

State vs Dilawar on 23 December, 2024

IN THE COURT OF SH. NAVJEET BUDHIRAJA
ADDITIONAL SESSIONS JUDGE-02, SOUTH
DISTRICT SAKET COURTS: DELHI

SESSIONS CASE NO. 348 OF 2022
CNR NO: DLST01-006706-2022
FIR NO. 602/2021
POLICE STATION : AMBEDKAR NAGAR
UNDER SECTION : 307/34 IPC & 25 ARMS ACT
STATE

VERSUS

(1) Dilawar
S/o Sh. Nanhe Khan,
R/o House No. H- 2nd/224,
Madangir, New Delhi.

(2) Asif
S/o Sh. Salim,
R/o House No. H- 2nd/224,
Madangir, New Delhi.

(3) Riyasat
S/o Sh. Salim,
R/o House No. H- 2nd/224,
Madangir, New Delhi.

Date of institution	: 20.05.2022
Date of committal	: 30.07.2022
Date of Reserving Judgment	: 23.12.2024
Date of Pronouncement	: 23.12.2024
Decision	: Acquitted

JUDGMENT

Thumb nail sketch of the prosecution case is that on 28/29.10.2021, on receipt of Daily Diary (DD) Number 86A, Sub-Inspector (SI) Rahul along with Constable (Ct.) Sumit reached near H-2nd/228, Madangir, Delhi and found that lot of SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 1 of 19 blood was spilled on the ground. SI Rahul clicked the photographs and called the crime team at the place. On inquiry, it was revealed that injured persons were taken to AIIMS Trauma Centre. Ct. Satendra was left at the spot.

2. Thereafter, SI Rahul along with Ct. Sumit left for AIIMS Trauma Centre where injured Anas S/o Aas Mohammad and Sohail S/o Sharif Khan were found under treatment. Injured Anas was kept under red zone as her condition was critical. However, after some time, injured Sohail had given his statement where he stated that on 28.10.2021 at about 09:00 PM, he along with his brother Anas were present in the backside gali of their house and when they started to proceed towards their house, Dilawar, Asif and Vijay suddenly came there and Vijay was having country made pistol and wrongfully restrained Sohail and his brother Anas and he pointed the country made pistol on them and in the meanwhile, accused Dilawar and Asif took out knives from their pockets and started stabbing Sohail and Anas. In the meantime, Riyasat also reached there and he shouted by saying,

"maaro saalo ko". While accused Dilawar and Asif were stabbing Sohail, he pushed them, saved himself and ran away towards chabutra, however, accused Asif, Dilawar and Vijay had surrounded Anas and started stabbing him continuously and blood started oozing from the body of Anas and he fell down. After stabbing, accused Asif, Riyasat, Dilawar and Vijay ran away from the spot. Thereafter, Sharif Khan took Sohail and Anas to the hospital. Sohail further stated that accused Asif, Riyasat, Dilawar and Vijay attacked him and his brother Anas SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 2 of 19 with knife with an intention to kill them.

3. Thereafter, Medico Legal Case (MLC) of injured Anas and Sohail was collected. Thereafter, SI Rahul along with Sharif Khan visited the place of incident i.e. near H-2nd/228, Madangir, Delhi and inspected the place at the instance of Sohail. On the statement of Sohail, SI Rahul prepared rukka and got present First Information Report (FIR) under Section 307/34 Indian Penal Code, 1860 (IPC) and 25/27/54/59 Arms Act registered.

4. SI Rahul prepared the site plan at the instance of complainant Sohail. No CCTV cameras were found installed near the spot. Thereafter, statement of Sharif Khan, father of Sohail was recorded. While police officials were searching the accused persons, a secret information was received that accused Dilawar would be coming at Graveyard Madangir and he could be apprehended, if raided. Thereafter, SI Rahul along with secret informer and Ct. Sumit reached near the above-mentioned place and apprehended accused Dilawar. Accused Dilawar was interrogated and arrested. SI Rahul conducted the personal search of accused Dilawar and recorded his disclosure statement. Accused Dilawar led the police official to a jhuggi, near public toilet, Khanpur and got recovered one knife from the roof of the public toilet and SI Rahul prepared the sketch of the knife and seized the same vide seizure memo. SI Rahul also prepared the site plan regarding recovery of the weapon i.e. knife. Accused Dilawar led the police officials to the spot of incident and SI Rahul prepared the pointing out memo at the instance of accused SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 3 of 19 Dilawar. Thereafter, accused Dilawar was got medically examined, produced in the Court and remanded to judicial custody.

5. During further investigation, secret informer met SI Rahul and informed that accused Asif would be coming at Shahpur Jatt and he could be apprehended, if raided. Thereafter, SI Rahul along with secret informer and SI Rahul Yadav reached near the above-mentioned place and at the instance of the secret informer, SI Rahul apprehended accused Asif. Accused Asif was interrogated and arrest memo by SI Rahul. Personal search of accused Asif was also conducted and SI Rahul recorded the disclosure statement of accused Asif. Accused Asif led the police officials to Jahanpana City Forest in the area of Ambedkar Nagar for recovery of weapon but same could not be recovered. Thereafter, accused Asif led SI Rahul and SI Rahul Yadav to the spot of incident where SI Rahul prepared the pointing out memo at the instance of accused Asif. Accused Asif was got medically examined and produced in the Court and his one day police custody remand was obtained for recovery of weapon. Thereafter, accused Asif again led the police officials to Jahanpana City Forest in the area of Ambedkar Nagar for recovery of weapon but same could not be recovered. SI Rahul prepared non recovery memo of weapon of offence. Accused Asif was again produced in the Court and remanded to judicial custody.

6. During further investigation, SI Rahul formally arrested accused Riyasat as he was on anticipatory bail. One of the accused, namely, Vijay Kumar was also granted anticipatory SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 4 of 19 bail, however, during investigation, no evidence was found against accused Vijay Kumar and, therefore, he was kept in Column No. 12 of the charge-sheet.

7. On completion of the investigation and other formalities, the present charge-sheet was filed against accused persons, namely, Dilawar, Asif and Riyasat in the Court of Ld. Metropolitan Magistrate, who after complying with the provisions of Section 207 of Code of Criminal Procedure, 1973 (Cr.P.C.), committed the case to the Court of Sessions for trial.

8. After committal proceedings, the trial of this case was assigned to my Ld. Predecessor, who framed the charges against the accused persons, namely, Dilawar, Asif and Riyasat on 23.02.2023 for the offence punishable under Section 307/34 IPC, against accused Asif for the offence under Section 307 IPC and against accused Dilawar for the offence under Section 307 IPC and 25 Arms Act to which they pleaded not guilty and claimed trial.

9. Prosecution then proceeded with examination of witnesses, namely, Sh. Anas as PW1, Sh. Sohail as PW2, Sh. Sharif Khan as PW3 and SI Rahul as PW4. The documents which were got marked in their deposition are complaints as Ex. PW2/A and Ex. PW2/B, rukka as Ex. PW4/A, site plan as Ex. PW4/B, disclosure statement of accused Dilawar as Ex. PW4/C, sketch of knife recovered at the instance of accused Dilawar as Ex. PW4/D, seizure of said knife as Ex. PW4/E, site plan of recovery of knife as Ex. PW4/F, pointing out memo at the instance of SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 5 of 19 accused Dilawar as Ex. PW4/G, disclosure statement of accused Asif as Ex. PW4/H, pointing out memo at the instance of accused Asif as Ex. PW4/I, non recovery memo of weapon of offence as Ex. PW4/J, seizure memo of blood samples/exhibits lifted from the spot as Ex. PW4/K, seizure memo of clothes of injured Anas as Ex. PW4/L, seizure memo of clothes of injured Sohail as Ex. PW4/M, blood sample of injured Sohail as Ex. PW4/N, seizure memo of blood stained clothes of accused Dilawar as Ex. PW4/O, seizure memo of blood sample of accused Dilawar as Ex. PW4/P, and seizure memo of photographs as Ex. PW4/Q. Buttondar knife as Ex. PW4/X1 and blood stained yellow shirt as Ex. P1.

10. Accused persons did not challenge the genuineness of some of the formal documents i.e. FIR No. 602/2021 along with certificate under Section 65B of the Indian Evidence Act (Ex. P1 Colly), DD No. 86A (Ex. P2), DD No. 66A (Ex. P3), DD No. 22A (Ex. P4), DD No. 32A (Ex. P5), MLC No. 500289833 dated 28.10.2021 of complainant Sohail (Ex. P6), MLC No. 500289830 dated 28.10.2021 of injured Anas (Ex. P7), arrest memos of accused Dilawar (Ex. P8), arrest memos of accused Asif (Ex. P9), arrest memos of accused Riyasat (Ex. P10), personal search memo of accused Dilawar (Ex. P11) and personal search memo of accused Asif (Ex. P12). Their joint statement under Section 294 of the Code of Criminal Procedure, 1973 (Cr.P.C.) in this regard was recorded on 29.07.2024. Further, accused persons also did not challenge the genuineness of FSL Report No. RFSL DLH/286/BIO/111/22 Bio No. 116/22 dated SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 6 of 19 19.04.2024 (Ex. PA-13) and their another joint statement under Section 294 Cr.P.C. was recorded on 09.12.2024.

11. Prosecution evidence stood closed vide order dated 26.09.2024 followed by statement of accused persons under section 313 Cr.P.C wherein they claimed that they have been falsely implicated in the present case. They, however, did not wish to lead any evidence in their defence.

12. During final arguments, Ld. Counsels for accused persons pointed out that the charge framed against the accused persons stands annihilated as the material prosecution witnesses i.e. PW1 Sh. Anas, PW2 Sh. Sohail Khan and PW3 Sh. Sharif Khan identified all the accused persons as their relatives but not their assailants who caused injuries to them and, thus, there is no evidence to return the finding of the conviction against the accused persons.

13. Ld. Additional Prosecutor for the State affirmed that the injured witnesses have failed to impute any inculpatory role upon the accused persons, but the alleged weapon of offence i.e. knife has been recovered at the instance of accused Dilawar.

14. Having gone through the record of the case, it is manifest that the case of the prosecution has faltered in so far as fixing the identification of the accused persons as the assailants who caused injuries to PW1 Anas and PW2 Sohail Khan.

15. PW1 Anas, in his deposition, though spoke about the SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 7 of 19 incident of stabbing happened with him, but he professed having not seen the faces of those two to three persons who came from behind and stabbed him. In so far as the three accused persons are concerned, PW1 Anas identified them to be his maternal uncles but not the persons who attacked him. The testimony of PW1 Anas in regard to the incident, non identification of the accused persons and his cross examination on behalf of the State is extracted as under:

"I am 9th class pass. I can read and write Hindi. I do not remember the exact date and month of incident but in the year 2021 in the night time, I along with my brother Sohail were going to our above- mentioned house and at about 09:00 PM, when we reached in a gali of our above-mentioned house, suddenly two to three persons came from behind and stabbed me on my backside with knife. They also stabbed my brother on his stomach with knife. I could not see their faces as they suddenly attacked us from behind and there was no light at the spot and the incident took place in the night time at about 09:00 PM. I became unconscious and regained my consciousness at AIIMS Trauma Centre. I discharged from the hospital after two days. Medical examination of my brother Suhail was also got conducted at AIIMS Hospital and he got discharged on the next day.

Police had inquired me in the present case. I do not know anything else about the present case.

SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 8 of 19 XXXX by Sh. L. D. Singh, Ld. Additional PP for State.

I have not stated to the police in my statement under Section 161 Cr.P.C. now marked as Mark X that on 28.10.2021, in the night time, my maternal uncles, namely, Dilawar, Asif and Riyasat had quarreled with me and my brother Suhail and we sustained injuries. (Confronted with statement from portion A to A1, where it is so recorded) It is wrong to suggest that I have been won over by the accused persons. It is wrong to suggest that I am suppressing the true facts deliberately in order to save the accused persons as they are my maternal uncles. It is wrong to suggest that I am deposing under pressure in order to save the accused persons. It is wrong to suggest that I am deposing falsely."

16. Similarly, PW2 Sh. Sohail has also not supported the case of the prosecution. Though he also spoke about the incident but professed having not seen the faces of five to six boys who surrounded them and beaten him and his cousin brother Anas. He also identified the accused persons as his relatives. He was also cross examined on behalf of the State since he resiled from his previous statement. For reference, the extract of examination and cross-examination of PW2 Sohail Khan is reproduced herein under :

"I am pursuing my graduation. I can read and write Hindi and English. I do not remember the exact date and month of incident but in the SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 9 of 19 year 2021 in the night time, after having dinner, I along with my cousin brother Anas were going to roam and when we reached outside our house in the gali, we saw that many public persons were standing there and scuffle was going on. It was dark and suddenly 05-06 boys also surrounded us and started beating me and my cousin brother Anas. Anas received injury on his backside and I received injury on my stomach. I could not see the faces as it was night time and there was no light at the spot. I became unconscious and regained my consciousness at AIIMS Trauma Centre. My brother Anas got discharged from the hospital after three days. I also got medically examined and discharged on the next day. Police had inquired me in the present case. I do not know anything else about the present case.

At this stage, complaint now exhibited as Ex. PW2/A is shown to the witness and he identified his signatures at Points A and A1. After seeing the complaint, witness stated that police had obtained my signatures on papers, however, I did not go through the contents of Ex. PW2/A. I have not stated to the police in my statement Ex. PW2/A that on 28.10.2021 at about 09:00 PM, I along with my cousin brother Anas Mohammad were present in the backside gali of the above- mentioned house. (Confronted with statement from portion A to A1, where it is so recorded.) I have not stated to the SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 10 of 19 police in my statement Ex. PW2/A that thereafter, I along with my cousin Anas were going to our house and in the meanwhile, Dilawar, Asif and Vijay suddenly came there and Vijay was having country made pistol and wrongfully restrained me and my cousin Anas and he pointed the country made pistol on us. (Confronted with statement from portion B to B1, where it is so

recorded.) I have not stated to the police in my statement Ex. PW2/A that in the meanwhile, Dilawar and Asif took out knives from their pockets and started stabbing me and Anas and in the meanwhile, Riyasat also reached there and he shouted by saying that, "maaro saalo ko". (Confronted with statement from portion C to C1, where it is so recorded.) I have not stated to the police in my statement Ex. PW2/A that when Dilawar and Asif were stabbing me, I pushed them and saved myself and ran away towards chabutra, however, Asif, Dilawar and Vijay had surrounded Anas and started stabbing him continuously and blood was started oozing from the body of Anas and he fell down.

(Confronted with statement from portion D to D1, where it is so recorded.) I have not stated to the police in my statement Ex. PW2/A that after stabbing Asif, Riyasat, Dilawar and Vijay ran away from the spot.

(Confronted with statement from portion E to E1, where it is so recorded.) SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 11 of 19 I have not stated to the police in my statement Ex. PW2/A that Asif, Riyasat, Dilawar and Vijay attacked me and my cousin brother Anas with knife with an intention to kill us. (Confronted with statement from portion F to F1, where it is so recorded.) It is wrong to suggest that I have been won over by the accused persons. It is wrong to suggest that I am suppressing the true facts deliberately in order to save the accused persons. It is wrong to suggest that I am deposing under pressure in order to save the accused persons. It is wrong to suggest that I am deposing falsely."

17. It is limpid from the afore-noted testimonies of PW1 and PW2 that they have failed to identify the accused persons as the persons who had come at the spot and assaulted PW1 and PW2 with knife and despite confronting PW1 and PW2 with their previous statements, they have failed to support the version of the prosecution.

18. Further, the FSL result Ex. PA-13, though concludes some DNA profiles to be matching, but the result in itself is not found to be favoring the case of the prosecution in entirety as no opinion could be drawn for some of the exhibits due to poor preservation of samples. The conclusion part of the FSL report is extracted hereinunder :

"The DNA profiling (STR analysis) performed on the exhibits is sufficient to conclude that : A DNA profile SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 12 of 19 generated from the source of exhibit '11' (blood gauze of accused Dilawar) is similar with the DNA profile generated from the source of exhibits '5' (knife), '9' (Jacket of accused Dilawar) and '10' (pair of shoes).

A DNA profile generated from the source of exhibit '3' (gauze cloth piece SOC) is similar with the DNA profile generated from the source of exhibit '1' (gauze cloth piece SOC).

No opinion could be drawn for exhibits '6a', '6b', '6c', '6d', '6e', '6f' & '7' due to poor preservation of samples (extremely foul smelling damp clothes and foul smelling damp cotton wool swab having dirty stains kept in plastic dibbi"

19. Another aspect of the case is related to the recovery of the knife Ex. PW4/X1 at the instance of accused Dilawar, however, this aspect also cannot be said to be proved beyond reasonable doubt so as to connect him with the offence in question as the knife is stated to have been got recovered from the roof of the public toilet, which is a place open and accessible to the public.

20. The Supreme Court in the matter of Trimbak v. The State of Madhya Pradesh AIR 1954 SC 39 has held that when the field from which the ornaments were recovered was an open one, and accessible to all and sundry, it is difficult to hold positively that the accused was in possession of these articles. The fact of recovery by the accused is compatible with the circumstance of SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 13 of 19 somebody else having placed the articles there and of the accused somehow acquiring knowledge about their whereabouts and that being so, the fact of discovery cannot be regarded as conclusive proof that the accused was in possession of these articles.

21. Similarly, the Supreme Court of India in the matter of State of Himachal Pradesh Vs Jeet Singh⁶ (1999) 4 SCC 370 has clearly held that when recovery of any incriminating article was made from a place which is open or visible to others, it would vitiate the evidence under Section 27 of the Evidence Act. It was observed as under:

"26. There is nothing in Section 27 of the Evidence Act which renders the statement of the accused inadmissible if recovery of the articles was made from any place which is "open or accessible to others". It is a fallacious notion that when recovery of any incriminating article was made from a place which is open or accessible to others, it would vitiate the evidence under Section 27 of the Evidence Act. Any object can be concealed in places which are open or accessible to others. For Example, if the article is buried on the main roadside or if it is concealed beneath dry leaves lying on public places or kept hidden in a public office, the article would remain out of the visibility of others in normal circumstances. Until such article is disinterred its hidden state would remain unhampered. The person who hid it alone knows where it is SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 14 of 19 until he discloses that fact to any other person. Hence the crucial question is not whether the place was accessible to others or not but whether it was ordinarily visible to others. If it is not, then it is immaterial that the concealed place is accessible to others.

27. It is now well settled that the discovery of fact referred to in Section 27 of the Evidence Act is not the object recovered but the fact embraces the place from which the object is recovered and the knowledge of the accused as to it. (Pulikuri Kottaya). The said ratio has received unreserved approval of this Court in successive decisions. (Jaffar Hussain Dastagir Vs State of Maharashtra, K. Chinnaswamy Reddy v. State of

A.P., Earabhadrapa v. State of Karnataka, Shamshul Kanwar v. State of U.P., State of Rajasthan v. Bhup Singh)."

22. Further, the recovery memo Ex. PW4/E demonstrates that no public witnesses were joined while effecting the alleged recovery. Though, it is not a rule of law that in every recovery proceeding, independent witness should be associated before which recovery could be acted upon, but in appropriate cases, the investigation should reflect that efforts were made to join public witnesses despite which none could join, but in this case the testimony of the PW4 IO SI Rahul does not evince that any diligence was shown to associate any public person in the recovery proceeding of alleged weapon of offence i.e knife Ex. PW4/X1.

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23. Reliance can be placed upon the following Judgments where the emphasis was laid on joining public witnesses.

- In Judgment dated 03.09.2002 in Criminal Appeal No. 465 of 2000 titled as Budhdev Paul Vs State, paragraph no. 8 is relevant to note which are as under :

"8. It is the case of the accused that he handed over his clothes to the police on their asking but the clothes were not blood stained. The blood on them has been smeared at the police station where the dead body was kept in order to create evidence. Another interesting feature is that the three public witnesses who were allegedly present at the time of recovery of the clothes have not been signatories to the seizure memo. The blood stains on the clothes, in view of the above, become doubtful. There was every possibility of the clothes being stained in the police station where the dead body was kept for about four hours. The Investigating officer as also PW-9 omitted to state that the body was kept in the police station before being sent to the mortuary. This suppression creates doubt regarding the veracity of the recoveries and also the manner in which the blood came on the clothes. The recovery of knife, according to the Prosecution, was on 12.11.1996, but PW-9. who is a witness to the recovery of the knife, has stated in his supplementary statement under Section 161 of the Criminal Procedure Code SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 16 of 19 that the same was recovered on 23.11.1996. He was duly confronted with this. Further, no public witness was joined in the recovery of the knife which also makes this recovery doubtful. Handle-grips of the scooter taken into possession on 12.11.1996 and sent to the CFSL, had traces of human blood on them, but PW-5, Surinder Singh Sethi, owner of the scooter, who had brought the same to the police station has categorically stated that he did not notice presence of any blood on them nor were the grips sealed in his presence. Since the recoveries do not inspire confidence, the chain of circumstances leading to an irresistible conclusion is incomplete. Last seen is one of the links and not sufficient to compete the chain of circumstances and to bring home guilt of the accused. Motive. even if proved, does not lead to the irresistible conclusion that it was the accused who had done away the

deceased. The Prosecution, having failed to establish the chain of circumstances, has failed to bring home guilt of the accused. Consequently, the judgment and order 3.5.2000 and 6.5.2000 are set aside and the appeal is allowed. The appellant shall be set at liberty forthwith, if not wanted in any other case. The appellant be informed."

- In Judgment dated 28.05.2024 in CRA-D-617-DB-2003 (O&M) titled as Ranbir Singh & Ors Vs State of Haryana of High Court of Punjab and Haryana, paragraph no. 21 is SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 17 of 19 relevant to note which are as under :

"21. Still further, it has been stated that in pursuance of the disclosure statement suffered by Joginder Singh @ Chela, appellant No. 2/accused, a knife was recovered from him. However from the FSL report Ex.PL, the blood could not be detected on the knife which was recovered from appellant No. 2. Further, it is an admitted case of the prosecution that at the time of the alleged recovery of knife from appellant No. 2, no private witness was allowed to join the police team, even though the police had ample opportunity to do so. Still further, no doubt, the recovery of a material object at the disclosure of the accused is important in view of section 27 of the Evidence Act, but such disclosure alone would not automatically lead to the conclusion that the offence was committed by the accused. In fact, the burden lies on the prosecution to establish a close link between the discovery of material objects and its use in commission of the offence.

What is admissible under Section 27 of the Evidence Act is the information leading to discovery and not any opinion formed on it by the prosecution. In the present case, the knife, which was allegedly recovered from appellant No. 2, was not blood stained and the recovery memos were prepared only in the presence of police and no independent witness was joined by the police. Thus, the SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 18 of 19 recovery of knife from the appellant No. 2 was doubtful in the instant case."

24. The testimony of PW4 SI Rahul is formal in nature touching upon various aspects of the investigation which is not sufficient to establish the charge under section 307/34 IPC and 25 Arms Act against the accused persons in the absence of their identification by PW1 Anas and PW2 Sohail Khan and since the material prosecution witnesses have not supported the case of the prosecution, evidence of the remaining witnesses was dispensed with by the prosecution.

25. The net result of the foregoing exposition is that the prosecution has failed to bring home the charges against the accused persons namely Dilawar, Asif and Riyasat all of whom, thus, stand acquitted and are set at liberty. File be consigned to Record Room.

PRONOUNCED IN OPEN COURT ON THIS 23rd DAY OF DECEMBER 2024 NAVJEET BUDHIRAJ BUDHIRAJ Date:

2024.12.24 15:22:53 +0530 (Navjeet Budhiraja) ASJ-02, South District Saket Courts, New Delhi Certified that this Judgment contains 19 pages and each page bears my signatures. Digitally signed by NAVJEET NAVJEET BUDHIRAJ BUDHIRAJ Date:

2024.12.24 15:22:58 +0530 (Navjeet Budhiraja) ASJ-02, South District Saket Courts, New Delhi 23.12.2024 SC No. 348/2022 State Vs Dilawar & Ors. PS Ambedkar Nagar FIR No. 602/2021 Page No. 19 of 19