

UPAN010006392011



**Present:** Chandroday Kumar, H.J.S.,

J.O. Code: UP06553

**Sessions Trial No.: 86/2011**

**State**

— — — — Prosecution

**Versus**

1. **Rajju Singh**, son of Satya Narayan Singh, resident of Village Rewli, Police Station Bhati, District Ambedkar Nagar
2. **Minku Singh alias Vijay Pratap Singh**, son of Chandrabhan Singh, resident of Village Loknathpur, Police Station Mahrua, District Ambedkar Nagar
3. **Dimpi Singh alias Dimpy Singh**, son of Ram Nayan Singh, resident of Village Nasedi, Police Station Mahrua, District Ambedkar Nagar
4. **Ajay Pratap Singh alias Sipahi**, son of Chandrabhan Singh, resident of Village Loknathpur, Police Station Mahrua, District Ambedkar Nagar
5. **Ram Ashish**, son of Santram, resident of Village Sehra Jalalpur, Police Station Mahrua, District Ambedkar Nagar
6. **Pawan Kumar alias Ajit Kumar Singh**, son of Rajendra Pratap Singh, resident of Village Pariyayen, Police Station Bhati, District Ambedkar Nagar
7. **Rajendra Singh**, son of Ram Kuber Singh, resident of Village Rewli, Police Station Bhati, District Ambedkar Nagar- (**\*\*\*\*Abated on 12.07.2024**)

— — — — Accused

**\*\*\*\*(All the accused are on bail.)**

**Case Crime No.: 336/2010**

**Sections: 147, 148, 302/149, 120B/149 IPC  
and Section 7 of the Criminal Law Amendment Act**

**Police Station: Mahrua, District: Ambedkar Nagar**

## Judgment

### **Introduction**

**1. Case Details:** This judgment pertains to Sessions Trial No. 86 of 2011, State vs. Rajju Singh & Others, in the Court of Sessions, Ambedkar Nagar. The case arises from Crime No. 336/2010 of P.S. Mehruaa, District Ambedkar Nagar. Eight accused were initially named (Rajju Singh, Minkoo aka Vijay Pratap Singh, Dimpu aka Dimpy Singh, Ajay Pratap Singh aka "Sipahi", Ram Ashish, Pawan Kumar aka Ajit Kumar Singh, Rajendra Singh, and Ranvijay Singh) for offences under Sections 147, 148, 149, 302, 120B of the Indian Penal Code, 1860 ("IPC"), Section 7 of the Criminal Law Amendment Act, 1932, and Section 27 of the Arms Act, 1959. During the trial, the accused Ranvijay Singh absconded, and his case was separated on 09.01.2020 (registered as S.T. No. 86A/2011). The present judgment thus deals with the remaining seven accused. All the accused pleaded not guilty to the charges and claimed trial. The case against accused Rajender Singh abated on 12.07.2024 due to his death.

**2. Prosecution Allegations:** Briefly, the prosecution case is that on August 10, 2010, at about 7:30 PM, one Subhash Singh (the deceased) was shot dead near Kasda Mor (Kasda turn) in the territorial area of P.S. Mehruaa. The First Information Report ("FIR") was lodged the same night by Subhash's brother, Suresh Singh (PW-1), who stated that while he was returning from their brick-kiln with Subhash and others on motorcycles, two Pulsar motorcycles carrying five unknown assailants approached from behind and suddenly opened fire on Subhash, resulting in his instantaneous death. The assailants fired while fleeing toward Mehruaa Bazaar and were allegedly seen in the flash of the motorcycle headlight. In the chik FIR recorded at 8:30 PM on 10.08.2010, the culprits were described as "5 unknown miscreants, name and address unknown". No names or identifiable particulars of the shooters were mentioned in the FIR.

**3.** During the investigation, however, the police and the informant later implicated the present accused as the perpetrators. According to the prosecution, rumours erupted that because of a grudge regarding a land dispute, the incident was caused, wherein a mafia, Ajay Singh, was involved. About 11 days after the incident, an eyewitness (Arun Kumar) came forward to name three of the assailants as Ranvijay, Dimpy, and Minku, alleging that Dimpy confessed and threatened him, and he recognised Ranvijay and Minku during the attack, while the fourth shooter remained unidentified. It is further alleged that accused Ajay Pratap Singh (alias "Sipahi") was the mastermind who conspired (120B

IPC) to have Subhash killed due to a land dispute: Ajay allegedly had a running feud with one Bhole Singh over land; consequently, Ajay purportedly arranged Subhash's murder a few days after threatening him to vacate the land. Other co-accused (Ram Ashish, Pawan, Rajendra) are said to have been part of the unlawful assembly and conspiracy, aiding in the commission of the offence. A charge sheet was filed against all the accused for rioting, murder with common object, and criminal conspiracy, as well as allied offences.

**4. Proceedings:** The case, being exclusively triable by the Court of Session, was committed vide order dated 20.05.2011 of the CJM, Ambedkar Nagar. The seven accused faced trial in this Court. The prosecution examined eight witnesses (PW-1 to PW-8) and one Court Witness (CW-1). The material witnesses include the informant and brother of the deceased Suresh Singh (PW-1), eyewitnesses Raj Nayan Singh (PW-2), Deep Narayan Singh (PW-3), deceased's son Sushil Singh (PW-5) who were present at the scene, and Raj Kishor Singh (PW-4) who is brother of the deceased (providing evidence on motive), Dr Onkar Nath (PW-6) who proved the post-mortem findings, and Investigating Officers Sri Yagya Narayan Chaturvedi (PW-7) and Sri Manoj Kumar (PW-8). The accused were examined under Section 313 of the Code of Criminal Procedure, 1973 ("CrPC"), wherein they denied all incriminating evidence and pleaded innocence. The defence did not lead any evidence. The substance of the defence (as gathered from cross-examinations and 313 statements) is that the accused have been falsely implicated due to prior enmity/political rivalry, and that the prosecution's story is a later fabrication not supported by reliable evidence. It was argued that the eye-witnesses are related to the deceased and made material improvements in their version, that no independent witness or forensic evidence corroborates the identification of the assailants, and that the investigation was tainted by irregularities (such as failure to hold a Test Identification Parade, and non-recovery of the alleged murder weapons). The Court has heard the learned DGC (Criminal) and the defence counsels and has carefully considered the entire evidence on record.

5. Having regard to the charges and the facts in issue, the Court now proceeds to frame the points for determination.

#### **Points for Determination**

6. Based on the charge-sheet and the rival contentions, the principal points that arise for determination in this trial are:

1. **Homicide of Subhash Singh:** Whether Subhash Singh died on 10.08.2010 as a result of homicidal gunshot injuries, and if so, whether his death amounts to murder (Section 302 IPC).
2. **Identity and Participation of Accused (Unlawful Assembly):** Whether the prosecution proves beyond reasonable doubt that the seven accused (other than absconding Ranvijay) were part of the group of assailants who shot and killed Subhash Singh, and thereby formed an unlawful assembly armed with firearms, committing rioting (Sections 147 & 148 IPC), and that the murder was committed in prosecution of the common object of that assembly so as to make each accused vicariously liable under Section 149 IPC.
3. **Criminal Conspiracy:** Whether the accused (particularly Ajay Pratap Singh and others) agreed to commit the murder of Subhash Singh and thereby entered into a criminal conspiracy (Section 120B IPC), and if so, whether any overt act in furtherance of such conspiracy is proved.
4. **Delay/Improvement:** Though not a separate charge, as a factual issue relevant to points 2 and 3, it needs to be determined whether there are material contradictions and unexplained delays in the reporting and investigation (such as the delayed naming of the accused and lack of a proper identification process) that cast reasonable doubt on the prosecution's case.
5. **Offences under Special Laws:** (a) Whether the ingredients of Section 7 of the Criminal Law Amendment Act, 1932 (which punishes membership of an unlawful assembly after due warning, etc.) are made out against the accused on the evidence; and (b) whether the accused or any of them used or possessed any firearm in the commission of the offence without license so as to attract Section 27 of the Arms Act, 1959.

The above points will be examined in the light of the evidence and applicable law.

Prosecution Evidence

7.PW-1 Suresh Singh stated on oath in his examination-in-chief:

“The deceased in this case was my brother. He used to run a brick-kiln business. My brother Subhash Singh used to go to the brick-kiln daily to maintain the accounts. The incident took place on 10.08.2010 at about 7:30 PM. That day, apart from me, my brother Subhash Singh, Raj Narayan, Arun Kumar Singh, Pradeep Narayan Singh, Deep Narayan and several other people were present.

8. On the day of the incident, my brother was on his motorcycle; I, Raj Narayan Singh and Arun Singh were on another motorcycle, and Subhash Singh was ahead of us. The distance between Subhash Singh and me was about 20 steps." (about 100 meters under Section 161 CrPC). When the incident happened, we had reached Kasda Mor. Just then, two Pulsar motorcycles, one carrying three people and the other carrying two people, crossed us and started firing. My brother Subhash Singh had not fired any shots." (fired from his revolver in defence under Section 161 CrPC).

9. The accused fired while abusing and went towards Mahrua. My brother died on the spot due to the gunshot injury. There was a pole light at the scene of the incident. The headlights of our motorcycles and those of passers-by were also on, due to which I saw the accused firing. Besides me, Deep Narayan Singh, Arun Kumar Singh, and Raj Narayan Singh were present at the scene and witnessed the incident.

10. There was a land dispute with the accused before the incident, which led them to commit the offence. After the incident, I got a written complaint drafted by my relative, Pappu Singh and submitted it to the Police Station Mahrua, based on which the FIR was lodged. This witness confirmed the written report marked Paper No. 4A/2, which was exhibited as Exhibit Ka-1.

11. PW-1 (Suresh Singh) deposed that on 10.08.2010, he and his brother (the deceased) were returning from their brick kiln on motorcycles, along with Raj Narayan (PW-2), and Arun Kumar. Subhash (deceased) was on a motorcycle ahead, while PW-1 and others followed behind. When they reached Kasda Mor, two Pulsar motorcycles with five riders came from behind and suddenly started firing at Subhash. Subhash fell from his bike after being hit by bullets, and the assailants fled while firing. PW-1 stated that he and the others saw the assailants in the motorcycle's headlight and recognised them. In his testimony, PW-1 named five persons - Ran Vijay Singh, Pawan Kumar Singh, Dimpy Singh, Ram Ashish, and Ravindra alias Rajju. He also stated that "the accused had land-related animosity with us, which is why they carried out the incident". PW-1 further testified that after the incident, he got his relative, Pappu Singh, to write down the report (tahrir) and lodged the FIR at the police station. The written FIR (Exhibit Ka-1) was shown to him, and he identified it. This admission is significant: it shows that PW-1 did not himself pen the FIR but dictated it to a relative. There is no reason Pappu Singh would not have included the accused's names.

There is no reason why the names of the shooters could not be disclosed by the police even after two weeks had passed.

**12.** PW-1's credibility suffered material dents. Confronted with the contents of his initial FIR, he had to admit that he had not named or described any of the assailants in that prompt report. The FIR (Ex. Ka-1) indeed records that 5 unknown miscreants committed the crime. This stands in stark contrast to PW-1's testimony in Court, where he categorically named five known individuals. There is another discrepancy in his testimony, which is that five unknown individuals and six named individuals. The prosecution has suggested that the omission of names in the FIR was because the assailants were initially strangers by face or the informant was too panic-stricken to name them immediately, and that only later did he reveal their identities once he was sure. This explanation, however, appears unconvincing in light of subsequent events. Notably, PW-1's statement to the Investigating Officer ("IO") under Section 161 CrPC on the very next day (11.08.2010) also did not mention a single name of any accused or shooter. PW-7 (the initial IO) candidly confirmed this: "In the statement of the informant dated 11.08.2010, no name of any accused or shooter was disclosed". Thus, for at least 24 hours after the incident, PW-1 treated the assailants as unknown. Yet, in Court nearly four years later, he professed clear recollection of having identified five of them on the spot. This improvement raises serious doubt. It suggests that the identities of the attackers, as furnished by the present accused, were provided only after considerable delay. In fact, after almost two weeks, for the first time, one Arun Kumar claimed in the statement under section 161 CrPC that he identified Dimpy Singh and Rajju Singh, who intercepted the motorcycle of the deceased, and Ranvijay Singh and Minku aka Vijay Pratap Singh fired on the deceased. He further stated that he could not identify the third assailant. Still, this witness is not produced by the prosecution. Such a delay in disclosing the names, without a cogent explanation, inevitably erodes the spontaneity and credibility of PW-1's identification of the accused.

**13.** It was also brought out that PW-1's testimony contained a false assertion, which undermines his reliability: In his police statement, PW-1 had claimed that the deceased Subhash was armed with a revolver and that Subhash fired back at the assailants. However, the investigation revealed that this was untrue. No weapon was found on or near Subhash's body. PW-5 admitted that he did not know whether his father had a revolver or not, and he did not see his father fire it. In fact, Subhash's licensed revolver was in the family. PW-5 Sushil Singh (the

deceased's son) handed over to the IO the deceased's firearm license, a deposit receipt, and six spent .32 bore cartridges, indicating that Subhash's licensed revolver had been deposited with authorities on 14.08. It is the only IO (PW-7) who stated that PW-1 had told him that the deceased also fired with his own revolver, but PW-1 negates any firing by the deceased. This evidence casts doubt on PW-7's claim that Subhash fired in self-defence. The IO (PW-7) confirmed "I did not recover any revolver from the scene, though PW-1 had said Subhash fired his revolver". PW-1 had no plausible answer. This discrepancy suggests that PW-1 is false in some part of his account, casting doubt on the accuracy of the rest of his narrative. However, *falsus in uno falsus in omnibus* is not strictly applicable in India. Still, a witness who has been proven to have deposed falsely on a material point (here, the deceased firing back) cannot be deemed wholly reliable.

**14.** PW-2 (Raj Nayan Singh) was initially a circumstantial witness during the investigation. Later, he became an eyewitness to the firing in the court. According to the case diary, PW-2's statement was recorded on 26.08.2010 (after considerable delay), where he claimed that he met Dimpy, Rajju Singh, Minkoo aka Vijay Pratap Singh and Ran Vijay, who were standing near the veterinary hospital with two Pulsar motorcycles. He spoke to them formally and went to have tea. Then, people on two-pulser motor cycles came, waved weapons, fired and said We are coming after murdering Subhash Singh, If anyone chased them, they would kill. In contrast to his statement to IO, in Court, PW-2 deposed that he saw those accused shoot Subhash. However, PW-2 could not correctly describe from which side the accused fired at the deceased. In this regard, his testimony differs from the site map of the occurrence. The long gap between the incident and PW-2's first revelation of names, coupled with contradictory statements, raises the probability of afterthought or influenced testimony. His identification of the assailants is not derived from an immediate, spontaneous outpouring but from a delayed assertion when the investigation was already pointing towards the accused. No independent corroboration (such as a Test Identification Parade) was done to verify PW-2's claim. Moreover, PW-2 is a chance witness, and there is no supporting evidence that he was at the occurrence for a genuine purpose. His presence at the scene is not fortified, and the veracity of his identification is open to question, given the difficult conditions (nighttime, sudden attack), the delay in naming and contradictions between his statement to the IO and testimony inside the court.

15. PW-3 (Deep Narayan Singh) was riding on the pillion with PW-1 at the time of the incident. In the chief examination, PW-3 described being with Subhash at the brick-kiln that evening and then travelling behind him on the road. He initially spoke of hearing gunshots and seeing Subhash fall. However, PW-3 did not unequivocally incriminate the accused in his examination-in-chief. Notably, when confronted by the prosecutor about his previous statement to police (wherein he had supposedly identified the assailants), PW-3 recanted. He was declared hostile by the prosecution. In cross-examination by the DGC, PW-3 denied giving any statement to the IO under Section 161 CrPC implicating the accused. He, in fact, asserted: "I did not give any statement to the police. What I have stated today in Court, I had told the police as well", thereby denying the portion of his police statement that named the accused. This indicates that PW-3 did not support the prosecution's version of identification. He did not confirm in Court that he actually saw and recognised the assailants. The prosecution, by treating him as hostile, effectively acknowledges that this key eyewitness did not uphold his earlier incriminating statement. The fact that PW-3 retracted his supposed prior identification of the accused strongly impairs the prosecution's case - it creates a reasonable inference that his earlier statement (if truly given) was either not made at all (as he claims) or was not reliable. The prosecution has argued that PW-3 has been won over by the accused, and during the argument, the learned private counsel for the complainant showed some photographs of the accused with the witness, but they were not properly proved. The defence has argued that PW-3's denial shows the IO fabricated or exaggerated witness statements. Even if that is not conclusively proven, PW-3's testimony at the very least fails to corroborate PW-1 and PW-2; rather, it undermines the consistency of the eyewitness account. His stance also highlights the absence of any neutral eyewitness - all the direct evidence comes from interested parties, one of whom (PW-3) did not fully back the story.

16. PW-5 (Sushil Singh), the deceased's son, was not initially among those travelling with Subhash, but he testified that he arrived at the scene while the incident was unfolding. As per PW-8 (second IO), Sushil stated during the investigation that he reached the spot upon hearing gunfire and saw the incident occur in front of him. Still, his statement was not recorded by the IO in the case diary at that moment, as the case diary reveals. In Court, PW-5 presented himself as an eyewitness. He phoned PW-4 and informed them about the incident. He handed over his father's firearm license and deposit papers to the IO. PW-5's

testimony is significant for two reasons: (1) he reinforces the evidence that the deceased's revolver was not with him (thereby indirectly discrediting PW-1's claim to the police about the deceased firing), and (2) if believed, PW-5 adds himself as another occurrence witness. PW-5's claim that he became distraught after the incident is not tenable, as he informed his cousin brother, PW-4, on the phone and provided the revolver to the IO, even though an FIR was lodged by another uncle of his against an unknown person. It is glaring that he did not disclose the names of the assailants to his uncle, PW-1, or the IO. This witness is the deceased's son and an interested witness. Not disclosing the names of the assailants clearly shows that he is not an actual witness but a planted one to strengthen the case. Hence, he is not reliable.

17. The accused persons were **Ran Vijay Singh, Pawan Kumar Singh, Dimpy Singh, Ram Ashish, and Ravindra alias Rajju**. If the above five accused were present in court, I could identify them (**No TIP, no identification in the court**). The Investigating Officer recorded my statement, and I narrated everything to him."

18. **During cross-examination by the defence, PW-1 Suresh Singh stated on oath:**

"I had dictated the First Information Report to Pappu Singh. At the time of the incident, I was not familiar with the accused's names; **I only recognised their faces**. I lodged the FIR in a sound state of mind. **I did not get written in the FIR the physical description of the accused, whether they were dark or fair**. Ram Ashish must be around 25-26 years of age. **Even today, I cannot describe their features. I cannot tell whether they were on the motorcycle carrying three persons or on the one carrying two persons.**

19. I cannot say who fired the shot that hit my brother. The firing lasted hardly 3-4 seconds, and my brother died on the spot. **It was dark at the time of the incident, so I could not clearly see who fired the shot**. As soon as we crossed Kasda Mor, the miscreants started firing. **Ram Ashish was on a motorcycle with two people; they were firing rapidly from behind and from the side while going towards Mahrua. The shots were fired at my brother from the right side.** (in the site sketch firing from the left side)

20. We did not chase the accused. (**Under section 161 CrPC, he stated he chased**). I had given the names of the five persons in the FIR. Pappu Singh wrote the report himself; I only signed it. Pappu Singh did not read the written report back to me. After the firing, we stayed at the spot

for about 30 minutes, and the police arrived within that time. The written report was prepared in my presence at the police station.

**21.** Six people were firing continuously, like in a sudden burst of gunfire. I had lodged the FIR against five unknown persons, and had got six persons named. During the trial, the Investigating Officer conducted an identification parade of Ram Ashish in court about one and a half months later. It is incorrect to say that because I am a Samajwadi Party worker, Ram Ashish was falsely implicated by the Investigating Officer at the instance of the then Minister of State, Lalji Verma.

**22.** About 25–30 meters east of Mahrua crossing, there is a petrol pump; under its lights, I identified the culprits. **I had told their names, but they were not written down. My education is up to high school; I can read and write.**

**23.** I am not an accused along with Rajendra Singh, who is one of the accused in this case. **In Case Crime No. 37/2003, under Sections 323, 504, 506, 427, 447, 395, 397 IPC and Section 3(2)(5) SC/ST Act, Police Station Bewana, Rajendra Singh, and I are co-accused.** I do not know that my brother, the deceased Subhash Singh, was also an accused in that case. **Several cases are registered against my brother, Subhash Singh, at Akbarpur, Bewana, and Bhati police stations.** My brother had a land dispute with Ran Vijay Singh.

**24.** I met Raj Narayan Singh at the place of occurrence. I do not keep a mobile phone. **I do not know the registration numbers of any of the motorcycles used in the incident.** I was present at the spot during the inquest proceedings.

**25.** It is incorrect to say that my brother had enmity with many others and was killed because of them. It is also incorrect to say that I was not present at the time of the incident and that I did not see anything with my own eyes, and that I have falsely implicated the accused on others' suggestions."

#### **26. PW-2 Ram Nayan Singh - Examination-in-Chief**

PW-2 Ram Nayan Singh stated on oath in his examination-in-chief:

"The incident took place on 10.08.2010. I had come to Akbarpur to buy some household items. From there, I was returning with my son, Rinku, around 7:30 PM. When I reached Kasda Mor, **I saw Ram Ashish of Jalalpur standing about 10 steps ahead.** After that, I saw **five people arriving on two motorcycles.** Their names were **Ranvijay Singh, Dimpy Singh, Minku Singh, Rajju Singh, and Pawan Singh.**

27. Subhash Singh arrived there, and all five of them got down from their motorcycles and started firing indiscriminately at Subhash Singh. Subhash Singh fell to the ground covered in blood. Subhash Singh's brother, Suresh, also arrived there. After that, all five men made Ram Ashish sit on their motorcycle and, waving their weapons, fled towards Mahrua. A crowd began to gather there. My son and I got scared and went home (**Under section 161 CrPC, he stated that he chased**). The police officer (Daroga) came to my house **10-15 days later** and recorded my statement."

#### 28. PW-2 Ram Nayan Singh – Cross-Examination by Defence

During cross-examination, PW-2 stated on oath:

"I had two brothers; my elder brother has passed away. My right eye has been weak since childhood, but I can still see from it. Subhash Singh had his own brick-kiln, located at the east-west corner of Mahrua crossing; from Mahrua crossing, Kasda Mor is towards the north. The firing took place on the **southern side** of Kasda Mor, by which I mean the **south side of the road**. Both the attackers and Subhash Singh (the victim) were on the same southern side of the road. After being shot, Subhash Singh fell on the **southern side** near the roadside.

29. Subhash Singh's brick-kiln is about 2-3 km north of Mahrua crossing, and the place where the firing took place is one kilometre north of Mahrua crossing. Subhash Singh died in this incident. On the day of the incident, after eating, I went to Shahzadpur for the second time and returned around 7:30 PM. It must have taken me about 45 minutes to reach the kiln from Shahzadpur.

30. I never gave any statement to the police, saying that when I was about to drink tea at **Googleganj crossing**, two persons on Pulsar motorcycles waved weapons in the air and said that they had just killed Subhash Singh. (**He said so to the police under section 161 CrPC**).

31. I told the police that when I reached Kasda Mor, a man was standing at a distance, empty-handed. Five people came on two motorcycles, but I did not tell the police that two Pulsar motorcycles were parked at that very junction. (**He did not say so to the police under section 161 CrPC**). I cannot tell the registration numbers of those motorcycles.

32. In my earlier statement to the court, I mentioned the name Ram Ashish. It is wrong to say that Ram Ashish's father works for me, that I did not pay his wages, and because of that grudge, I gave a statement against him.

33. I had gone to Shahzadpur to buy household goods. I have known Subhash Singh for **15-20 years**, but I never used to visit their house. I had heard that during the **Block Pramukh election, shots were fired between Subhash Singh and Ambika Singh.**

34. When I reached Kasda Mor, the murder took place before my eyes. Before reaching Kasda Mor, Ram Ashish was standing there; the remaining five accused came on motorcycles. I had told the police this. **(He did not say so to the police under section 161 CrPC).** If the police did not write it in my statement, I cannot say why.

35. The five people who came were **Ranvijay Singh, Dimpay Singh, Minku Singh, Rajju Singh, and Pawan Singh.** The accused, Ranvijay and Dimpay Singh, are residents of the village **Nasedi.** As far as I know, these accused persons do not have any social or personal relations amongst themselves, such as eating together.

36. I saw the complainant, Suresh Singh, at the place of the incident. I cannot say how many minutes the firing lasted; I did not count the shots, so I cannot say how many shots were fired. The shots were fired from some distance.

37. When firing began, Suresh Singh arrived; I panicked and ran away. Within **2-4 minutes, Suresh reached the spot; he was alone, and no one was with him.** After the firing, **4-6 people** arrived, and a crowd began to gather. I ran away. **I cannot say in which direction the head of the deceased was lying.** The accused were facing **north** when they fired. I cannot tell where the first shot hit the deceased. Subhash Singh did not fire a shot at any attacker before me. I do not know whether Subhash Singh had a licensed pistol or not.

38. **After I arrived, Suresh Singh came after me.** Six accused went towards Mahrua. **I did not talk to anyone that day about the incident** (his statement under section 161 is otherwise). I do not know who lodged the report of the incident. I never tried to find out. I do not know that Suresh Singh had lodged the FIR against unknown persons.

39. If the police did not include me as an eyewitness (the IO did not include his name on the list of witnesses in the charge sheet), I cannot say why. I did not tell the police that Arun Singh and Ram Narayan Singh were following on another motorcycle. I do not know whether the deceased had any enmity with the accused.

40. I have no knowledge of any land dispute involving Subhash Singh and someone named Ram Dayal, or of any incident where Subhash, Suresh, and Raj Kishore alias Dhruv Singh beat him and a case under

the SC/ST Act was registered. I do not know anyone named Gyan Sagar. I also do not know that Case Crime No. 653/99 was registered against Subhash Singh.

**41.** It is wrong to say that unknown miscreants killed Subhash Singh due to caste enmity and that, due to local rivalry, the accused were falsely implicated with the help of the police. It is wrong to say that I did not witness any incident."

**42. PW-3 Deep Narayan Singh - Examination-in-Chief**

PW-3 Deep Narayan Singh stated on oath in his examination-in-chief:

"The incident occurred on 10 August 2010. That evening, around 5:30-6:00 PM, I had gone to Subhash Singh's brick-kiln to take bricks. I met Subhash Singh there; several people were sitting there. Ram Sajeewan Verma arrived later. After talking for some time, everyone started leaving for their homes. Subhash Singh left first; after him, Sajeewan and I left. Everyone was on their own motorcycles.

**43.** When I arrived at the scene of the incident, Subhash Singh was lying on the ground. By then, many people had gathered. Subhash Singh was unconscious. I cannot say who all were present at the spot; it was dark at that time. I did not recognise any attacker. I did not see anyone running away from the spot. I did not see any of the accused present in court, including those with exemption applications, who had run away from the place of occurrence, or who had committed the offence. When I reached the place of occurrence, the accused were not there. The police recorded my statement, which is the same one I gave them."

(Because this witness gave a statement contrary to the prosecution's case, the prosecution declared him **hostile** and sought permission from the court to cross-examine him. The court granted the permission.)

**44. PW-3 Deep Narayan Singh - Cross-Examination by Prosecution (after being declared hostile)**

During cross-examination by the prosecution, PW-3 stated on oath:

"He denied giving his statement under Section 161 CrPC to the Investigating Officer and said that he never gave any statement to the IO. Whatever I stated in court today is exactly what I told the police. If the police did not write it, I cannot say why.

The accused present in court did not threaten or intimidate me, nor did they offer me any money. I have told the court everything I know about the incident, and it is true."

(Thus, even in his cross-examination by the prosecution, this witness did not support the prosecution's story.)

#### **45. PW-3 Deep Narayan Singh – Cross-Examination by Defence**

During cross-examination by the defence, this witness stated:

“I did not see **Minku alias Vijay Pratap Singh** firing at the deceased Subhash Singh at the place of occurrence. At the time of the incident, I did not see **Ram Nayan Singh of Atraura**. I did not see the complainant, **Suresh Singh**; I cannot say whether he came later.

Ram Sajeevan Verma and I reached the spot after Subhash Singh had been shot. I do not remember how many minutes later we reached.”

#### **46. PW-4 Raj Kishore Singh alias Dhruv Singh – Examination-in-Chief**

PW-4 Raj Kishore Singh, alias Dhruv Singh, stated on oath in his examination-in-chief:

“I have been living since childhood at my maternal uncle’s house in Mahrua. The house where I live in Mahrua was built by my **maternal uncle**, Subhash Singh. On 25.07.2010, at about 4:30 PM, **Ajay Pratap Singh, Ran Vijay Singh, Rajendra Singh, Ram Ashish, Ravindra Pratap Singh alias Rajju Singh**, and **Pawan Singh** came to my residence. At that time, my maternal uncle Subhash Singh was also present.

They wanted to talk to my uncle Subhash Singh, so I went upstairs and called him down. Accused Ranvijay Singh told my uncle that he had got the land of his ‘gitti-morang’ (stone and sand) shop transferred through a bainama (sale deed) and asked him to vacate it. Subhash Singh replied that he had purchased this land in 1992 through a valid sale deed and asked why they had it registered in their name.

**47.** At this, Ajay Singh (ex-constable) said, "If you do not vacate it, we will kill you." Accused Rajendra Singh told my uncle not to contest the election for Block Pramukh from Bheeti Block, since his nephew Rajju Singh would contest from there, and also not to contest from Katehri Block, since Ajay Pratap Singh would be contesting from there.

**48.** My uncle responded that if he received the party ticket, he would contest, and the public would decide who to elect. At that moment, all the accused started threatening my uncle, and Ajay Singh said that he might have to get his own bail cancelled in another case, go back to jail, and get him murdered from there. My uncle said he could do whatever he wanted, but he would not vacate the land.

49. At that time, I was on leave; I was serving in the CRPF and retired on 01.01.2011. The murder incident happened on 10.08.2010, and at that time I was on duty in Kashmir. When I returned home, I came to know that the accused Ajay Singh had gone to jail in another case.

50. On 25.07.2010, those present during the threats – Ajay Pratap Singh, Ran Vijay Singh, Rajendra Singh, and Rajju Singh alias Ravindra Pratap Singh – are relatives of each other. The Investigating Officer recorded my statement, and I told him the correct facts.”

**51. PW-4 Raj Kishore Singh alias Dhruv Singh - Cross-Examination by Defence**

During cross-examination, PW-4 stated on oath:

“The incident occurred on 10.08.2010; on the day of the murder, I was on duty. At that time, I was posted in the Baramulla district, Kashmir. I had gone from home to duty on 27.07.2010. I told the IO about this; if he did not write it in my Section 161 CrPC statement, I cannot say why.

52. I had come home on 15 days’ leave around 25.07.2010, and returned to duty on 27.07.2010. I had told the IO that I had come about 15 days before 25.07.2010. If this is not recorded in my statement, I cannot say why.

I did not complain about the threat to my other maternal uncle, Suresh Singh, or to anyone else. I did not mention the threats the accused made to the public in Mahrua.

I do not know a fake person named Ramashankar Jaiswal, who was used in 1995 by Satyanarayan Tiwari and Bhole Shukla to execute a fraudulent sale deed. I do not know that when the real owner Ramashankar objected, Case Crime No. 803/96 under Sections 419, 420, 467, 468, 471 IPC, Police Station Kotwali Akbarpur, was registered on the order of the ADM, in which Satyanarayan Tiwari, Amarnath Singh and Afsar Ali (scribe) were named.

**53. I did not give the IO any documents regarding my leave.** I did not tell the IO the departure date, but I did tell him the return date, 27.07.2010. I do not know what the IO wrote or did not write.

The son of deceased Subhash Singh, Sushil Singh, informed me on the phone that the accused Ajay Pratap Singh alias dismissed constable (Sipahi), conspired with his companions – shooter Ran Vijay Singh, Dimpny Singh, Minku Singh alias Vijay Pratap Singh, Rajju Singh alias Ravindra Pratap Singh, Pawan Singh, Ram Ashish, etc. – and shot Subhash Singh dead.

I do not know whether Subhash Singh had a land dispute with anyone in Shahzadpur.

It is incorrect to say that my statement about the incident of 25.07.2010 is false. It is erroneous to say that I am giving false testimony because I am the real nephew of the deceased."

#### **54. PW-5 Sushil Singh - Examination-in-Chief**

PW-5 Sushil Singh stated on oath in his examination-in-chief:

"The incident took place on 10.08.2010 at about 7:30 PM. At the time of the incident, I was studying BMS at National P.G. College, Lucknow, and on the day of the incident, I had returned home around 6 PM. The deceased in this case was my father.

**55.** When I reached home, my father was not present. After tea and snacks, around 7 PM, I left on my bicycle to meet my father at the brick kiln. After riding about 1 kilometre, as soon as I reached Kasda Mor, I saw a **crowd of people** 10-15 steps ahead. From a distance of about 5-7 steps, I saw that my father, who was returning on a motorcycle from the brick-kiln, was being fired upon indiscriminately by:

- **Dimpy Singh and Ran Vijay Singh**, residents of village Nasedi, P.S. Mahrua,
- **Minku Singh alias Vijay Pratap Singh**, resident of Loknath, P.S. Mahrua,
- **Rajju Singh alias Ravindra Pratap Singh**, resident of Rewli, P.S. Bhati,
- **Pawan Singh**, resident of Parayen, P.S. Bhati,

All of these persons were abusing him with filthy words in the name of his mother and sister, and were firing at him with the intention to kill.

At a distance of 5-7 steps east of the spot, Ram Ashish Kahar, resident of Sehra, currently staying at Loknathpur, P.S. Mahrua, was standing there for spying, sat on the motorcycle with them and, waving weapons, they all fled towards Mahrua saying, "Whatever happens, Ajay Sipahi bhaiya will handle it."

**56.** Due to the gunshot injuries, my father fell. When I reached him, he had already died. At the spot, my elder uncle Suresh Singh and Ram Nayan Singh were present on their motorcycles. Seeing the blood, I became extremely distressed and did not pay attention to the other people in the crowd.

In the light of the street lamp and the motorcycle headlights, I saw and identified the accused firing. I already knew all the accused beforehand.

57. Two days prior to the incident, my father had come to meet me in Lucknow and told me that on 25.07.2010, around 4:30 PM, Ajay Pratap Singh alias Ajay Sipahi, along with Ran Vijay Singh, Rajendra Singh alias Lambu and some others, had come to the Mahrua house and were pressuring him to vacate a piece of land in Mahrua and not to contest the Block Pramukh election. When my father refused to comply, Ajay Sipahi and others threatened to kill him.

After this incident of 25.07.2010, Ajay Sipahi, along with some associates, conspired to commit the murder, **got his bail cancelled in another case, and went to jail.**

58. Four to five days after the incident, the Investigating Officer came to our house, recorded my statement in the presence of my brother, and obtained my signature on a photocopy of my father's firearm licence and a copy of the firearm deposit receipt. I confirm my signatures on the photocopy of the licence and the deposit receipt."

#### **59. PW-5 Sushil Singh - Cross-Examination by Defence**

During cross-examination, PW-5 stated on oath:

"At the time of the incident, I was doing BMS at National P.G. College, Lucknow and living in a private rented room. On the day of the alleged incident, I had attended college. On 10.08.2010, I had gone to college, and after college ended, I reached home around 6 PM.

I do not know whether my father had any disputes with anyone. I do not know what conversation took place between Ram Ashish, Ajay Pratap Singh and my father.

On the day of the incident, I left Lucknow around 1 PM by a Roadways bus to go home. **There was no particular reason; I simply decided to come home.**

My father had a Qualis (four-wheeler) vehicle and a revolver. On the day of the incident, he was on his motorcycle. Whether he was carrying the revolver or not, I do not know. I did not see him firing with the revolver. The IO recorded my statement 3-4 days after the incident.

60. **I do not know with whom my father was travelling when he left for home that day, nor did I try to find out.**

When I reached Kasda Mor, about 5-7 steps away, I saw about **8-9 people** there. After my father was shot, I became distressed. I cannot say whether my mother came to the spot or not.

On the day of the incident, my cousin brothers Raj Kishore Singh / Dhruv Singh were not present. They were on duty in Baramulla district, Kashmir. I do not know when my cousin brothers left for duty.

**I myself phoned Raj Kishore Singh and informed him about the entire incident.**

61. On the day of the incident, I did not see Ajay Pratap Singh. Ajay Pratap was in jail at the time of the incident; I do not know in which case he had been jailed. The FIR in this case was lodged by my elder uncle, Suresh Singh; I do not know who wrote the complaint. I do not remember when I gave the firearm deposit receipt to the IO.

62. To my knowledge, my father had bought many plots of land. I do not know how many civil cases were pending at that time. I also do not know how many criminal cases there were between my father and Ambika Singh, the Block Pramukh of Bhati Block. I do not remember which political party my father was Block Pramukh of. Within one or two months before the incident, my father had executed a sale deed, but I do not know in whose names. I do not remember the number of the motorcycle my father was riding at the time of the incident.

63. My father was shot from a distance of 2-3 hands (approx. 2-3 feet). I do not know whether my father had any enmity with Minku Singh. To my knowledge, my father had no dispute with the accused Minku Singh. I had told the IO everything that I knew about the incident. I was not present at the mortuary during the inquest or post-mortem of my father. It is incorrect to say that I did not witness any incident or that I am giving false evidence because I am the son of the deceased. It is erroneous to say that my father was killed due to a land dispute by unknown persons and that the accused Minku Singh was implicated much later."

### **Appreciation of Evidence**

64. Before analysing the liability of each accused on the foregoing points, it is necessary to scrutinise the evidence on record and assess its credibility and probative value. The prosecution's case hinges primarily on the eyewitnesses' ocular testimony and certain circumstantial/supporting evidence (motive, recoveries, etc.). The defence has challenged the quality of this evidence, pointing out various

contradictions, delays, and lapses. The Court will consider these aspects in turn.

#### **(a) Ocular Testimony of Eyewitnesses**

65. Three persons claimed to be present at or near the scene of occurrence have been examined as eyewitnesses – **PW-1 Suresh Singh (the informant and brother of the deceased)**, **PW-2 Raj Nayan Singh (the chance witness)**, and **PW-3 Deep Narayan Singh (Hostile witness)**. Additionally, **PW-5 Sushil Singh (the deceased's nephew)** claims to have arrived at the spot during the incident. **PW-4 Raj Kisore** is the nephew of the deceased and a witness to the motive. It is undisputed that these are interested witnesses (being relatives or associates of the deceased); however, that by itself is not a ground to discard their testimony, which must be weighed by the yardstick of truthfulness and consistency after careful scrutiny.

#### **1. PW-1 Suresh Singh (informant/brother of deceased)**

66. There are many internal contradictions in his own testimony. In the Examination-in-chief, he stated that the distance between Subhash Singh and him was about 20 steps, while in his statement under Section 161 CrPC, he stated that it was about 100 metres. Twenty steps and 100 metres are not the same; this is a material variation because it affects his opportunity to see and identify the assailants. In the Examination-in-chief, he stated that his brother Subhash Singh had not fired any shots, while in his statement under Section 161 CrPC, he stated under **Section 161 CrPC** that Subhash Singh fired from his revolver in defence. That is a **direct contradiction** of a very important fact (self-defence firearm use). In the Examination-in-chief, he named five accused (Ran Vijay, Pawan, Dimpy, Ram Ashish, Ravindra @ Rajju) and said that if the above five accused were present in court, I could identify them, while in cross he said that at the time of the incident, he was not familiar with the accused's names; he only recognised their faces. He had given the names of the five persons in the FIR. He had lodged the FIR against five unknown persons and had named six persons. So at the time of the incident, he said he did not know their names, yet claims he gave their names in the FIR. Elsewhere, he said FIR was against five unknown persons. This is a serious inconsistency on whether the assailants were known/unknown at the time of the FIR and how they came to be named. In the Examination-in-chief, he said he got a written complaint drafted by his relative, Pappu Singh, and submitted it. In the Cross, he stated that he had dictated the First Information Report to Pappu Singh. Pappu Singh wrote the report himself; I only signed it. Pappu Singh did not

read the written report back to me. So, first, he said he dictated it. Then he said Pappu wrote it himself. He also said it was prepared at the police station in his presence, which does not clearly fit with the earlier picture of drafting before lodging. These are internal contradictions about how the FIR came into existence and whether it actually reflects his version. In the Examination-in-chief, he mentioned a **pole light, motorcycle headlights, and headlights of passers-by**, due to which he saw the accused firing, while in Cross-examination, he said it was dark at the time of the incident, so I could not clearly see who fired the shot and he cannot say who fired the shot that hit his brother. So, in chief, he claims clear identification; in cross, he admits **inability to clearly see** and inability to attribute the fatal shot. In Chief, he stated two Pulsar motorcycles - one with **three persons**, one with **two persons** → **5 persons total**. In Cross, he stated six people were firing continuously, like in a sudden burst of gunfire. I had lodged the FIR against five unknown persons, and had got six persons named. So, sometimes five, sometimes six assailants. FIR said to be against the unknown, yet he names five, then speaks of six. This is a material inconsistency in the number of offenders and the scope of his allegation. In Cross, he said he did not chase the accused, while under Section 161 CrPC, he stated he chased. That is a direct contradiction with his prior police statement on their reaction after the incident. In Cross, he stated that the shots were fired at my brother from the right side, while in the site sketch, firing is shown from the left side. This is a conflict between oral testimony and physical/recorded evidence regarding the direction of fire. In Chief, he stated that he identified at the spot by pole light and motorcycle lights, while in Cross, he stated that about 25-30 meters east of Mahrua crossing, there is a petrol pump; under its lights, I identified the culprits. But PW-2 stated the place of occurrence is 1 km north of Mahrua crossing (Kasda Mor); a petrol pump 25-30 m east of the crossing does not logically illuminate a site 1 km away. That creates a topographical inconsistency about where and how he saw the accused. In Cross, he stated he is not an accused along with Rajendra Singh, who is one of the accused in this case. Then, immediately after, he stated that in Case Crime No. 37/2003, Rajendra Singh and he were co-accused. This is a direct contradiction of his own status as a co-accused with Rajendra Singh in a previous case, and affects his credibility and potential bias.

## 2. PW-2 Ram Nayan Singh

67. As per the case diary, initially, IO considered this witness as a witness to the last seen circumstance, but in court, he became an eyewitness. PW-2 in Examination-in-chief stated that after shooting his

son, he got scared and went home. Under Section 161 CrPC, he said that he chased the shooters. It is an apparent contradiction in his conduct immediately after the incident. In the Cross-examination, he stated he never gave any statement to the police, saying that when he was about to drink tea at Gogleganj crossing, two persons on Pulsar motorcycles waved weapons in the air and said that they had just killed Subhash Singh. In fact, he gave such a statement. Again, a direct contradiction between court testimony and the 161 statement. In the Cross, he claimed he told police that there was a man (Ram Ashish) standing ahead. Five people came on two motorcycles. Ram Ashish was standing before the others arrived, while in fact he did not say some of these things to the police under 161. This creates discrepancies between his claimed police statement and the recorded 161 statement, suggesting embellishment in court. In Cross, he stated that he told the police that when he reached Kasda Mor, a man was standing at a distance, empty-handed. Five people came on two motorcycles, but he did not tell the police that two Pulsar motorcycles were parked at that very junction. The case diary shows that he did not say so to the police under Section 161 CrPC. Again, a mismatch between his claimed prior statement and what is recorded. In the Cross, he stated that he did not speak to anyone that day about the incident, whereas his 161 statement indicates that he did speak. This is another material contradiction about his conduct post-incident.

**68.** There are many contradictions with other prosecution witnesses. The sequence and presence of Suresh (PW-1) differ from those of other witnesses. PW-2 stated that when firing began, Suresh Singh arrived; I panicked and ran away. Within 2-4 minutes, Suresh reached the spot; he was alone, and no one was with him. After the firing, 4-6 people arrived, and a crowd began to gather. I ran away. While PW-1 said he and others (Raj Narayan, Arun) were already following the deceased on another motorcycle and were present when the firing took place. So, PW-1 says he was there throughout and very close behind the deceased. While PW-2 says Suresh arrived after the firing began, and that he (PW-2) ran away as the crowd gathered. That is a direct inconsistency about PW-1's presence and vantage point.

**69.** PW-3 Deep Narayan Singh is a hostile witness. He accepted witnessing the aftermath but refused to witness the entire shooting episode. He basically deferred from his statement under section 161 CrPC. The prosecution shows some unverified photographs of the accused, arguing that he has been won over by the accused. If it were so, he might have fully deviated from his 161 statement. From this witness's testimony, it appears that all the eyewitnesses arrived after the incident

was over, and none had seen the assailants. So PW-3 denies being an eyewitness and denies seeing PW-1 and PW-2 at the spot, undercutting their version.

#### **4. PW-5 Sushil Singh (son of deceased)**

70. PW-5, a chance witness, under examination-in-chief, stated that on 25.07.2010, Ajay Pratap Singh @ Ajay Sipahi, with Ran Vijay and Rajendra, pressured his father to vacate the land and not contest the Block Pramukh election, and threatened to kill him. He adds that Ajay Sipahi then got his bail cancelled in another case and went to jail as part of a conspiracy. In cross-examination, he stated that he does not know whether his father had any disputes with anyone. He does not know what conversation took place between Ram Ashish, Ajay Pratap Singh and my father. These are direct contradictions. That seriously undermines the credibility of his story about prior threats and conspiracy. He squarely attributes intention to kill and coordinated firing to the named accused, while in cross examination, he said he does not know whether his father had any enmity with Minku Singh. To his knowledge, his father had no dispute with the accused Minku Singh. If there was no known enmity or dispute with at least one of the named shooters, yet he attributes a motivated, intentional collective attack, it creates doubt about motive and his certainty. There is no supporting proof, such as bus tickets, of his travel from Lucknow to his home. He accepted that he was not present at the time of the inquest. His non-presence at the time of the inquest creates doubts about whether he reached his house before the incident.

71. The testimony of this witness contradicts many aspects of that of other witnesses. PW-5 deposed that at the spot, his elder uncle Suresh Singh and Ram Nayan Singh were present on their motorcycles, while PW-2 deposed that Suresh arrived, and he (PW-2) ran away as people gathered; he does not mention Sushil, and says he himself fled when a small crowd came. PW-3 explicitly says he did not see Suresh and is unsure if he came later. So, PW-5 places PW-1 and PW-2 firmly present at the scene while the assailants were firing and/or immediately after. PW-2 suggests he fled and may have left before Sushil reached. PW-3 denies seeing either Suresh or PW-2. There is thus a three-way conflict about the exact presence and timing of these key witnesses. PW-5 stated that all five accused "got down from their motorcycles and started firing indiscriminately at Subhash Singh" from a close distance of 2-3 hands (approx. 2-3 feet). PW-1 describes a moving-shooting scenario: two Pulsar motorcycles crossed them and "started firing", firing from behind and from the side while going towards Mahrua; no explicit

mention that all five got down and surrounded the deceased. So the manner of firing differs. This is a material inconsistency in how the assault physically took place.

**72. There are inter-witness contradictions (overall picture):** PW-1 vs. PW-2 vs. PW-3 vs. PW-5. PW-1 stated he was **immediately behind** the deceased on another motorcycle with Raj Narayan and Arun, says **Deep Narayan** (PW-3). Arun and **Raj Narayan** were also present and saw the incident. PW-2 stated he and his son were on the road, saw the incident, and that Suresh came **after** firing began; says nothing about Arun following on a motorcycle (and even denies telling police they were following). PW-3 stated he **did not see** any accused, did not recognise any attacker, and **did not see** PW-2 or Suresh; reached after the incident. PW-5 stated he arrived and saw his father being fired upon; claims Suresh and PW-2 were there; did not mention Deep Narayan as an eyewitness. As a result, there is a massive contradiction over who actually saw the firing, who was present at the precise time, versus who arrived after and whether PW-3 is an eyewitness at all.

**73.** Upon the Identity and number of assailants, PW-1 vacillates between 5 persons on two bikes (chief); 6 persons firing continuously (cross). FIR against five unknown; later six were named (cross). PW-2: 5 named persons arriving on two motorcycles + Ram Ashish standing there, then joining them. PW-5: 5 named shooters (Dimpy, Ran Vijay, Minku, Rajju, Pawan) firing + Ram Ashish "for spying" standing nearby, then sitting on the motorcycle. All acknowledge five primary shooters + Ram Ashish in some role. But PW-1's shifting numbers and his unclear knowledge of their names vs faces, plus the "unknown" FIR aspect, create serious doubt.

**74.** On the point of Lighting and visibility, PW-1 stated pole light + motorcycle headlights + passers-by lights, and later petrol pump light 25-30 m east of Mahrua crossing (1 km away from Kasda Mor, per PW-2's distances). Yet also says it was dark and he could not clearly see who fired. PW-2: Time was 7:30 pm, acknowledges he has a weak right eye from childhood; does not clearly describe lights, but says he saw firing from some distance. PW-5 again emphasises street lamp and motorcycle headlights for identification from 5-7 steps away. So, there are inconsistencies in how good visibility actually was, and PW-1's petrol pump explanation appears geographically inconsistent with PW-2's distance description.

**75.** On the point of the manner of firing and direction, PW-1 stated firing from behind and the side while the motorcycles were moving. He also

stated shots at the deceased from the right side (site plan says left). PW-2 stated both attackers and the deceased were on the southern side of the road and facing north; it does not give a detailed side-of-body description. PW-5 stated firing was from 2-3 feet distance, after all had got down. Combined, these differences raise doubt about the precise mechanics of the attack and alignment with physical evidence. The overall impact of these contradictions and inconsistencies is serious doubts about the presence of the witnesses at the time of shooting and the identification of the shooters.

**76. Summary of Ocular Evidence:** In totality, the eye-witness account presented by the prosecution is fraught with internal inconsistencies and late enhancements. PW-1, PW-4, and PW-5 are close relatives of the victim, who claimed in Court to have identified the assailants as the accused, but neither mentioned those names in the immediate aftermath (FIR or next-day statements). Even PW-5's statement was not recorded by the IO at the time of delivery of empty cartridges and the license of his father's revolver. Their improved identifications came weeks later, raising suspicion of tutoring or an afterthought. PW-3, an independent eyewitness in the sense of not being a family member (though a friend), did not corroborate the identification and was declared hostile. The conditions for observation were suboptimal – nighttime on a rural road with only a motorcycle headlamp as illumination, and a sudden armed ambush which would have naturally caused shock and chaos. Given this context, the opportunity for clear observation was poor, and it is not implausible that the witnesses could not discern the attackers' faces reliably in that fleeting moment. Indeed, the very contents of the FIR – “five unknown persons” – reflect the reality that at the time of the incident, the assailants were not recognised. The subsequent attribution of identities appears to be an ex post facto development. The Court also notes that all eyewitnesses are interested witnesses (family/friends of the deceased). Law does not disqualify such witnesses, but warrants that their evidence be examined with caution. Here, important contradictions (such as PW-1's false claim about the deceased firing, and his omission of names in FIR) and lack of independent corroboration make it unsafe to rely on their testimony without corroboration. Unfortunately, corroboration is missing – no independent bystander or local resident who might have witnessed the assailants fleeing was examined, even though the assailants allegedly fled towards a market (Mehrooa bazaar) and caused a commotion. The prosecution did not bring any such neutral witness on record. In fact, one witness mentioned

that many people gathered after the incident (as often happens after hearing gunshots), yet none of them were cited to identify the culprits.

**(b) Medical and Forensic Evidence**

77. It is not in dispute that Subhash Singh died a violent death by gunshot injuries. The medical evidence confirms the nature of the injuries but does not specifically link any of the accused to the crime. PW-6 Dr Onkar Nath, the doctor who conducted the autopsy, stated that multiple firearm wounds were found on the deceased's body. According to the inquest report prepared by PW-7, the body had "seven wounds of varying size, some of which appeared to be gunshot entry/exit wounds". The post-mortem report (Ex. Ka-2) was proved by PW-6; it notes firearm entry wounds on the chest and abdomen and corresponding exit wounds, with internal damage to vital organs. The cause of death was opined to be haemorrhage and shock due to firearm injury. There is no divergence between the medical evidence and the fact that the deceased was shot – thus, Point 1 (homicidal death) is established and indeed conceded by the defence. However, the medical findings do not assist in identifying who caused those injuries.

78. One aspect of note is the number of shots fired. The investigating team recovered ten spent cartridge casings from the scene (nine of 7.65 mm calibre and one of 8 mm calibre). This indicates that multiple rounds (possibly from two or three firearms, as the 7.65 mm casings' firing pin appears to be from perhaps different guns) were discharged. The 8 mm calibre case nose was flat, suggesting it was fired from Desi Katta. The deceased sustained multiple bullet wounds (the exact number of entry wounds can be inferred as at least 3-4, given seven injuries including exits). The ocular witnesses did not clearly recount the number of shots or the number of weapons used; they only described a flurry of gunfire. There is no direct conflict between their general account and the medical evidence, except that the volume of firepower used suggests a concerted attack, possibly by more than one shooter. This again underscores that if five persons were indeed involved, one remains unidentified – meaning the prosecution itself acknowledges not all assailants before the Court might be accounted for. The absence of any recovered bullet or weapon means there is no ballistic analysis to conclusively tie the 7.65mm or 8mm cartridges to a firearm traced to any accused. In summary, the medical evidence proves the commission of murder but does not implicate any accused; it is purely corroborative of the fact that a shooting happened.

79. One discrepancy to highlight between medical and ocular versions is the matter of range and trajectory (though only touched upon in arguments, not strongly proven either way). The doctor noted the absence of any soot or burning around wounds, which implies the shots were not contact or extremely close-range. The assailants were reportedly on motorcycles and fired from a short distance. This is consistent - the wounds appear to be from medium-range gunfire. The defence pointed out that if the assailants were behind on bikes, one would expect entry wounds from the back, whereas the post-mortem indicated some entry wounds in the front torso. However, this is not conclusive: the deceased may have turned towards his attackers upon hearing the first shots, or there may have been multiple shooters at different angles. Thus, the medical evidence does not flatly contradict the broad occurrence, but nor does it provide any identifying feature (such as a specific weapon type or injury pattern uniquely linking to a particular accused).

80. Crucially, no "murder weapon" (firearm) was ever recovered by the police in this case. PW-7 and PW-8 confirmed that, despite searches, none of the guns used in the offence could be traced to the accused. The only ballistic material collected were the empty shells from the scene, which by themselves do not incriminate anyone unless matched to a weapon. The failure to recover the firearms or any weapon from any accused deprives the prosecution of forensic linkage - for instance, had a gun been found with an accused and matched to the spent casings, that would be strong evidence of involvement. In this case, the lack of such recovery means the case stands entirely on eyewitness testimony and circumstantial inference. The empties collected were of common calibres (7.65mm and one 8mm) and could have come from unlicensed country-made pistols; no distinctive or personalised evidence can be gleaned from them without a weapon for comparison.

81. In sum, forensic and medical evidence, while proving the corpus delicti (that Subhash was murdered by gunfire), do not specifically implicate the accused. They neither affirm nor negate the identity of the shooters in any conclusive manner. They do, however, expose one inconsistency in the prosecution story - the informant's false claim about the deceased's revolver, which we have discussed above. That inconsistency, revealed through PW-5's evidence, further impugns the credibility of the prosecution's star witness (PW-1).

### **(c) Investigative Lapses: Identification Parade and Delay**

**82.** The integrity of the identification evidence in this case must also be examined in light of police procedure. When the assailants of a crime are unknown, a Test Identification Parade (TIP) is a well-recognised investigative tool to verify if witnesses can identify the suspects among similar-looking persons, in a fair and controlled setting (Section 9 of the Indian Evidence Act deals with such identification as relevant). In the present case, it is undisputed that no Test Identification Parade was conducted for any of the accused. The investigating officers admitted implicitly that after the accused were named by witnesses, no TIP was arranged - purportedly because the witnesses were claiming to know the accused from before (or had recognized them directly). However, this justification is tenuous. Initially, the accused were not known to the witnesses by name - the FIR called them "unknown". If indeed PW-1 and others only later "realised" the identities of the shooters, the proper course for the IO would have been to subject the suspects (once arrested) to a TIP before a magistrate, to test the witness's ability to pick them out. That was not done. By the time of trial, the witnesses have undeniably seen the accused multiple times (in police custody or in court hearings), thereby greatly diminishing the evidentiary value of their dock identification. Dock identification (identifying the accused for the first time in court) without prior TIP is considered an inherently weak form of evidence in our jurisprudence, especially when the witness had no prior acquaintance with the accused. It is well settled that dock identification without a prior TIP has little evidentiary value where the witness had no prior familiarity with the accused. Identification of the accused for the first time in court, in the absence of a TIP, renders such identification suspect and less credible. Here, PW-1 and PW-2's credibility on identification is suspect for exactly that reason - they failed to name the accused initially (indicating no clear familiarity at the time), and later pointed to the accused in court after a lapse of years, with no confirmatory TIP in between. The police's failure to hold an identification parade is a serious lapse that deprives the Court of a reliable test of the witnesses' memory and veracity. It casts a doubt on whether the identification of the accused is a genuine recollection from the crime scene or a product of subsequent tutoring/influence.

**83.** Another investigative lapse closely tied to this is the unexplained delay in recording key witness statements. As noted, PW-2's on 23.08.2010, and PW-3's on 14-21.08.2010 (though PW-3 denies giving one). This means over ten days passed after the incident, with the investigation still listing the culprits as unknown. PW-8 (Inspector Manoj, IO) tried to explain this delay by saying that in the interim, he

received information that “accused Ajay Singh was very feared in the locality and therefore witnesses were not coming forward”, and that the crime was being much discussed in the area. In his case diary entries (proved in court), the IO recorded on 19.08.2010 that villagers were hesitant to testify against Ajay due to his terror, and only after efforts were witnesses Arun and Raj Narayan (PW-2) interviewed around 21-23 August. While witness intimidation can indeed cause delays, in the present case, this explanation rings hollow. PW-1 and PW-3 are close relatives of the deceased who had already given initial statements; there is no evidence that they were threatened or in hiding - PW-1 was actively pursuing the case (he filed the FIR and did the inquest). If PW-1 truly recognised the attackers that night, it defies logic that he would suppress their names for almost two weeks. The suggestion that fear of Ajay prevented naming is also weakened by the fact that Ajay is not alleged to have been one of the actual shooters present on the motorcycles - he was supposedly the conspirator, not physically at the scene. So fear of retribution from a person not on the scene (and who could have been arrested promptly if named) is less convincing. In any case, even if fear played a part, the law requires the prosecution to convincingly dispel doubts arising from the delayed examination of witnesses. The Hon’ble Supreme Court has observed in the case of **Ganesh Bhavan Patel & Anr vs State Of Maharashtra, 1979 AIR 135** that unless a reasonable explanation for the delay is given and accepted, such delay can be fatal to the prosecution's case. Here, the delay was considerable, and the proffered explanation (witnesses’ fear) is not corroborated by any contemporaneous evidence (e.g. a complaint by witnesses about threats, etc.). This gap allowed ample opportunity for potential tutoring or tailoring of testimony in line with investigative theories or personal suspicions.

**84.** The role of the investigating officers (PW-7 and PW-8) themselves merits scrutiny. PW-7 (SI Yagya Narayan) took charge on the night of 10.08.2010 and conducted the initial investigation, including the inquest and collection of evidence. He frankly stated that as of the time he handed over the case on 12.08.2010, no suspect had been identified or named. He also recorded in the inquest that the assailants were unknown. Thereafter, PW-8 Inspector Manoj took over on 12.08.2010. It was under PW-8’s watch that the accused’s names surfaced. PW-8’s testimony details the steps he took: he looked into the motive angle (confirming there was talk of a land dispute with Ajay Singh); he tried to trace the deceased’s revolver (learning it was deposited); he recorded statements of available eyewitnesses (Arun, Raj Narayan, Suresh) around 21-23 August who then named the assailants; and subsequently

arrested the accused (one by one between September and November 2010). However, some investigative omissions are evident: No attempt was made to find or identify the unknown assailant – the police seemed content once four names were obtained. That unknown shooter was never identified or charged; this means the possibility remains that some other person (not before this Court) was involved in the murder. If so, the participation of the present accused is less than certain because at least one real culprit is admittedly missing. The conspiracy angle (involving Ajay) was pursued by IO largely on the basis of hearsay statements: e.g., PW-4 Raj Kishor told the IO about Ajay's alleged prior threats and plotting, but the IO did not secure any direct evidence of meetings or communications between Ajay and the shooters. PW-8 mentioned obtaining Call Detail Records (CDRs) of certain phone numbers as part of an investigation (much later), presumably to link the accused, but the prosecution did not present any expert analysis of those CDRs in court. Thus, whatever intelligence the IO had about a conspiracy was not translated into tangible evidence admissible at trial.

85. The defence has suggested that the IOs were under pressure to solve a high-profile case (the deceased was a former Block Pramukh) and thus hastily concluded the involvement of these accused based on local rivalries rather than concrete proof. There is some indication in PW-7's testimony that he was questioned about working under pressure of superiors – he denied any undue influence. But the fact remains that the investigation left several loose ends: no TIP, no weapon recovery, no identification in court, and reliance on belated witness statements. These investigative lapses cumulatively weaken the prosecution case.

#### **(d) Motive and Alleged Conspiracy**

86. Where direct evidence is weak, the prosecution often banks on motive as a supporting circumstance. In the case at hand, the suggested motive is a land dispute. PW-1 and PW-4 testified that accused Ajay Pratap Singh "Sipahi" had a dispute with one Bhole Singh over a piece of land in the town of Mehruaa, in which the deceased Subhash somehow became an obstacle (perhaps siding with the rival). It is alleged that Ajay wanted the land vacated and had even threatened Subhash a few days before the incident, promising part of that land to himself once captured. To achieve this, Ajay supposedly hatched a plan to eliminate Subhash and engaged the other accused (who are said to be his associates or henchmen) to carry it out.

87. It is indeed on record that the deceased was an ex-Block Pramukh (local political figure) and had enemies. PW-8's diary notes confirm that

“common talk in the area linked Ajay Singh to a land dispute with the deceased”. However, motive alone does not equate to proof of guilt. While the existence of prior enmity can explain why a particular person might be targeted, it cannot establish that the accused actually perpetrated the crime. The evidence of motive here is mostly hearsay – PW-4 Raj Kishor (a relative of the deceased) spoke about what he had heard regarding Ajay’s plans. There is no direct evidence of any meeting of minds or agreement among the accused to commit this crime. No witness overheard the accused conspiring, no recovery of any letter or communication planning the murder was made, and none of the accused confessed (their statements to police were recorded but, being exculpatory or neutral, were of no use, and any inculpatory statement to police would be inadmissible under Sections 25–26 of the Evidence Act). Essentially, the conspiracy charge (Section 120B IPC) rests on inference: because these men allegedly had a motive and because the murder occurred in a manner consistent with a planned hit, therefore, they must have conspired. This is a dangerous line of reasoning if not buttressed by solid evidence.

88. The law on criminal conspiracy requires proof of an agreement to commit an offence (Section 120A IPC defines conspiracy as an agreement to do an illegal act or a legal act by illegal means). Direct evidence of conspiracy is often rarely available, so courts do permit drawing inferences from conduct and circumstantial facts. But such circumstantial evidence of conspiracy must be clear and cogent. In this case, beyond the broad allegation of motive, no specific act attributable to any of the accused (apart from the attack itself) is shown. For instance, if there had been evidence that the accused were seen together following the victim or that they procured weapons or were in contact via phone around the time of the incident, those could be incriminating. Unfortunately, the prosecution did not present any such evidence. No telecom officer or record was produced to show calls between Ajay and the other accused before the murder. In the absence of concrete circumstantial links, motive remains merely a speculative backdrop.

89. It is relevant to recall that enmity is a double-edged sword: while it can be a reason to commit a crime, it is equally a reason why someone might be falsely implicated in a crime. Courts have often cautioned that where there is known prior enmity between parties, the evidence must be examined with extra care to ensure the accusations are not motivated by that enmity. In this case, several accused (Ajay, Rajju, etc.) were admittedly on inimical terms with the deceased’s family over land or local politics. This heightens the possibility that the informant’s side

assumed or believed they must be behind the murder, and subsequently named them. The absence of direct proof tying those accused to the scene makes this a plausible scenario of false implication due to suspicion.

**90.** In summary, the motive/conspiracy theory put forth by the prosecution is not substantiated by reliable evidence. It remains an unproven allegation. Even if we assume *arguendo* that Ajay had a motive to kill Subhash, motive alone cannot take the place of proof of participation. Our courts have consistently held that, however strong the suspicion or motive, the prosecution must prove the accused's guilt beyond a reasonable doubt with actual evidence. Here, that standard is not met with respect to the conspiracy charge. There is a missing link between motive and action – no evidence of the alleged agreement or meeting of minds. Therefore, the charge under Section 120B IPC is not made out.

**91. Conclusion on Evidence:** When we evaluate the prosecution evidence in its totality, several infirmities emerge: (1) The eyewitness identifications are shaky – marred by delays, contradictions, and lack of corroboration (no TIP, one eyewitness hostile, etc.). (2) No physical evidence connects the accused to the crime – the weapons were not recovered, and the forensic evidence (empty shells, medical report) do not incriminate them individually. (3) The investigation left gaps – failure to identify the assailant or produce independent witnesses, raising the possibility that not all real culprits are before the Court. (4) The prosecution's theory of conspiracy is based on unproven assumptions and hearsay.

**92.** Under these circumstances, it would be hazardous to place implicit reliance on the prosecution's evidence to convict the accused. As detailed above, the evidence suffers from reasonable doubt on crucial points. The court must keep in mind that the burden lies entirely on the prosecution to prove the charge beyond a reasonable doubt, and the accused carries no burden to prove their innocence. The accused have opted not to lead evidence, but that cannot be held against them – even if their defence is only a denial, the prosecution must stand on the strength of its own case. It is a well-settled principle of criminal jurisprudence that an accused is presumed innocent until proven guilty, and this presumption is not displaced unless the prosecution's evidence is of such quality that only one logical conclusion – that of guilt – can be drawn. In this case, far from being singularly pointing to guilt, the evidence on record permits multiple plausible explanations, including

one consistent with innocence (for example, that unknown assailants committed the crime and the present accused have been named due to suspicion or enmity). The numerous frailties in the prosecution's case entitle the accused to the benefit of the doubt.

### **Legal Analysis and Case Law**

**93.** Having marshalled the facts and evidence, the Court now examines them through the lens of applicable legal principles. The charges against the accused are serious – including murder and criminal conspiracy – which carry severe punishment. It is a fundamental tenet of our legal system that the graver the charge, the higher is the degree of proof required. The prosecution must establish the guilt of the accused beyond a reasonable doubt. If there is any reasonable doubt, the accused must be acquitted. It has been eloquently stated by the Hon'ble Supreme Court that “one of the cardinal principles of our criminal justice system is that the accused is presumed innocent until proven guilty, and the burden lies on the prosecution to rebut that presumption by cogent evidence”. In **Kali Ram vs. State of H.P., (1973) 2 SCC 808**, the Hon'ble Supreme Court emphasized that the onus on the prosecution never shifts and that if “some material is brought on record consistent with the innocence of the accused which may reasonably be true, the accused would be entitled to acquittal”. This principle squarely applies here – the material inconsistencies and gaps we found in the evidence are certainly consistent with the accused being innocent (or at least not proved guilty), and thus they must be given the benefit of doubt.

**94.** This case, in the Court's opinion, does not rest on direct evidence of unquestionable quality. Instead, it heavily leans on circumstances (such as subsequent identification, motive, etc.) to connect the accused to the crime. In law, a person can indeed be convicted on circumstantial evidence alone, but the courts have repeatedly set a high threshold for such a conviction. The classic exposition of this threshold is found in **Hanumant Govind Nargundkar vs. State of M.P., AIR 1952 SC 343**, and was later reaffirmed in **Sharad Birdhichand Sarda vs. State of Maharashtra, 1984 AIR 1622**. The Hon'ble Supreme Court in these cases laid down the five golden principles (often called the Panchsheel of proof) governing circumstantial evidence: (1) the circumstances relied upon must be fully and firmly established; (2) those facts must be consistent only with the hypothesis of guilt of the accused; (3) the circumstances should be of a conclusive nature, not explainable on any other hypothesis except guilt; (4) the chain of evidence must be so complete that it excludes every reasonable possibility of innocence; and (5) the proved circumstances must unerringly point towards the accused as the perpetrator. If any link in the chain is missing, or if the evidence

can be interpreted in a reasonably innocent way, the benefit of the doubt must go to the accused. Applying these principles to the present case, it becomes evident that the prosecution's chain of circumstantial evidence is far from complete. To highlight a few points: the failure to account for the perpetrators (the unidentified perpetrators) leaves a glaring hole – an incomplete chain wherein one key participant is unknown. This means the possibility of someone else's involvement (beyond those accused) is admitted, which defeats the hypothesis that only the accused are guilty. Moreover, the circumstances that are established (like the recovery of cartridges, or the fact of enmity) are not conclusive – they do not exclude other hypotheses. For instance, the cartridges show that a shooting occurred (which is not disputed), but do not point to who fired. The enmity provides a motive to the accused, but many a time crimes are committed by persons who also have motives but are not the ones initially suspected. Thus, alternate hypotheses – such as the murder being committed by a professional hitman or rival gang (given the victim's status), or by the unknown individual without the involvement of some of these accused – cannot be ruled out on the evidence on record.

**95.** In State of U.P. vs. Ashok Kumar Srivastava, 1992 AIR 840, the Supreme Court cautioned that great care must be taken in evaluating circumstantial evidence, and if the evidence relied upon is reasonably capable of two inferences, the one in favour of the accused must be accepted. This principle perfectly mirrors the present scenario, where the evidence permits at least two views (one that the accused might be guilty, and another that they might have been roped in due to suspicion). As discussed, the view favourable to the accused is far from implausible here – it is indeed quite reasonable given the investigative lapses. Hence, following the Srivastava ruling, this Court is bound to give precedence to the inference consistent with innocence.

**96.** Turning to the eyewitness identification, which is the linchpin of the prosecution's case, I have already observed that it is highly questionable. In law, identification of an accused by an eyewitness can be accepted as proof of identity, but its weight depends on the credibility of the witness and the conditions of observation. When the identifying witnesses are relatives of the victim, and there are circumstances indicating possible mistaken identification or even deliberation, the courts approach their testimony with caution. One important safeguard is the Test Identification Parade (TIP) during investigation. The absence of a TIP in a case where the accused were not known to the witnesses before has been severely criticised by courts. The Hon'ble Supreme Court in

multiple decisions (including a very recent one in *Nazim vs. State of Uttarakhand*: 2025 INSC 1184 ) held that “courts must exercise extreme caution in accepting dock identification of a stranger accused when no prior TIP was conducted”, stressing that such first-time in-court identification has little evidentiary value if the witness had no prior familiarity. In the case at hand, PW-1 and PW-2 had no proven prior acquaintance with the assailants except Rajendra Singh (indeed, they called them unknown initially). The police did not conduct a TIP after arresting the suspects. Thus, their in-court identification of the accused, coming after a long lapse (and opportunity to see the accused in custody or court), is inherently unreliable by legal standards. This legal position reinforces our factual finding that the identification evidence is not trustworthy enough to support a conviction.

97. Another pertinent legal maxim is that “suspicion, however strong, cannot take the place of proof”. This was stressed in *Sharad Sarada*, echoing Hanuman’s caution that conjectures or suspicious circumstances cannot be elevated to proof of guilt. In this case, the prosecution’s theory might raise strong suspicion against the accused (due to the prior enmity and the circumstances of the attack). However, suspicion is not a substitute for legally admissible and credible evidence. The Court cannot convict a person simply because “he might have done it” or because “he likely did it.” The law demands proof beyond a reasonable doubt - a substantially higher standard. The evidence here fails to meet that standard, leaving me with, at best, suspicion. As the Hon’ble Supreme Court famously observed in *Kali Ram* and other cases, it is “not necessary that every guilty person must be convicted; at times, even at the risk of letting off some culpable individuals, the paramount consideration is that no innocent person should be punished”. It is often said that the acquittal of a guilty person is an error, but the conviction of an innocent person is a greater error. This principle underlies the “benefit of doubt” doctrine.

98. Applying these legal principles, the Court finds that:

The prosecution has not discharged its heavy burden of proving the accused’s guilt to the hilt. Key links in the chain of evidence are missing, and the testimony of witnesses is not wholly reliable. The evidence is compatible with the hypothesis of innocence of the accused. For instance, the possibility that the crime was committed by some persons other than the accused (or with only partial involvement of the accused) cannot be excluded, given the unidentifiable culprits and shaky identifications. Serious procedural lapses, such as failing to conduct a

TIP and to secure independent evidence, have denied the Court the assurance needed to convict. The law considers such lapses to undermine the fairness and reliability of identification evidence.

All accused are thus entitled to the benefit of doubt. In *Kali Ram* (supra), the Hon'ble Supreme Court observed that even if a reasonable possibility of innocence emerges, the accused must be acquitted. Here, more than a mere possibility, tangible doubts and alternative views are arising from the evidence.

**99.** Finally, it must be noted that the charges include offences under Section 149 IPC (constructive liability for unlawful assembly). To invoke Section 149, it must first be proven that five or more persons (the accused being among them) shared a common object to commit the crime. In this case, given that the identities of the accused persons are unestablished and I harbour doubt about the named shooters, the very existence of an unlawful assembly with the accused as members is not proved beyond doubt. Therefore, the vicarious liability under Section 149 IPC cannot be fastened on the accused. Similarly, the charge under Section 7 of the Criminal Law Amendment Act, 1932 (which generally punishes membership of an unlawful assembly or assembly after being commanded to disperse) falls flat because it was not shown that any prohibitory order was in force or that the accused continued in an unlawful assembly in defiance of such order. No evidence of promulgation of any order under law (like Section 144 CrPC) at the place/time was brought. Thus, Section 7 of the CLA Act does not survive independently. As for Section 27 of the Arms Act, 1959, it penalises the use of an unlicensed firearm in committing an offence. Since no firearm was recovered and there is no proof that any particular accused used any particular weapon, it is impossible to attribute this offence to any accused. Absent recovery or at least evidence of possession of a weapon by the accused, the charge under the Arms Act is not established.

**100.** In view of the above legal analysis, the cumulative result is that the prosecution's evidence does not fulfil the requirements for convicting the accused of any of the charges. The law, when applied to the facts, mandates that the accused be given the benefit of doubt and not be convicted on conjectures or weak evidence. The Court is conscious that a heinous crime like murder should not go unpunished, but our justice system prioritises caution: It is better to err in acquitting than in convicting, if err we must. Therefore, however unfortunate the murder

of Subhash Singh was, this Court cannot hold the present accused legally responsible for it on the frail evidence presented.

### **101. Findings**

In light of the foregoing discussion of evidence and law, the findings of the Court on the points for determination are as follows:

**Homicidal Death (Point 1):** It is proven that Subhash Singh's death was homicidal and caused by firearm injuries. However, whether it amounts to murder by the accused is addressed under Point 2. (There is no dispute that the death was a result of gunshot wounds, thus fulfilling the factum of a culpable homicide).

**Identity and Guilt of Accused – Murder/Unlawful Assembly (Point 2):** It is found that the prosecution has failed to prove beyond a reasonable doubt that the present accused were the persons who shot and killed Subhash Singh. The evidence does not establish that the accused were members of any unlawful assembly at the scene or that they shared a common object to kill the deceased. Therefore, the charge under Section 302 IPC, whether read with Section 149 IPC or otherwise, is not proved against the accused. Each accused is entitled to the benefit of doubt on the question of identity and participation. Accordingly, Point 2 is answered in the negative (not proved).

**Rioting (Points 2 & 3 as to Sections 147, 148 IPC):** In the absence of credible evidence of the accused persons' presence and involvement in the incident, it is not proved that they committed rioting or rioting armed with deadly weapons. The very composition of five or more persons acting in concert is in doubt. Thus, Sections 147 and 148 IPC are not made out.

**Criminal Conspiracy (Point 3):** The charge under Section 120B IPC is not proved. There is no reliable evidence of any agreement or meeting of minds among the accused to commit the crime. Mere allegations of motive or opportunity, without more, do not constitute proof of conspiracy. Point 3 is answered in the negative.

**Section 7 Criminal Law Amendment Act (Point 5):** The prosecution has led no specific evidence under this head (e.g. no proof of promulgation of any order or that the accused continued in an unlawful assembly after such order). In any case, since the core allegation of unlawful assembly itself is not established, the charge under Section 7 CLAA, 1932 also fails. It is not proved that the accused committed any offence under that section.

**Section 27 Arms Act (Point 5):** It is not proved that any of the accused used or possessed any firearm in the commission of the offence. No firearm was recovered from any accused, and no ballistic or direct

evidence links any accused to any weapon. Hence, the charge under Section 27 of the Arms Act is not established.

In summary, none of the charges against the accused have been proved beyond reasonable doubt. The prosecution's case, when tested against strict legal standards, leaves ample room for doubt on every material element.

### **Order**

As a consequence of the aforementioned analysis and findings, this Court is of the considered view that the prosecution has not succeeded in proving the guilt of the accused persons. All the accused are therefore entitled to acquittal.

### **Accordingly, it is ordered that:**

Accused Rajju Singh, Minkoo aka Vijay Pratap Singh, Dimpu aka Dimpy Singh, Ajay Pratap Singh aka "Sipahi", Ram Ashish, Pawan Kumar aka Ajit Kumar Singh, and ~~Rajendra Singh~~ are hereby found not guilty of the offences under Sections 147, 148, 302/149, 120B IPC, Section 7 of the Criminal Law Amendment Act, and Section 27 of the Arms Act. They are acquitted of all charges.

The accused are in custody (except those on bail). If any accused is in jail, he shall be released forthwith, unless required to be detained in any other case. If any accused is on bail, his bail bonds are discharged.

Let a copy of this judgment be sent to the District Magistrate, Ambedkar Nagar, under Section 365 CrPC for information. The file may be consigned to records.

The accused are acquitted as above.

Pronounced in open court on this 28<sup>th</sup> day of November, 2025.

(Chandroday Kumar)

Sessions Judge

Ambedkar Nagar

28.11.2025