brief, abrupt and extremely traumatic event witnessed by him. Woken up from sleep, he saw the unthinkable unfold before his eyes. As proven, it froze his physical and mental faculties. He became numb and incapacitated. In that he fell asleep or lost his ability to act consciously. What he was able to recall thereafter was based on his post trauma memory. Therefore, the Court may deal with it, keeping that factor in mind. To us, there exists no need to test the reliability of the evidence led by the child witness 'A' (P.W.-5) on the exactitude of his recollection of the weapons of assault, as recovered. Therefore, we do not find the testimony of the child witness 'A' (P.W.-5) to be doubtful on the strength of the recoveries made. Even if the recovered hammer and knife may not be the same as were used in the occurrence, we find no reason to therefore disbelieve the statement of the child witness 'A' (P.W.-5) who is a wholly reliable witness. To the extent he narrated that the occurrence was caused with a heavy weapon with which his father the deceased Sukhjeet Singh was assaulted twice, on his head, and to the extent he further proved that the deceased Sukhjeet Singh was assaulted once on his neck with a sharp edged weapon, which narration is consistent to the medical evidence of two injuries suffered on the head and one on the neck, no further or microscopic examination of the child evidence led by the witness 'A' (P.W.-5) is required. The submission that the weapons as described may not such as may have been used to cause the occurrence, we are not inclined to discredit the testimony of the child witness 'A' (P.W.-5), on the strength of the recoveries made.

180. The C.D.R. details were duly proven. The prosecution has not left that critical piece of the jigsaw, unattended. Due certification under

Section 65-B of the Indian Evidence Act exists in favour of the C.D.R. relied by the prosecution and it was wholly proven that Gurpreet Singh alias Mitthu was using a mobile phone issued against his individual identity. The C.D.R. details tally. Further, to the extent it was established through evidence led by Iqrar (P.W.-3) that the said witness had spoken to him using the same mobile phone and to Ramandeep Kaur while travelling from Hotel Durga to the place of occurrence as also with him till the accused Gurpreet Singh alias Mitthu left for Delhi and to the extent the mobile phones through which Ramandeep Kaur is disclosed to have communicated with Gurpreet Singh alias Mitthu were recovered from inside the house of Vansh Kaur (P.W.-1) from the belonging of the Ramandeep Kaur and since no reasonable doubt exists-either that those mobile phones and devices and phone numbers had been used by anyone else or had been recovered from the belongings of any other person, we have less reason to doubt the same. The fact that Paramjeet Singh (P.W.-10) became a witness of that recovery, may not be doubted because his oral deposition on factual aspect may not have been found free from reasonable doubt. Thus, though his statement with respect to the fact that he met Iqrar (P.W.-3) in the intervening night of 01/02.09.2016 may remain doubtful, at the same time, he being a near resident of Vansh Kaur (P.W.-1), the fact that he became a witness of recovery, is free from any reasonable doubt.

181. The defence hypothesis that Ramandeep Kaur had been falsely implicated for reason of property disputes, has no legs to stand. The three sisters of the deceased Sukhjeet Singh were married from before. Besides one living in Shahjahanpur city, the other two were living elsewhere with one living in United Kingdom. Absolutely no litigation or tangible dispute with respect to properties as may have arisen prior to the occurrence, has been shown to exist.

182. Similarly, with respect to role of Daljeet Singh (P.W.-15), we find no reason to infer that he had any vested interest in the properties of the deceased Sarvjeet Singh or Vansh Kaur (P.W.-1). The fact that he felt attached to or was concerned about well being of the family of the Vansh

Kaur (P.W.-1) and may have helped the second Investigation Officer Udaiveer Singh (P.W.-13) to make a Skype video call with 'A' (P.W.-5), then in United Kingdom, may not be read out of context to infer either that he was a wholly partisan witness or that therefore, the police investigation was wholly tainted.

183. A criminal trial is an exercise to unravel the truth beyond reasonable doubt. At the same time, it is not an exercise to determine if every word spoken by the prosecution through its witnesses states the empirical truth. Primarily, the facts relevant to the occurrence that describe an offence, must be proven beyond reasonable doubt. Here, the occurrence is of the gruesome murder of Sukhjeet Singh caused by his wife Ramandeep Kaur and his friend Gurupreet Singh alias Mitthu while he was sleeping with his family on the terrace of his mother's house, inside a grilled enclosure. To the extent that occurrence has been proven by the prosecution through a wholly reliable eye witness namely Vansh Kaur (P.W.-1) and 'A' (P.W.-5), all doubts being raised by the defence have been seen in that light.

184. The appellants have relied on the case of **Pradeep Vs. State of Haryana, (2023) 19 SCC 221**, to signify the importance of preliminary enquiry before relying on the statement of the child witness. In that case the evidence of the child witness was discarded on the basis of material improvements and tutoring. Here, as discussed above, those doubts do not exist.

185. The appellants have also referred to **State of Madhya Pradesh Vs. Balveer Singh, 2025 SCC OnLine SC 390**, **Rajkumar Vs. State of M.P., (2014) 5 SCC 353**, **State of M.P. vs. Ramesh, (2011) 4 SCC 786** and **Suresh Vs. State of U.P., (1981) 2 SCC 569**, to state that the evidence of a child witness must be evaluated more carefully with greater circumspection because he is susceptible to tutoring. Only in case there is material on record to show that a child has been tutored, the Court can reject his statement partly or fully. However, where the Court finds the child witness to be wholly reliable, upon careful consideration of his

evidence, no doubt may exist as to that, because of the statement of the witness being a child witness.

186. Even otherwise, even if the Court may look for corroboration of the facts proven by Vansh Kaur (P.W.-1) and 'A' (P.W.-5) both wholly reliable witnesses, we have noted above, corroborative evidence exists in the shape of the otherwise wholly unexplained presence of Gurupreet Singh alias Mitthu in the midnight of 01/02.09.2016. No further burden may be cast on the prosecution. He was a close family friend of the deceased. They had returned from a family vacation barely a fortnight earlier. He had stayed at the house of Vansh Kaur (P.W.-1) with the deceased and his family. He came visiting for a day to Shahjahanpur on 01.09.2016. In that he travelled unannounced to the house of Vansh Kaur (P.W.-1) in a taxi, late in the night only to return without meeting any family member of Vansh Kaur (P.W.-1). During that period, he made phone calls on the phone that was recovered from Ramandeep Kaur. Though, the defence would contend that that recovery was bad and it cannot be attributed to Ramandeep Kaur, the prosecution story cannot be doubted for that reason either. Iqrar (P.W.-3) was subjected to extensive cross-examination. No reasonable doubt emerged during his statement as may indicate to the Court that he had not driven the accused Gurupreet Singh alias Mitthu from Shahjahanpur to Banda road upto near the house of Vansh Kaur (P.W.-1). Therefore, he remains a reliable witness. To the extent he proved that the appellant Gurupreet Singh alias Mitthu made phone calls and spoke to a lady, while travelling with him which fact finds wholesome corroboration on the strength of electronic/technical evidence led by the prosecution inasmuch as those phone calls were traced to the mobile phone paired to the mobile hand set recovered later, from the belongings of Ramandeep Kaur, that corroboration exists. Thus, even if we accept the defence suggestion that Rajan alias Pramod Gupta (P.W.-4), Ramdas (P.W.-2), Paramjeet Singh (P.W.-10) be not relied, no reasonable doubt may arise in the prosecution story based on the ring of truth that otherwise emerges and sustains from the deposition of Vansh Kaur (P.W.-1), 'A' (P.W.-5), Iqrar (P.W.-3), Faizan (P.W.-9).

Corroboration also exists from the statement of Gurumej Singh (P.W.-7). He is the next door neighbour of Vansh Kaur (P.W.-1). Though, he did not prove the manner in which the occurrence was caused, he did prove that he saw the two accused standing on the terrace floor of the house of Vansh Kaur (P.W.-1) at midnight on 01/02.9.2016. In that regard, he stated that he saw the two in the light of electric bulb. Though examined at length, no reasonable doubt emerged that it was possible for the said witness to have identified the two accused, at that time. To that extent further corroboration exists.

187. To conclude, we have no doubt that the accused Ramandeep Kaur and Gurupreet Singh alias Mitthu had committed the heinous offence of murder of Sukhjeet Singh. We are equally convinced that the present is not a rarest of rare case that may commend award of capital punishment. The brutality of the occurrence exists, as has been noted above. Also, breach of trust on which any marriage is founded, may also exist. However, the other factors considered by the learned court below to award capital punishment are imagined and such as may never commend to legal reasoning. In fact, the learned court below may have done well to not refer to material resources that may have been available to the accused Ramandeep Kaur while she was pursuing her legal remedies while participating at the trial, and certainly not to the mythological tales. Though, learned court below may not have intended to cause such effect, by adopting that reasoning, it may have inadvertently made observations that appear to be indicative of bias. Delivery of justice has to be cold and reasoned. No element of emotion or imagination or prejudice may ever be permitted to permeate through the thought process of judicial decision making. According, the death sentence awarded to accused Ramandeep Kaur is altered/converted to life sentence.

188. In view of the above, confirmation of death sentence is declined. **Reference no. 17 of 2023** is answered accordingly. **Capital Cases No. - 18 of 2023** is **partly allowed**. While upholding the conviction of the appellant Ramandeep Kaur, we commute the death sentence awarded to her to one of life imprisonment. The judgment of the trial court therefore

is affirmed with the modification that the appellant Ramandeep Kaur shall undergo life imprisonment for offence under Section 302 read with Section 34 I.P.C and shall suffer imprisonment for her natural life.

189. Further, **Criminal Appeal No. 12268 of 2023** is **partly allowed**. The conviction and sentence awarded by the learned court below to the appellant Gurupreet Singh alias Mitthu for offence under Section 302 I.P.C. is affirmed. Fine imposed by the learned court below on that appellant, is maintained. However, his conviction and sentence awarded for offence under Section 4/25 Arms Act, 1959 is set aside, on a benefit of doubt. Both the appellants Ramandeep Kaur and Gurupreet Singh alias Mitthu are in jail. They shall serve their remaining sentences, accordingly.

190. Copy of this judgment be transmitted to the Court concerned for necessary compliance. Compliance report be submitted to this Court, at the earliest. Office is directed to keep the compliance report on record.

(Madan Pal Singh,J.) (Saumitra Dayal Singh,J.)

September 26, 2025

Prakhar/SA/Faraz