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IN THE COURT OF THE SESSIONS JUDGE, AMBEDKAR NAGAR

Presiding Officer: Chandroday Kumar, HJS, JO Code: UP06553

SESSIONS TRIAL NO. 99 OF 2018 (State of Uttar Pradesh vs. Rakesh Yadav and Others)

State of U.P.

..... **Prosecution**

Versus

1. Rakesh Yadav, son of Jilajeet Yadav, Resident of Majira, P.S. Jalalpur, District Ambedkar Nagar.
2. Omprakash Singh @ Chithru Singh, son of Jhinku Singh, Resident of Village Nimtini, P.S. Jalalpur, District Ambedkar Nagar.

..... **Accused Persons**

Arising out of: Case Crime No. 70 of 2018 Under Section 302 read with Section 34 of the Indian Penal Code, 1860 Police Station: Jalalpur District: Ambedkar Nagar

Counsel:

For the State: Shri Govinds Srivastav, District Government Counsel (Criminal)

For the Accused: Shri Narsingh Narayad Singh, Learned Defence Advocate

JUDGMENT

1. The judicial machinery has been set into motion against the aforementioned accused persons following the submission of a formal charge-sheet by the police of Police Station Jalalpur,

District Ambedkar Nagar, under the provisions of the Indian Penal Code, 1860. The accused stands charged with the commission of an offence punishable under Section 302, read with Section 34 of the IPC, relating to the homicidal death of one Indrapal Singh, also known as Phulai Singh. Given that the alleged offence is exclusively triable by a Court of Session under the First Schedule of the Code of Criminal Procedure, 1973, the matter was committed to this Court by the learned Chief Judicial Magistrate, Ambedkar Nagar, on June 30, 2018, following the completion of the committal proceedings.

THE PROSECUTION NARRATIVE AND FACTUAL GENESIS

2. The core of the prosecution's case is rooted in a handwritten complaint (Tahrir) submitted by the informant, Rana Pratap Singh (PW-1), on the night of **May 3, 2018, at about 23.55 hrs.** In the written complaint, Rana Pratap Singh stated that "Today on **03.05.2018 at about 7.30 pm,** I received information that my brother Indpal Singh alias Phulai Singh, aged about 46 years, has been murdered by hitting him in the chest and stomach with a sharp instrument and it was learnt that my brother was murdered by Rakesh Yadav, son of Jilajeet Yadav, Omprakash Singh alias Chithru, son of Jhinku Singh and others for demanding the money for liquor borrowed. My brother is a salesman at Rakesh Pandey's country liquor shop in Nimtini. This incident took place in front of the Nimtini country liquor shop. When I arrived at the spot, I saw my brother lying dead. Some people had called 108 at the scene. 108 arrived. Some people suggested taking him to Semra Hospital. We immediately brought him to the hospital. The doctor examined him and told us he was dead. My brother's body is kept at Semra Hospital. Therefore, a report of my brother's murder should be filed, and legal action should be taken."
3. The genesis of the conflict was purportedly economic, involving a disagreement over the pricing of a liquor pouch. The prosecution contends that the accused, Rakesh Yadav and Omprakash Singh @ Chithru, demanded liquor at a price lower than the prescribed rate of quarter (specifically, a dispute between Rs. 75 and Rs. 80) or sought to obtain the same on credit (udhari). When the deceased, performing his duties as a salesman, refused to comply with these demands, the verbal altercation escalated into physical violence. It is alleged that both accused persons did *maarpeet* with Indrapal Singh.
4. During the course of this scuffle, the accused Omprakash Singh @ Chithru allegedly retrieved a sharp-edged iron screwdriver

(*penchkas*) from an adjacent cycle repair shop. While the accused Rakesh Yadav held and restrained the victim, Omprakash Singh is said to have inflicted multiple, forceful stabs into the chest and abdomen of the deceased. The informant, upon receiving news of the assault, rushed to the site where he found his brother in a critical, unconscious state. Despite immediate efforts to transport the victim to the Community Health Centre (CHC) Semra via an emergency 108 ambulance, the attending medical officers pronounced him dead upon arrival. The body was subsequently kept at the hospital morgue, and the formal written tahrir was presented at the Jalalpur police station at 23:55 hours, leading to the registration of Case Crime No. 70/2018.

5. Following the registration of the offence, the Investigating Officer (PW-8) initiated the statutory procedures. The inquest (*Panchayatnama*) was conducted on May 4, 2018, at the CHC Semra. The site plan (Ex. Ka-9) was prepared, and the police recovered 24 pouches of country liquor from within the shop (Ex. Ka-3). On May 7, 2018, the accused persons were apprehended, and, pursuant to their joint disclosure statement, a blood-stained iron screwdriver measuring approximately 12-13 inches in length was recovered from a secluded area near the bushes.

TABLE 1: SUMMARY OF KEY PROSECUTION WITNESSES AND THEIR ROLES

Witness Name ID	Role/Category	Nature of Evidence
PW-1 Rana Pratap Singh	Informant/Brother of Deceased	Narrative regarding motive and <i>post-incident discovery</i> . Not an eyewitness.
PW-2 Ram Kishun	Local Shopkeeper/Natural Witness	<i>Eyewitness to the initial scuffle and the presence of the accused on the issue of the price of liquor (last seen + motive). Just after the occurrence, he was again present on the scene and saw the deceased lying in a pool of blood.</i>

Witness Name ID	Role/Category	Nature of Evidence
PW-3 Suman @ Shashikala	Wife of Deceased	Witness to the accused's fleeing and their conduct. She is not an eyewitness.
PW-4 Rana Pratap (Nagdu)	Relative/Chance Eyewitness	Witness to the specific act of holding and stabbing.
PW-5 Mahendra Singh	Relative/Chance Eyewitness	Witness to the specific act of holding and stabbing.
PW-6 Dr. Manu Upadhyay	Medical Officer	Expert testimony on injuries and the cause of death.
PW-7 CP Nilendra Singh	Constable Moharrir	Documentary evidence regarding FIR registration.
PW-8 Ram Lakhan Patel	Investigating Officer	Procedural history, site inspection, and recovery.

CHARGES AND DEFENSE PLEA

6. Upon the conclusion of the investigation, a formal charge sheet (Ex. Ka-11) was submitted before the Court. After a preliminary examination of the record, this Court framed charges against Rakesh Yadav and Omprakash Singh @ Chithru Singh under Section 302 of the IPC read with Section 34 of the IPC. The charges were read over and explained to the accused in a language they understood.
7. The accused persons pleaded "not guilty" and claimed trial. In their statements recorded under Section 313 of the Code of Criminal Procedure, they characterised the prosecution's case as a complete fabrication. Rakesh Yadav asserted that he had been falsely implicated due to long-standing personal enmity.

Omprakash Singh @ Chithru contended that his inclusion in the FIR was due to kinship rivalries (Pattidari ranjish). They said that the investigation was wrong and a false charge sheet was submitted.

8. I have heard the learned counsels for both sides and perused the record with due diligence.

POINTS FOR DETERMINATION

9. To reach a just conclusion, this Court has formulated the following points for determination:

Point No.	Issue for Determination	Legal Nexus
1	Whether the death of Indrapal Singh @ Phulai Singh was homicidal in nature.	<i>Corpus Delicti</i> and Medical Causation.
2	Whether the accused persons were present at the crime scene and participated in the assault.	Identification and Presence of Accused.
3	Whether the act of the accused persons was done in furtherance of a common intention.	Vicarious Liability under Section 34 IPC.
4	Whether the injuries inflicted were intended and sufficient in the ordinary course of nature to cause death.	Culpable Homicide vs. Murder (Section 300).
5	Whether the recovery of the weapon (screwdriver) is admissible and corroborative.	Section 27 of the Evidence Act.
6	Whether the testimony of related witnesses (PW-4, PW-5) is reliable.	Appreciation of Eyewitness Accounts.

POINT NO. 1: THE HOMICIDAL NATURE OF DEATH

10. The foundational requirement in a murder trial is the establishment of the *corpus delicti*—that is, proof that a human

being has died and that a criminal act caused the death. The prosecution has relied upon the testimony of Dr Manu Upadhyay (PW-6), who conducted the autopsy of the deceased on May 4, 2018. The autopsy report (Ex. Ka-5) details the physiological devastation caused to the victim.

11. The medical evidence reveals four distinct injuries. **The most significant of these was a lacerated wound measuring 1.5 cm x 0.5 cm on the left side of the chest, located 12 cm below the nipple. This wound had a path that penetrated the chest cavity, passing through the space between the eighth and ninth ribs, and entered the heart.** A second lacerated wound of similar dimensions was found on the left side of the abdomen, which reached the depth of the abdominal cavity. The other two injuries were abrasions. Furthermore, the internal examination noted that the heart's membrane was punctured and the left side of the heart contained a 1.5 cm x 0.5 cm puncture. The left kidney was also found to be contused.
12. PW-6 unequivocally stated that the **cause of death was shock and haemorrhage resulting from these ante-mortem injuries.** The force required to penetrate the thoracic cage and reach the heart indicates a high degree of violence. Such injuries are inconsistent with accidental fall or self-inflicted injury. The targeting of vital organs – the heart and the abdominal cavity – strongly suggests a homicidal intent. Therefore, this Court finds that the prosecution has conclusively proved that the death of Indrapal Singh was homicidal. Point No. 1 is answered in the affirmative.

POINT NO. 2 & 6: APPRECIATION OF OCULAR EVIDENCE AND THE "RELATED WITNESS" DOCTRINE

13. The prosecution's case rests primarily on the ocular testimony of PW-2, PW-4, and PW-5. The defence has attacked the credibility of PW-4 and PW-5 on several grounds, most notably that they are "related" to the deceased and were "chance" witnesses whose presence at the scene was improbable. The defence has also argued that PW-2 is not an ocular witness.

The Testimony of PW-4 and PW-5 (The Eyewitnesses), and PW-3

14. The most direct evidence regarding the stabbing comes from Rana Pratap (PW-4) and Mahendra Singh (PW-5). Both testified that they were visiting the Nimtini area for marriage-related discussions and were seated at the egg stall neighbouring the liquor shop. They stated that they saw the accused Rakesh Yadav

- holding the deceased while Omprakash Singh @ Chithru retrieved a screwdriver and stabbed the victim in the chest and abdomen.
15. The defence contended that, since these witnesses are relatives from another village (Azamgarh), they should be viewed as "interested witnesses" likely to lie. However, the jurisprudence on this point is clear. A relationship is not a sole ground for discarding testimony. A relative is often a natural witness who would, in fact, be the last person to shield the real culprit and falsely implicate an innocent person. If a relative witness has an interest in convicting the accused, then only his testimony shall be carefully considered.
 16. However, the "Chance Witness" argument is not flawed. The PW-4 admitted that his brother-in-law's daughter is the deceased's wife. The PW-5 admitted that his maternal uncle's daughter is married to Indrapal. PW-4 further admitted that after witnessing the incident, they went to his brother-in-law's house. They never returned to the scene. He does not know who took the deceased Indrapal or where. When he returned home, he did not meet the deceased's wife. He did not go to the hospital or the police station upon receiving the news of his death. He did not file a report after witnessing the incident. He does not know where or when the deceased's cremation took place. Instead of going to the deceased's house on the day of the incident, he went to his brother-in-law Kalika Singh's house in Kaptanganj, Azamgarh district, and returned on the third day. The deceased's wife was also at his brother-in-law's house in Kaptanganj at the time. Upon receiving news of his death, we brought the deceased's wife home. He has no information about which direction the accused fled or where they went. Being a relative of the deceased, the above conduct and testimony create doubts as no one will return to home in this scenario.
 17. His testimony in the cross-examination also negates his and PW-3's (deceased's wife) presence during the occurrence. Similarly, PW-5 also returned to his home, leaving the deceased on the spot. PW-5 admitted that it is true that he neither took Indrapal to the hospital nor attended the funeral. He neither went to the police station on the day of the incident nor reported it. He met Daroga Ji about six or seven days after the incident. The statements of witnesses in the court are in direct contravention of the statement under section 161 CrPC, wherein witnesses are not eyewitnesses.
 18. PW-3 admitted that she reached her husband; there were about 3 or 4 people from the village whose names she does not know. Half an hour after she arrived, her brother-in-law, Rana Pratap, arrived.

She was at the scene when Rana Pratap arrived. She came back when the police took away the body. She sat there until the police arrived. Her family members came only after hearing her voice. Her relatives, Amresh and Mahendra, arrived at the scene only after she left. She can not say how long it took them. Amresh and Mahendra are her aunt's sons. Mahendra's home is in Dulhupur, and Amresh's is in Maharajganj, Azamgarh district. They came to her house after receiving information about the incident over the phone. In this way, PW-3 negates the presence of PW4 and PW-5 at the time of occurrence. PW-5 admits that before the incident, his maternal uncle's nephew's wedding was on May 1, 2018. He attended the wedding; he does not know if Indrapal's wife attended. Indrapal met him. The wedding party returned on May 2, 2018, while PW-3 admitted that there was no wedding at her parents' house on the day of the incident. She had left three or four days before the incident. In this way, their testimonies are inconsistent. The witnesses (PW4 and PW-5) are relatives and chance witnesses. Their Presence at the site of the occurrence and their credibility are highly doubtful. The statements of PW-3, PW-4, and PW-5 were taken by the IO on 10.05.2018 after considerable delay. The witness (PW-3) is a relative. She does not know whether it was a dark night or a bright night at the time of the occurrence. She also does not know if there was blood on her clothes when she caught her husband. Her not lodging the FIR and not going with the body to the hospital is not natural. Contradictions are not minor but material and impeach credibility. Her presence at her marital home and at the site of the occurrence, and her credibility are highly doubtful.

The Testimony of PW-2 (Ram Kishun)

19. Ram Kishun is a local shopkeeper whose business premises (cycle repair and egg stall) are situated immediately adjacent to the liquor vend. His presence is therefore entirely natural and expected. PW-2 testified that he witnessed the initial argument between the deceased and the accused regarding the price of liquor pouches. He observed the scuffle and, sensing the danger, went to inform the victim's brother, Lallu Singh. Upon his return, the damage had already been done, and the victim was lying in a pool of blood. In the cases of circumstantial evidence, this type of last-seen evidence is reliable.
20. After finding eyewitnesses' claims unreliable, the case now rests only on the circumstantial evidence. To arrive at a just conclusion, the Court must address several critical legal and factual questions

that are pivotal to determining guilt or innocence in a case based primarily on circumstantial evidence.

1. **Chain of Circumstances:** Whether the prosecution has established an unbroken chain of circumstances that excludes every reasonable hypothesis of the innocence of the accused?
2. **Last Seen Together:** Whether the deceased was last seen in the company of the accused at such a time and place that the possibility of any third party intervening is effectively eliminated?
3. **Motive:** Whether the prosecution has proved a clear and compelling motive for the crime, particularly given the reliance on circumstantial evidence?
4. **Discovery of Weapon:** Is the discovery of the murder weapon reliable?
5. **Common Intention:** Whether the acts of the four accused can be attributed to a shared common intention under [Section 34](#) of the IPC?

The Jurisprudence of Circumstantial Evidence

21. The legal framework for this trial is governed by the "Panchsheel" of circumstantial evidence established by the Hon'ble Supreme Court in [Sharad Birdhichand Sarda vs. State of Maharashtra on 17 July 1984, 1984 AIR 1622](#). The five golden principles are non-negotiable:

1. The circumstances from which the conclusion of guilt is to be drawn should be fully established.
2. The facts so established should be consistent *only* with the hypothesis of the guilt of the accused.
3. The circumstances should be of a conclusive nature and tendency.
4. They should exclude every possible hypothesis except the one to be proved.
5. There must be a chain of evidence so complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused.

22. The Hon'ble Supreme Court has emphasised that "suspicion, however strong, cannot take the place of proof". In the current case, the prosecution attempts to build this chain through the "Last Seen Together" theory, an alleged motive, and the discovery of the weapon at the behest of the accused.

23. The adjudication of a criminal trial is not a mere accounting of witnesses but a rigorous qualitative assessment of the reliability and consistency of the evidence presented. In cases where there is no direct eyewitness to the crime—as is the situation here—the Court must exercise extreme caution. The legal standard for a circumstantial evidence conviction is significantly higher than that for direct evidence, requiring the prosecution to prove its case to a level of "moral certainty" in which the hypothesis of guilt is the only reasonable inference.
24. The "last seen together" theory is inherently weak evidence. As per the Hon'ble Supreme Court in *State of U.P. vs. Satish* on 8 February 2005, AIR 2005 SUPREME COURT 1000 and *Suresh Chandra Tiwari vs. State of Uttarakhand* on 28 November 2024, 2024 INSC 907, the theory loses its potency if the time gap is long enough for third parties to have access to the deceased. For the theory to hold weight in court, two main factors must be satisfied:
- **Proximity of Time:** The interval between when the accused persons and the deceased were last seen and when the body was found must be so small that it rules out the possibility of anyone else committing the crime.
 - **Proximity of Place:** The location of the "last seen" event and the crime scene must logically link the accused to the act.
25. This theory is often paired with Section 106, which states that when a fact is especially within the knowledge of a person, the burden of proving that fact is on them.
26. In the case at hand, the defence argued that PW-2 was under police pressure and that the liquor shop was "illegal." However, the liquor shop's illegality does not diminish his capacity to perceive events. His testimony establishes the "genesis of the incident"—a dispute over Rs. 5 or credit—and places both accused persons at the scene, engaging in a violent confrontation with the deceased. His account provides the necessary context for the subsequent stabbing. No material contradiction emerged in his cross-examination that might have hit his testimony. It is well settled that the quality of a witness matters, not quantity. Even a single witness may prove the facts conclusively. This witness has proved genesis as a motive, the last seen and condition of the deceased just after the incident. It is settled law that *falsus in uno falsus in omnibus* is not applicable in India. The credibility of PW-1 as an eyewitness is doubtful, but not about the distance between the occurrence site and his home. As per PW-1, the home of the deceased's brother and the occurrence site are between 200 and

400 metres apart. This distance is not so far to take a long time to go and come back. In this scenario, there is no possibility that a new genesis arose and someone else killed the deceased so brutally. A little discrepancy in the time of the incident, i.e., 7.30 or 7.45, is not material. If the scuffle started at 7.30 and, after 10 minutes, sensing gravity, PW-2 left the scene to inform Lal Ji, the time would be 7:40. A minor discrepancy is bound to happen in every genuine witness. If the witness deposes with 100% accuracy, he may be deemed a rote parrot. So far as the discrepancy between the statement under section 161 and before the court regarding eyewitness versus last seen is concerned, it may be that whatever the witness stated to the IO was not exactly recorded by the IO as claimed by the PW-2. Overall, PW-2 is reliable regarding motive, last-seen, and what he saw upon returning.

TABLE 2: EVALUATION OF WITNESS CREDIBILITY AND MAIN DEFENSE CHALLENGES

Witness	Defense Challenge	Prosecution Rebuttal	Court's Observation
PW-2	Shop is illegal/Police pressure.	Natural neighbour; presence is undisputed.	Reliability of observation is independent of license status. The Witness is credible.
PW-4	Relative/Chance witness from another village – contradictions in the police statement.	So-called visiting for social purposes; presence at the egg shop is not natural.	Doubtful witness.
PW-5	Relative/Chance witness from another village – contradictions in the police statement.	Variations in testimony; presence near the occurrence place is not natural.	Doubtful witness.

POINT NO. 3: LEGAL ANALYSIS OF COMMON INTENTION (SECTION 34 IPC)

27. The prosecution seeks to hold both accused persons equally liable for the murder, despite only one (Omprakash) wielding the weapon. This necessitates an inquiry into Section 34 of the IPC, which deals with acts done by several persons in furtherance of a common intention.

28. Section 34 is a rule of evidence and a principle of vicarious liability. It does not create a substantive offence but makes each participant liable for the criminal act as if he had done it alone. To invoke this provision, two conditions must be met:

1. Several persons must have committed a criminal act.
2. The act must have been done in furtherance of the common intention of all.

29. In the landmark case of *Pandurang, Tukia and Bhillia vs The State Of Hyderabad on 3 December 1954, 1955 AIR 216*, the Hon'ble Supreme Court emphasised that common intention implies a "pre-arranged plan" or a "prior meeting of minds." However, it is also well settled that such a plan can be formed on the spur of the moment during the course of the incident. In the present case, the evidence suggests that:

- Both accused arrived together and engaged in a common dispute with the deceased.
- When the scuffle started, Rakesh Yadav did not merely watch; he actively scuffled with the victim.
- Rakesh Yadav's presence provided the opportunity to retrieve the screwdriver and deliver the fatal stabs.
- Rakesh Yadav did not take a plea that he had no common intention or that he tried to prevent the multiple stabbing by Om Prakash Singh.
- Both accused fled the scene together after the commission of the act.

30. All of the above points, taken together, are a classic demonstration of shared intent. In *Ezajhussain Sabdarhussain and another v. State of Gujarat*, (2019) 14 SCC 339, the Hon'ble Supreme Court observed in para 22 as follows:

"Another judgment of this Court referred by the learned counsel for the respondent in Goudappa (supra). It was a case where the

accused persons were armed with lethal weapons assembled at one place and the moment the deceased came out of the house to spit, one of the accused started abusing him and the other accused persons held the deceased and facilitated the other accused to give the fatal blow and made no effort to prevent him from assaulting the deceased and their common intention clearly emanates from the criminal act in furtherance of the intention which in the instant case may not be of any assistance. As already observed, there cannot be a universal rule in laying down the principles of existence of common intention of prior meeting or meetings with pre-arranged plan. It has to be proved either from the conduct or circumstances of any incriminating facts."

31. The collective conduct of the accused – from the initial argument to the synchronised assault and the joint flight – points unerringly to a shared objective. Therefore, this Court finds that Rakesh Yadav shared the common intention with Omprakash Singh.

POINT NO. 4: CLASSIFICATION OF THE OFFENSE – MURDER VS. CULPABLE HOMICIDE

32. The defence has argued that even if the assault is proved, the offence should be downgraded to "Culpable Homicide not amounting to murder" under Section 304 IPC. They rely on Exception 4 to Section 300, which pertains to "Sudden Fight".
33. To qualify for Exception 4, the death must have occurred:
1. Without premeditation.
 2. In a sudden fight.
 3. In the heat of passion upon a sudden quarrel.
 4. Without the offender taking undue advantage or acting cruelly or unusually.
34. While the initial argument over the liquor price was spontaneous, the accused's subsequent actions take the case out of the purview of Exception 4. The accused left the scuffle to retrieve a screwdriver, a tool that can serve as a lethal weapon when used to pierce the thoracic cavity. Targeting the heart is a crucial indicator of intent. In *Bavisetti Kameswara Rao @ Babai vs State Of A.P., Rep. By Its Public ... on 25 March, 2008, AIR 2008 SUPREME COURT 1854*, the Hon'ble Supreme Court held that the use of a screwdriver to pierce the abdomen, damaging the liver and spleen, constituted murder, as the accused "intended the injury sufficient to cause the death".

35. Similarly, in *Virsa Singh vs The State Of Punjab on 11 March, 1958*, AIR 1958 SUPREME COURT 465, the Hon'ble Supreme Court established that if the prosecution proves the intention to inflict a particular bodily injury, and that injury is objectively sufficient in the ordinary course of nature to cause death, the offence is murder under Clause 3 of Section 300 IPC. Here, the medical expert (PW-6) confirmed that the puncture of the heart was the direct cause of death. The force and precision required to reach the heart with a screwdriver indicate that the accused did not merely intend a "simple hurt" but acted with the knowledge and intent that death would likely result. Furthermore, the accused took "undue advantage" by being two against one and utilising a tool against an unarmed salesman. Thus, the offence is unequivocally murder under Section 302 IPC.

POINT NO. 5: ADMISSIBILITY OF RECOVERY UNDER SECTION 27 OF THE EVIDENCE ACT

36. The recovery of the iron screwdriver (Ex. Ka-4) on May 7, 2018, is a vital piece of corroborative evidence. The defence has challenged this recovery, asserting that the weapon was found in an "open place" and that no independent public witnesses were present during the seizure.
37. Section 27 of the Evidence Act provides an exception to the general rule that confessions to the police are inadmissible. It allows for the admission of "so much of such information... as relates distinctly to the fact thereby discovered". The "fact discovered" includes not just the object itself, but the place from which it is produced and the accused's knowledge of its location.
38. In *State of Himachal Pradesh vs Jeet Singh on 15 March 1999*, AIR 1999 SUPREME COURT 1293, the Hon'ble Supreme Court clarified that recovery from an "open place" is not automatically fatal to the prosecution. The critical factor is whether the object was "concealed" and "ordinarily visible to others." If the item was hidden (e.g., under bushes or buried) and its location was known exclusively to the accused, the recovery is valid. In this case, the screwdriver/iron lever was recovered from a secluded, bushy area, as the accused disclosed. The weapon's identity raises some petty doubts. The weapon produced before the court appeared to be a bicycle's tyre detaching lever from the rim with a slightly curved tip and generally without a plastic handle, while the witness of recovery, PW-1, stated it as a screwdriver (Penchkas) with a plastic handle. In my view, the iron lever and Penchkas broadly look similar in shape and size. This may easily confuse a

witness in identifying, due to fading memory over time. If someone keeps the word "screwdriver" in mind, he will obviously imagine a plastic handle in it after six months or a year. If someone keeps the word "iron rod" in mind, he will obviously not imagine a plastic handle in it after six months or a year. The detection of human blood on the screwdriver-like iron lever by FSL leaves no room for doubt that it was the weapon used in committing the offence, even if the blood group could not be determined due to the passage of time. So far as recovery from an open area is concerned, it should not be forgotten that the weapon was recovered from bushes, and the accused's pointing establishes that the hiding place was known exclusively to the accused. Though the disclosure statements of each of the accused were not on separate sheets, they are included in the recovery memo, which serves the purpose in the facts and circumstances of the case. The accused cannot take advantage of some minor lapses in the investigation in all cases. In a nutshell, the recovery of the murder weapon from the pointing out of the accused is reliable and can be acted upon as corroborative. The testimony of PW-2 regarding motive, the reliable last-seen and the testimonies of PW-1 and PW-8 regarding recovery of a human blood-stained murder weapon complete the chain and conclusively point to the guilt of the accused persons.

39. The defence contended that the FIR was delayed. In my view, the delay in filing the FIR of approximately four and a half hours is not a considerable delay in the facts and circumstances of the case and does not require explanation.
40. It is true that generally independent witnesses hesitate from deposition in court. As earlier discussed, the quality of a witness matters. It is not the correct position of the law, as contended by the defence, that if the prosecution fails to examine all or any of them, the prosecution's case becomes weak.
41. The absence of independent public witnesses, while a matter of caution, does not invalidate the testimony of the police officers (PW-8) if it is found to be credible and corroborated by the recovery itself. It is presumed that every officer works honestly and professionally unless rebutted. There is no reason to disbelieve the PW-8 regarding recovery.

APPRECIATION OF DEFENSE ARGUMENTS AND ENMITY CLAIMS

42. The defence's primary shield is the claim of "false implication" due to village rivalries. Rakesh Yadav mentioned "old enmity,"

while Omprakash mentioned "Pattidari" disputes. However, "enmity is a double-edged sword." While it can be a motive for false accusation, it is also a powerful motive for committing the crime. The defence failed to bring on record any specific litigation or incident that would explain why the informant would allow the actual killers of his brother to go free while falsely naming the accused.

43. The defence also pointed to "minor contradictions" in the witness statements. For example, PW-1 could not identify the scribe of the tahrir, and PW-4's police statement varied slightly from his court deposition. This Court notes that such variations are natural when witnesses are examined months or years after a traumatic event. The Hon'ble Supreme Court has consistently held that "minor inconsistencies do not necessarily render testimony unreliable, as long as the core facts remain intact". The core facts – the dispute over liquor, the scuffle between Rakesh, Omprakash and the deceased and then stabbing with common intention – have remained unshaken throughout the trial.

TABLE 3: SUMMARY OF DOCUMENTARY AND FORENSIC EXHIBITS

Exhibit No.	Description	Significance
Ex. Ka-1	Written Tahrir	Foundation of the FIR; details the initial narrative.
Ex. Ka-2	Inquest Report	Documents the physical condition of the body post-death.
Ex. Ka-3	Recovery Memo (Liquor)	Corroborates the setting of the crime at the liquor shop.
Ex. Ka-4	Recovery Memo (Screwdriver/Iron lever)	Linking the weapon to the accused under Section 27.
Ex. Ka-5	Autopsy Report	Scientific proof of homicidal death and lethal intent.

Exhibit No.	Description	Significance
Ex. Ka-9	Site Plan	Visual representation of the crime scene and adjacent shops.
Ex. Ka-11	Charge Sheet	Formal conclusion of the investigation.
Ex. Ka-17	FSL Report	Human blood was found on the murder weapon.

FINDINGS AND REASONING

44. The prosecution has presented a cohesive narrative supported by a mix of oral, medical, and circumstantial evidence. PW-2, a neutral neighbour, establishes the accused's presence at the liquor vend. The motive – an economic dispute over liquor pricing – is petty but serves as the psychological trigger for aggression. The scuffle just before the murder between the accused and the deceased is attested to by PW-2. His status as "son of landlord" of the two shops where liquor was being sold by the deceased, in one shop, and a bicycle shop was run by PW-2 in the other shop, does not diminish their credibility, as their presence was natural, and the autopsy findings of PW-6 corroborate penchkas like weapon used in stabbing which may be available in bicycle shop.
45. The use of a screwdriver as a penetrating weapon, targeted at the heart, satisfies the requirements of Section 300 IPC. The physiological devastation documented in the heart and abdominal cavity leaves no doubt that the intention was to cause death or such injury as is sufficient to cause death. The collective actions of the accused meet the threshold of common intention under Section 34 IPC, as the physical restraint provided by one accused was essential for the lethal assault by the other accused.
46. The defence failed to provide any credible alternative narrative or alibi evidence. The claims of "planting" the weapon or "false implication" remain in the realm of conjecture and are unsupported by the weight of the evidence. Therefore, the prosecution has proved the accused persons' guilt beyond a reasonable doubt.

CONVICTION AND ORDER

47. In light of the detailed analysis of the evidence and the legal principles discussed above, this Court reaches the following conclusions:

Indrapal Singh @ Phulai Singh died a homicidal death on May 3, 2018, as a direct result of the injuries inflicted by the accused persons with common intention.

ORDER

- **Accused Omprakash Singh @ Chithru Singh**, son of Jhinku Singh and **Accused Rakesh Yadav**, son of Jilajeet Yadav, are hereby **CONVICTED** for the offence of murder punishable under **Section 302 read with Section 34 of the Indian Penal Code, 1860**.
- The convicts are on bail. They are to be taken into custody and produced before this Court after lunch for a hearing on the quantum of sentence.

After Lunch

The convicts have been produced before the Court for a hearing on the sentence.

The learned District Government Counsel (Criminal) argues for a severe sentence, highlighting the cold-blooded nature of the attack on an unarmed salesman. It is argued that such violence at a place of business disturbs public order and warrants a deterrent punishment.

The learned defence counsel argues for leniency, pointing out that:

- The convicts have no previous criminal record.
- The incident was not premeditated and arose from a spontaneous quarrel.
- The convicts have ageing parents and young children dependent on them.
- This case does not fall under the "rarest of rare" category, warranting the death penalty.

REASONING ON SENTENCING AND MITIGATING FACTORS

In Indian criminal jurisprudence, the choice between life imprisonment and the death penalty for murder is governed by the "Rarest of Rare" doctrine established in *Bachan Singh vs State of Punjab on 9 May 1980*, (1982)3SCC24. The court must balance the "aggravating" circumstances of the crime against the "mitigating" circumstances of the criminal.

Aggravating Circumstances:

- The victim was an unarmed person performing his duty.

- The assault was disproportionate to the petty motive (Rs. 5/duel balance).
- Use of a tool as a lethal weapon targeted at the heart.

Mitigating Circumstances:

- Lack of criminal antecedents.
- Spontaneity of the initial argument (no long-standing conspiracy).
- Potential for reformation and rehabilitation.
- Socio-economic background and family dependencies.

The crime, while brutal, does not exhibit the "extreme depravity" or "diabolical nature" associated with the death penalty. It is a case of a street-level scuffle that turned lethal due to the unchecked aggression of the accused. Therefore, life imprisonment is the appropriate and just sentence to serve the ends of justice while leaving room for the convicts' reformation.

FINAL ORDER OF SENTENCE

1. **Convicts Omprakash Singh @ Chithru Singh and Rakesh Yadav** are sentenced to undergo **Imprisonment for Life** and to pay a **Fine of Rs. 30,000/- each**. In default of payment of the fine, they shall undergo further **Imprisonment for Six Months**.
2. **Compensation:** The 75% of the fine amount shall be disbursed in favour of the deceased's wife, Suman @ Shashikala, as compensation under [Section 357 \(1\) \(b\) of the CrPC](#). She shall also be entitled to compensation difference under the Victim Compensation Scheme.
3. **Set-Off:** Under [Section 428 of the CrPC](#), the period of detention already undergone by the convicts during the investigation and trial shall be set off against the substantive sentence of imprisonment.
4. **Disposal of Property:** The material objects (Ex. Ka-3, Ex. Ka-4) shall be destroyed after the statutory period for appeal has elapsed. The cash recovered (Rs. 2257/-) shall be released to the lawful representative of the liquor vend licensee upon production of adequate proof.

A copy of this judgment shall be provided to the convicts immediately and free of cost.

This judgment is signed, dated and pronounced by me in open court today.

Dated: 07.03.2026

(Chandroday Kumar)

Sessions Judge,

Ambedkar Nagar.