

**NON-REPORTABLE****IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 591 OF 2020****ANJANI SINGH****...APPELLANT(S)***Versus***THE STATE OF UTTAR PRADESH ...RESPONDENT(S)****JUDGMENT****MANOJ MISRA, J.**

1. This appeal arises from judgment and order of the High Court of Judicature at Allahabad¹ dated 05.07.2019 passed in Criminal Appeal No. 8133 of 2007.

Facts

2. Three persons, namely, Anjani Singh (Appellant No. 1), Ravindra Singh (Appellant No. 2) and Rishabh Dev Singh were tried in Sessions Trial No. 28 of 2005 for offences punishable under Sections 302/34, 307/34 and 504 of Indian Penal Code, 1860². All three were convicted by the Court of Additional Sessions Judge,

¹ The High Court

² IPC

Court No. 1, Ballia (in short the Trial Court). Appellant Nos. 1 and 2 were convicted under Sections 302, 307 and 504 of IPC, whereas Rishabh Dev Singh was convicted under Sections 302/34, 307/34 and 504 of IPC.

3. On appeal to the High Court, Rishabh Dev Singh (for short Rishab) was acquitted whereas conviction of Anjani Singh (for short Anjani) and Ravindra Singh (for short Ravindra) was affirmed *vide* the impugned order.

4. Aggrieved by affirmation of their conviction, this appeal has been filed. During pendency of this appeal, Appellant No. 2 i.e., Ravindra passed away and, therefore, his appeal abated *vide* order dated 07.08.2025. The present appeal survives *qua* Anjani alone.

Prosecution case

5. The prosecution case in a nutshell is that on 20.10.2004, a function for establishment of Durga idol was held at the village. To celebrate the occasion, a drama play was arranged and held beneath a pandal. Informant's (PW-1's) son, aged about 10 years, was amongst the audience, sitting in the front row. During drama play, Anjani started beating PW-1's son. When PW-1 objected to it, Anjani got infuriated and left the scene. Thereafter, at around

09:00 PM, Anjani, with a country made pistol in his hand, Ravindra i.e., Anjani's brother, with a licensed rifle, and their father Rishabh, with a lathi, came and exhorted each other to kill PW-1. Whereafter, Ravindra and Anjani started firing from their respective weapons causing firearm injuries to PW-1, Harendra Kumar Yadav (PW-10), Mritunjay Kumar Yadav (PW-7), Vimlesh Dubey (PW-2), Umesh Kumar Thakur (PW-3), Krishna Kant Verma (deceased no.1) and Banarasi (deceased no.2). Krishan Kant Verma and Banarasi died at the spot. PW-1 and other persons present there caught Ravindra and snatched his rifle which broke down. However, all three accused managed to escape.

FIR and investigative steps

6. First Information Report³ of the incident was lodged at 10.30 PM on the same day, i.e., on 20.10.2004 naming all the three accused. The broken rifle seized was handed over *vide* seizure memo Ex. Ka-2; and one magazine of 0.315 bore, with one empty cartridge, was lifted from the spot, *vide* seizure memo Ex. Ka-18. Samples of blood-stained earth and plain earth were lifted from the spot *vide* Ex. Ka-17. Inquest proceedings of the two deceased were

³ FIR

carried out and reports thereof were prepared *vide* Ex. Ka-3 and 4 respectively. The dead bodies of both the deceased were sealed and sent for autopsy.

Autopsy Reports / Injury reports

7. Injuries found on the body of the two deceased and the persons injured have been described in paragraphs 5 and 6 of High Court's judgment, which are being reproduced below:

“5. The postmortem on the dead bodies of both the deceased was conducted by PW-11 Dr. G.C. Maurya on 21.10.2004, and as per postmortem report Ex. Ka-5, deceased Krishna Kant Verma has sustained following injuries:

(1) Firearm wound of entry on the scalp right side 2.0 cm x 1.5 cm, brain cavity deep, 2.0 cm above and post to the right ear lobe. Margin blackened and inverted.

(2) Firearm wound of exit on the scalp at occipital area 6.0 cm x 5.0 cm. Margin everted brain matter protruding out. Lw (i) and (ii) injuries are connected to each other. Small skin tag in between both injuries.

As per Autopsy Surgeon, the cause of death of the deceased was coma as a result of antemortem injuries.

As per postmortem report, Ex. Ka-6, deceased Banarasi has sustained following injuries:

(i) Firearm wound of entry on the right side forehead 2.5 cm x 2.0 cm, brain cavity deep, just above the medial end of right eyebrow. Margin inverted and blackened.

(ii) Firearm wound of exit on the post of occipital area right side 2.0 cm x 1.5 cm, brain cavity deep, 12.0 cm above the C-7 vertebra. Margin everted. (i) and (ii) are communicating to each other.

Note: recovered two small metallic pellets from the brain tissue wound of exit scabbed.

As per Autopsy Surgeon, the cause of death of the deceased was coma as a result of antemortem injuries. Time of death was stated about one day.

6. The injured persons were medically examined by PW-14, Dr. V.K. Gupta. As per the MLC Ex. Ka-9, injured Vimlesh Kumar Dubey (PW-2) sustained following injuries:

(i) Lacerated wound on chin, size 3.0 cm x 0.7 cm x skin deep, blackening present around it.

(ii) Firearm wound of entry on left side clavicular fossa size 1.0 cm x 0.8 cm x depth kept under observation, blackening present, margin inverted colour red soft scabbed.

(iii) Firearm wound of exit on just side clavicle (outer side), size 1.5 cm x 2.0 cm x depth kept under observation, margin everted, colour red soft.

(iv) Firearm wound of entry on left side posterior axillary fold below arm, size 0.7 cm x 1.0 cm, colour red with blackening around it depth kept under observation, margin inverted.

(v) Firearm wound of exit size 1.0 cm x 1.5 cm x depth kept under observation colour red soft scabbed margin everted.

(vi) Multiple tiny abrasions on lateral aspect left side arm lateral armpit size 2 mm diameter to 4 mm diameter blackening present.

Opinion: Above injuries no. 1 and 6 are simple, rest are kept under observation, all are due to some firearm, duration fresh, admitted and refer to surgeon.

As per MLC Ex. Ka-8, injured Anugrah Narayan Singh (PW-1) sustained following injuries:

- (i) *Tiny lacerated wound on anterior aspect of 6 cm above from wrist joint bleeding present.*
- (ii) *Deep abrasion on medial aspect of right arm size x 5.0 cm x 1.0 cm colour red blackening present around it.*

Injury no. 1 is kept under observation, injury no. 2 is simple both are due to some firearm, duration fresh.

As per MLC Ex. Ka-12, injured Umesh Kumar Thakur (PW-3) sustained following injuries:

- (i) *Firearm wound of entry on eyebrow right side size 0.5 mm diameter margin inverted blackening present around it, colour red soft scabbed.*
- (ii) *Firearm on left side deltoid region, size 3 mm diameter, colour red, blackening present around it.*

Opinion: Above injuries are kept under observation, refer to eye surgeon caused by some firearm weapon, duration fresh.

As per MLC Ex. Ka-13, injured Harendra Kumar Yadav (PW-10) sustained following injuries:

- (i) *Firearm wound of entry on upper lip, size 1.0 cm diameter, margin inverted blackening present around it bleeding.*

Opinion: Above injury is kept under observation caused by firearm, duration fresh.

As per MLC Ex. Ka-11, injured Mritunjay Yadav (PW-7) sustained following injuries:

- (i) *Lacerated wound on right side parietal eminence of skull, size 6 cm x 3 cm, colour red, soft scabbed, blackening around it.*
- (ii) *Back pain over right side scapula region.*

Opinion: Above injury no. 1 is kept under observation caused by some firearm, duration fresh.”

Evidence

8. During trial, prosecution examined PW-1 (Anugrah Narain Singh-informant), PW-2 (Vimlesh Kumar Dubey), PW-3 (Umesh Kumar Thakur), PW-4 (Mahesh Verma), PW-5 (Venkat Raman Pratap Singh), PW-6 (Shivanand Verma), PW-7 (Mritunjay Kumar Yadav), PW-8 (Devanand Singh), PW-9 (Janak Singh), PW-10 (Harendra Kumar Yadav) as eye witnesses of the incident. PW-11 (Dr. G.C. Maurya) was the autopsy surgeon who had prepared the autopsy reports of the two deceased; PW-12 (Dilip Kumar Ojha) prepared the G.D. Entry of the FIR. However, PW-12, during cross-examination, admitted: (a) that he did not prepare any letter for medical examination of the informant (i.e., PW-1); (b) that he does not remember whether he could notice any injury on the body of the informant at the time of registering the FIR; (c) that the rifle which was deposited at the Police Station was without its magazine; and (d) that at the time of registering the FIR, no other injured person was present along with the informant.

9. PW-13 (Manoj Singh) was examined as an inquest witness, however, he was declared hostile. PW-14 (Dr. V.K. Gupta) was examined to prove the Medical Examination Report of the injured persons.

10. PW-15 (M.P. Singh, Sub-Inspector of Police) was examined to prove the investigation papers. He stated, (a) that the investigation was started by Sub-Inspector Murahu Singh (*who was not examined*), at that time, he was not present; (b) that he took over the investigation of the case on 22.10.2004; (c) that the magazine 012027 was produced in court by the defence, which bears the same number as is inscribed on the rifle; (d) that electricity was not available at the site; (e) that PW-1 has criminal history; and (f) that no blood-stained cloth of PW-1 was recovered.

11. What is important to note is that except PW-1 no other eye witness examined by the prosecution supported the prosecution case.

12. PW-2 stated that though he was present at the time of incident, electricity, which was from a generator, went off, therefore, in absence of light, he could not see how persons got injured. He also stated that though he suffered injuries, he could not notice whether the rifle was seized from the accused.

13. Similar is the statement of PW-3. He stated that when he was hit by a gun-shot he fell unconscious. PW-3 was declared hostile by the prosecution and was confronted with his previous

statement. During cross-examination, he stated that a pellet had struck him while he was running.

14. PW-4, who was examined as an eye witness as well as a witness to the inquest proceeding, though accepted his signature on the inquest report, stated that he was not present at the time of the incident. Rather, he arrived after the incident had occurred. He too was declared hostile by the prosecution.

15. PW-5, who was produced as an eye witness and as a witness of seizure of the rifle, denied his presence at the spot at the time of occurrence. He admitted his signature on the memo regarding handing over of the rifle, but clarified that the Investigation Officer had called him 5-6 days after the incident to get his signature on a paper. He also denied that the rifle was sealed in his presence.

16. PW-6, who was also produced as an eye witness as well as a witness to the inquest report, denied his presence at the time of occurrence. He was, accordingly, declared hostile. However, he admitted his signature on the inquest report.

17. PW-7 was produced as an eye witness. He admitted his presence on the date and time of occurrence, but stated that when the firing started it was dark and, therefore, he could not notice as

to who fired the shots. Consequently, he too was declared hostile and was cross-examined by the prosecution. During cross-examination, he denied the suggestion that at the time of occurrence there was light from the generator.

18. PW-8 was produced as an eye witness. However, he denied his presence at the spot at the time of occurrence. Consequently, he too was declared hostile by the prosecution.

19. PW-9, who was produced as an eye witness as well as a witness to the seizure of the rifle, denied his presence at the spot at the time of occurrence and stated that since 4-5 months before the incident he had been in Punjab and he returned one year after the incident. Prosecution declared him hostile and cross-examined him to prove the memo *qua* handing over of the rifle (Ex. Ka-2). PW-9, however, denied his signature on Ex. Ka-2.

20. PW-10 stated that the pandal and the generator for the drama play was organised by him and that one of the deceased, namely, Banarasi was his employee. He stated that the incident occurred at 09:30 PM, but who exhorted, and who fired, he could not recognise. He admitted that he was injured in the incident. The prosecution declared him hostile and cross-examined him. During cross-examination by the prosecution, he admitted that he saw

PW-1 at the spot. During cross-examination by the defence, PW-10 stated that at the time when gun-shots were fired, the lights were off.

21. Accused claimed false implication on account of village politics and also claimed that rifle was picked up by police from home. However, the Trial Court as well as the High Court convicted the appellants by relying on the testimony of PW-1.

22. We have heard Mr. Rakesh Kumar for the appellant; and Miss Srishti Singh for the State.

Submissions on behalf of the Appellant

23. The learned counsel for the appellants submitted that the prosecution case rests on the ocular account of PW-1. Testimony of PW-1 is not of such a stellar quality as may form the sole basis of conviction, particularly, when other persons, who were admittedly injured in the incident, have narrated that at the time of occurrence, lights were off. Even otherwise, the prosecution story does not inspire confidence because there appears no reason for the accused to indulge in indiscriminate firing to cause injuries to several persons more so, when, as per PW-1, he was the only one targeted. It was also argued that the prosecution had failed to prove

that rifle was seized from Ravindra by persons present at the spot inasmuch witnesses of the weapon handing over memo have not supported the prosecution case and, admittedly, the rifle was without its magazine. Besides, the magazine, which was later lifted from the spot, was not of the seized rifle. Even the empty cartridge lifted from the spot did not match with the firing pin of the seized rifle. In such circumstances, there were too many loopholes in the prosecution story and therefore, conviction was not sustainable on the testimony of a solitary eye witness. Additionally, it was argued, the injuries on the body of PW-1 appear superficial. Moreover, he was not medically examined through police. Further, the person who made G.D. entry of the FIR had deposed that he could not remember noticing any injury on the body of PW-1. Besides, no blood-stained cloth of PW-1 was recovered. All these circumstances indicate that the incident did not occur in the manner alleged; the prosecution was hiding the truth; and PW-1 was not a reliable witness. Even otherwise, the prosecution story is difficult to accept inasmuch as if rifle of Ravindra could be snatched by persons present in the pandal how could all three accused, who were left with hardly any weapon, manage to escape. It, therefore, appears probable, as deposed by other witnesses, that the incident occurred

in the darkness of night and after indiscriminate firing, the assailants managed to escape. Additionally, it was submitted that the first Investigating Officer was not examined to corroborate the prosecution case. In such circumstances, it was argued, the benefit of doubt ought to have been given to the appellant. Further, it was submitted, the testimony of PW-1 is uninspiring because if he was the one whom assailants targeted, it is inexplicable as to how he could escape unscathed or with negligible injury and others, against whom there existed no motive, suffered multiple injuries. All of this would indicate that the incident did not occur in the manner alleged.

Submissions on behalf of the State

24. *Per contra*, on behalf of the State, it was argued that all witnesses examined were consistent on two aspects. One, the time of occurrence and two, the place of occurrence. FIR, at the instance of PW-1, is prompt and names all the three accused. The witnesses, though may have been declared hostile, have not caused any doubt regarding the place and time of the incident. Further, they have not denied the presence of PW-1 at the spot and at the time of occurrence of the incident. Moreover, PW-1 had received injuries, therefore his presence cannot be doubted. In such circumstances,

though other witnesses might have turned hostile, for reasons best known to them, they have not damaged the substratum of the testimony of PW-1. In so far as PW-1 is concerned, his testimony as regards participation of the appellant in the incident could not be shaken during cross-examination, therefore, the Trial Court as well as the High Court were justified in relying on his testimony to record conviction. Besides, FIR was so prompt that there was no time for PW-1 to contrive a story to falsely implicate the accused. Further, there is no material to suggest that the FIR was not lodged on the date and time as it is purported to have been lodged. In so far as seizure of the rifle is concerned, the FIR recites about it, therefore, there can be no shadow of doubt about the involvement of the accused in the crime. Based on above, it was prayed that the appeal should be dismissed.

Analysis

25. We have considered the rival submissions and have perused the record carefully.

26. Before we proceed to assess the correctness of the impugned judgment, we must note that PW-1 is the informant and a person who received some injury, therefore, his presence at the scene of crime was accepted by the courts below. However, there were other

persons also who had received injuries, and much more than PW-1, but they have claimed that at the time of occurrence lights went off and, therefore, they could not notice as to who fired the shots. Admittedly, the supply of electricity at the pandal, where the drama play was organised, was through a generator. Interestingly, the generator operator got killed in the incident. Whether he got killed accidentally in a large-scale firing or was targeted was a question to ponder. Because, if he was targeted, the assailants might be interested in hiding their identity. The best way to ensure darkness is to switch off lights, and where supply of electricity is from a generator to switch it off. Notably, witnesses other than PW-1 are consistent that lights went off at the time of firing. In such circumstances, a close scrutiny of PW-1's testimony was required to test whether it can form the sole basis of conviction of the remaining two accused (i.e., the appellants). Importantly, accused no.3 to whom the role of exhortation was attributed has already been given the benefit of doubt by the High Court. Insofar as Ravindra is concerned, his rifle was seized. Such seizure may corroborate his presence at the scene of crime. However, during pendency of this appeal he died, therefore, we are not dealing with his appeal as it stood abated. In the aforesaid context, we would

consider whether the testimony of PW-1 inspires confidence, and whether it is sufficiently corroborated from other circumstances proven on record, so as to form the sole basis of conviction of appellant Anjani.

27. PW-1 deposed that around 8.30 PM while his son was watching the drama play, sitting on the front seat beneath the pandal, Anjani came and slapped his son. PW-1 objected to it, as a result, Anjani got annoyed and went away. Thereafter, at around 9.00 PM, Anjani Singh, with country made pistol, his brother Ravindra, with his licensed rifle, and Rishab, with lathi, came and exhorted each other to kill PW-1. Upon which, Ravindra fired from his rifle. The bullet struck PW-1. Firing continued and several others, namely, Harendra Yadav, Mrityunjay Yadav, Vimlesh Kumar Dube, Umesh Kumar Thakur, Krishna Kumar Verma (i.e. the first deceased) and Banarasi (i.e., the second deceased-generator operator) were hit by bullets. Krishna Kumar Verma and Banarasi died on spot and there was complete commotion and stampede. In that melee, PW-1 and others snatched the rifle from Ravindra. The wooden handle of the rifle broke and barrel got twisted. However, all three accused could manage to escape while firing shots from the pistol held by Anjani. Thereafter, PW-1,

Venkataraman (PW-5) and Janak Singh (PW-9) were taken on a car to the police station where he lodged the FIR. Those who got injured were taken to Sadar Hospital. PW-1 proved the written report (Ext.-1) and the memo (Ext.A2) by which the rifle was handed over to the police. PW-1 further deposed that after visiting the police station, he went to Sadar Hospital and from there came back home and then again went to the place of occurrence to show the crime scene to the police.

28. During cross-examination, PW-1 deposed that he went for his medical examination alone, police did not accompany him. He also admitted that he was an accused in the murder of Horam Rajbhar and that a case under Section 25 Arms Act is pending against him. He further admitted of being implicated under the Goondas Act (*at places it is mentioned Gangsters Act*) in the year 2004.

29. On being questioned, PW-1 described the incident by first stating that the accused fired shots at him while he was sitting towards western side of the pandal. He stated that shots were fired from one spot, east of the place where he was sitting. He then stated that when bullets were fired he was sitting in the enclosure, 3-4 steps from the drama stage platform. Many people were sitting around him and 5-10 people were sitting in front of him. Then he

stated that firing was done from the west side of the enclosure tent and that the distance between firing spot and drama platform may be about 7-8 steps. Later, he stated that no firing was done from the west side of the tent. However, when it was pointed out to him that police had shown that firing was done from the west side of tent, he retracted his statement and stated that it is correct that firing was done from the west side.

30. Thereafter, PW-1 stated that as soon as firing started, he could gather that shots were aimed at him. He stated that there was a distance of 3-4 steps between him and the accused when the accused had fired seeing him. Later, he said that when firing was done at him, he along with others had caught the assailant. Then he clarified that accused (i.e., Ravindra) was caught after he had fired shots from his rifle. Whereafter, he stated that: "*at that time, the accused who was having the country made pistol, did not fire at the people who were catching the person who was firing from the rifle.*" Then PW-1 stated that it took 15-20 minutes to snatch the rifle. However, later, he stated that rifle was snatched by PW-5 and PW-9 (*Note: PW-5 and PW-9 have not supported this fact*). As regards the role of Anjani, PW-1 deposed that "*when snatching etc was taking place, at that time, Anjani Singh had not fired at people*

involved in the snatching. Nobody tried to apprehend Anjani at the site of the incident”.

31. During cross-examination on 20.04.2006, PW-1 deposed: “*before opening fire, the persons who opened fire came and sat beside me, where I was sitting inside the pandal. They were at a distance of 3-4 steps from me and surrounded me and opened gunshot at me.* He added: “*I cannot say how many gunshots were fired using country made pistol (katta). ...On occurrence of firing, I ran here and there and fell down. I fell down in front of temple ..”*

32. On 20.04.2006, PW-1 admitted that he had been booked under Goondas Act (*at some place it is Gangster Act*) twice, though he was acquitted.

33. When we go through the statement of PW-1, the only eyewitness who supported the prosecution case, we notice that (a) he has not been consistent with regard to the place from where shots were fired; (b) his testimony regarding the role played by Anjani (appellant no.1) in the shoot-out is not specific; (c) at one point, he states that the two accused fired shots from one spot and later he stated that accused had surrounded him and several rounds were fired at him though he could escape by ducking; (d) he gives no explanation as to why indiscriminate firing was

resorted to when he was the sole target and was in close proximity to the assailants; (e) he categorically stated that Anjani fired no shot when rifle of his brother was being snatched; besides, no one tried to apprehend Anjani or snatch his pistol.

34. In our assessment, besides being a person with criminal antecedents, PW-1's wavering testimony does not inspire our confidence for several reasons, namely, (a) motive for the crime, though flimsy, was *qua* PW-1 yet, despite the assailants being nearby, PW-1, suffered no grievous injury; (b) there is no explanation for indiscriminate shootout killing two innocent persons against whom no motive is shown; (c) those who have been killed were shot from close range (*Note: blackening found present at the margin of entry wounds*), therefore it can be taken that they did not suffer gunshots accidentally; (d) though firing by Ravindra from rifle is specifically alleged, firing of shots from pistol by Anjani to target any particular person is not specifically alleged, rather the testimony is to the effect that Anjani did not fire any shot at those who were trying to snatch his brother's rifle; and (e) PW-1's injury appears superficial; further, if he had suffered injury he would have been taken to hospital like others. Therefore, in our view, PW-1's testimony is not of that stellar quality as to form the sole basis of

conviction of Anjani, particularly, when other injured witnesses, who were examined by the prosecution, had disclosed that at the time of indiscriminate firing light was off. Besides that, if the licensed rifle of Ravindra could be snatched, it is difficult to believe as to how a person with just a country made pistol, which, ordinarily, is a single shot weapon, would be able to escape along with two others who were rendered weapon less as against an infuriated crowd of more than 100 people.

35. Besides above, though, according to the prosecution, broken rifle was handed over to the police on the same day i.e., the date of the incident, during investigation, a magazine of a rifle, with one empty cartridge was recovered from the spot. Admittedly, the seized rifle was without its magazine and the magazine was in possession of the license holder. What is important is that the magazine recovered from the spot, could not be forensically connected with the seized rifle. Insofar as the country made pistol, alleged to be with Anjani Singh, is concerned, the same could not be recovered during investigation. No doubt, one may argue that in the process of snatching the rifle, the magazine of the rifle may have got detached from the rifle and, therefore, it remained with Ravindra. But we must not ignore that presence of another

magazine at the spot would suggest use of another weapon. Who used that weapon is not clear from the prosecution case. In these circumstances, when we take notice of the testimony of PW-1 that he was surrounded and shots were fired from all around, coupled with the fact that many persons got injured, it appears to be a case where several attackers with firearms had opened fire. Thus, in any event, the incident did not occur in the manner as alleged by the prosecution, and the prosecution appears not to be coming out with the truth.

36. In light of the discussion above, taking into consideration all aspects of the matter and, more particularly, having regard to the following: (a) that there were multiple persons injured in the incident, yet, except PW-1, no one supported the prosecution case *qua* the appellants; (b) that in PW-1's testimony the role played by Anjani in the shoot-out is not specific besides, it does not inspire confidence for the reasons recorded above; (c) that rifle magazine recovered from the spot did not match with the seized rifle, which had no magazine, and the magazine of the weapon was produced by its licensed holder, giving rise to a doubt whether the rifle used in the crime was of Ravindra, or there was some other weapon used, or some other person was involved in the crime; (d) that the

accused held no motive to kill the two deceased; and (e) that only one empty cartridge was found at the spot which did not forensically connect with the rifle seized from Ravindra, we are of the considered view that the prosecution has failed to prove its case beyond reasonable doubt.

37. Another feature of the case which requires mention is that the gun shot injuries found on the body of the two deceased disclosed blackening at the margins of the entry wound suggesting that shots were fired from close range. If shots were fired from a close range, why would a person kill two innocent people against whom there is no motive. This throws doubt on the theory propounded by the prosecution that gunshots were aimed at someone else but by chance they hit the two deceased. Whether those persons were targeted, if so, by whom, or were victim of indiscriminate firing, is not easy to decipher from the prosecution evidence. Moreover, the aforesaid circumstances lend credence to the testimony of other witnesses that at the time of occurrence lights went off. More so, when one of the two deceased was a generator operator.

38. In such circumstances, taking a conspectus of the entire evidence as also the fact that all eye witnesses, except PW-1, have not supported the prosecution case and have consistently deposed

about there being no light at the time of occurrence, in our view, it was a fit case where the benefit of doubt ought to have been extended to the appellant (Anjani) by the courts below. Consequently, the appeal is allowed. The judgment and order convicting the appellant (Anjani) is set aside. The appellant Anjani shall stand acquitted of the charges for which he was tried. It is observed that Anjani was released on bail during the pendency of this appeal. Consequently, his bail bonds are discharged.

39. Pending applications, if any, shall stand disposed of.

.....J

(MANOJ MISRA)

.....J

(JOYMALYA BAGCHI)

NEW DELHI;
JANUARY 5, 2026