A PAULMELI AND ANR.

v.

STATE OF TAMIL NADU TR. INSP. OF POLICE

(Criminal Appeal No.1636 of 2011

MAY 23, 2014

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[DR. B.S. CHAUHAN AND A.K. SIKRI, JJ.]

Penal Code, 1860 – S.302 – Murder – Allegation that two accused along with others unlawfully assembling together with C *a common object to murder the victim – Indiscriminate cuts caused over his body using aruval resulting in his death – Injuries to sons of victim, who tried to intervene – Conviction of two accused for offence punishable u/s 302 by the courts below – Interference with – Held: Not called for – Injuries found* D *on the person of the deceased duly supported by medical evidence as well as corroborated by the deposition of PW-1 – FIR was lodged promptly – PW 2 turned hostile but supported the case of the prosecution with regard to one of the accused, thus, his evidence is reliable – There was* E *sufficient light and PW 1 could identify the accused being closely related and well known even in the darkness – Further, there is it cannot be said that on the basis of the same evidence, 15 accused persons had been acquitted, the present accused could not have been convicted – Evidence.*

F *Witness – Non-cross-examination on a particular issue – Effect of – Held: When question is not put to the witness in cross-examination who could furnish explanation on a particular issue, the correctness or legality of the said fact/ issue could not be raised.*

G *Witness – Hostile witness – Evidentiary value of – Held: Evidence of hostile witnesses cannot be discarded as a whole – Relevant parts which are admissible in law, can be used by prosecution or defence.*

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Evidence – Residue evidence – Effect of – Held: Even if major portion of the evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, it is the duty of the court to separate grain from chaff – Falsity of particular material witness or material particular would not ruin it from the beginning to end – Maxim falsus in uno falsus in omnibus-false in one thing, false in everything has no application in India – Maxims.

It is alleged that on account of enmity between the parties, 'R' murdered three persons. Twenty years later seventeen persons including appellants unlawfully assembled together with a common object to murder 'R' and went to the house of 'R'. They caused indiscriminate cut over his body using aruval which resulted in his death. 'R's, two sons intervened and they also sustained injuries. FIR was lodged. Investigations were carried out. The trial court acquitted all the accused. Thereafter, in a fresh trial, the trial court acquitted all the accused except the appellants-A-5 and A-7 who were convicted for the offences punishable under Section 302 IPC and sentenced them accordingly. The High Court upheld the order. Hence, the instant appeal.

Dismissing the appeal, the Court

HELD: 1.1. In the instant case, PW.1-wife of deceased, in the FIR, in her statement under Section 161 Cr.P.C. and in her deposition in the court, had specifically named both the appellants, even though she had named other persons also. The appellants had been known to the said witness for a long time as they were closely related. There was sufficient light as per the evidence on record even otherwise there can be no difficulty to recognise so closely related persons even in darkness. The injuries found on the person of the deceased are duly supported by medical evidence as well as got corroborated by the deposition of PW 1. The concurrent

A findings have been recorded by the courts below in this regard. There is no force in the submissions that the injuries attributed to the appellants could not be caused by Aruval as the findings recorded by the trial court in this regard is that all injuries may be caused by the attack
B of Aruval. [Para 10] [431-E-G]

1.2. In case the question is not put to the witness in cross-examination who could furnish explanation on a particular issue, the correctness or legality of the said fact/issue could not be raised. In the instant case, in
C respect of the injuries found on the person of the deceased, questions have not been put to the doctor who conducted the postmortem when he appeared in the witness box. In fact, he was the only competent person who could have furnished the explanation for all such
D issues. [Para 11] [432-B-D]

Atluri Brahmanandam (D) Thr. LRs. v. Anne Sai Bapuji AIR 2011 SC 545: 2010 (14) SCR 339; *Laxmibai (dead) Thr. L.Rs. & Anr. v. Bhagwantbuva (dead) Thr. L.Rs. & Ors.* AIR
E 2013 SC 1204: 2013 (1) SCR 632 – relied on.

1.3. In respect of the deposition of PW 3, the submission that he may not be a trustworthy witness as he is not an independent witness, has no force. His evidence revealed that he reached the place after the
F incident was over and he saw the accused people leaving the place of occurrence. Had he not been a truthful witness he could have definitely improved his version and could depose describing the overt acts of the appellants. [Para 12] [432-E-F]

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1.4. As regards the issue of presence of light at the place of occurrence at the relevant time, the trial court recorded the findings to the fact that there was sufficient light. The High Court re-appreciated the evidence and
H came to the conclusion that admittedly there was light in

the facet of the house and there was also street light illuminating the place of occurrence. Even in the observation Mahazar, the light has been shown. The evidence of PW.19, wireman of Electricity Board, was examined to prove the fact that at the relevant point of time, the electricity was in supply at the place of occurrence. There is some discrepancy in the statement of PW.1 in this regard but she might have not been able to give exact specific account being an illiterate village woman and as the appellants have not been strangers, there could be no difficulty for her to identify the appellants even in the darkness. [Para 13] [432-G-H; 433-A-B]

1.5. The trial court recorded the finding that the FIR had been lodged promptly. The High Court reappreciated the full particulars as under what circumstance the FIR had been lodged. Thus, there can be no doubt that the FIR had been lodged promptly. [Para 14] [433-C, G]

1.6. The evidence of a hostile witness cannot be discarded as a whole, and relevant parts thereof which are admissible in law, can be used by the prosecution or the defence. PW.2 supported the case of the prosecution so far as the present appellants are concerned. He was declared hostile when he did not name the other accused, who stood acquitted by the courts below and there could be no difficultly to accept his deposition to that extent. [Paras 15 and 17] [433-H; 434-A, E]

Ramesh Harijan v. State of U.P. **AIR 2012 SC 1979: 2012 (6) SCR 688;** *State of U.P. v. Ramesh Prasad Misra & Anr.* **AIR 1996 SC 2766: 1996 (4) Suppl. SCR 631;** *Sarvesh Narain Shukla v. Daroga Singh & Ors.* **AIR 2008 SC 320: 2007 (11) SCR 300;** *Subbu Singh v. State by Public Prosecutor* **(2009) 6 SCC 462: 2009 (7) SCR 383;** *C. Muniappan & Ors. v. State of Tamil Nadu* **AIR 2010 SC 3718:**

A **2010 (10) SCR 262; *Himanshu @ Chintu v. State (NCT of Delhi)* (2011) 2 SCC 36: 2011 (1) SCR 48 – relied on.**

1.7. There is no force in the submission that in case on the basis of the same evidence, 15 accused persons had been acquitted, the appellants could not have been convicted, for the reason that there may be some exaggeration in depositions of the prosecution witnesses. The courts below had not accepted the evidence to that extent and have given benefit of doubt. [Para 18] [435-A-B]

1.8. Even if major portion of the evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, it is the duty of the court to separate grain from chaff. Falsity of particular material witness or material particular would not ruin it from the beginning to end. The maxim *falsus in uno falsus in omnibus* (false in one thing, false in everything) has no application in India and the witness cannot be branded as a liar. In case this maxim is applied in all the cases it is to be feared that administration of criminal justice would come to a dead stop. Witnesses just cannot help in giving embroidery to a story, however, truth is the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of credence, and merely because in some respects the court considers the same to be insufficient or unworthy of reliance, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. [Para 22] [436-C-F]

Balka Singh & Ors. v. State of Punjab **AIR 1975 SC 1962: 1975 (0) Suppl. SCR 129;** *Zwinglee Ariel v. State of Madhya Pradesh* **AIR 1954 SC 15;** *Sukhdev Yadav & Ors. v. State of Bihar* **AIR 2001 SC 3678: 2001 (3) Suppl. SCR 91;** *Appabhai & Anr. v. State of Gujarat* **AIR 1988 SC 696: 1988 Suppl. SCC 241;** *Sucha Singh v. State of Punjab* **AIR 2003 SC 3617: 2003 (2) Suppl. SCR 35 – relied on.**

Case Law Reference:

AIR 2011 SC 545	**Referred to**	**Para 11**
AIR 2013 SC 1204	**Referred to**	**Para 11**
AIR 2012 SC 1979	**Relied on**	**Para 16**
AIR 1996 SC 2766	**Relied on**	**Para 17**
AIR 2008 SC 320	**Relied on**	**Para 17**
(2009) 6 SCC 462	**Relied on**	**Para 17**
AIR 2010 SC 3718	**Relied on**	**Para 17**
(2011) 2 SCC 36	**Relied on**	**Para 17**
AIR 1975 SC 1962	**Relied on**	**Para 19**
AIR 1954 SC 15	**Relied on**	**Para 19**
AIR 2001 SC 3678	**Relied on**	**Para 20**
AIR 1988 SC 696	**Relied on**	**Para 21**
AIR 2003 SC 3617	**Relied on**	**Para 22**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.1636 of 2011.

From the Judgment and Order dated 06.10.2009 in Criminal Appeal (MD) No. 540 of 2008 of the High Court of Tamil Nadu, Madurai Bench of the Madras.

Shirin Khajuria for the Appellants.

M. Yogesh Kanna for the respondent.

The Judgment of the Court was delivered by

DR. B.S. CHAUHAN, J. 1. This appeal has been preferred against the impugned judgment and order dated 6.10.2009, passed by the High Court of Tamil Nadu (Madurai

A Bench) in Criminal Appeal (MD) No.540 of 2008 affirming the judgment and order dated 18.11.2008, passed in Sessions Case No.18 of 2001 by the Addl. District & Sessions Judge (Fast Track Court), Ramanathapuram by which and whereunder the appellants had been convicted under Section 302 of the B Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and awarded life imprisonment and a fine of Rs.2,000/- each, and in default to undergo further RI for six months.

2. The prosecution case is as under:

C A. That about 20 years ago, one Vellaimmal (PW.17, blind and deaf), daughter of Paulmelie Thevar, got married to one Arumugam and a daughter was born out of the said wedlock. The said Arumugam deserted his wife Vellaimmal and married another lady which resulted in enmity between the two families. D Arumugam assaulted Vellaimmal and her family. As a consequence, Ramasamy, the uncle of Vellaimmal, with whom she had started living after being deserted by her husband allegedly murdered Arumugam, Ramu Thevar and Laxmana Thevar in the year 1981.

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B. After a gap of about 20 years of the said incident happened in the year 1981, it was alleged that on 30.7.1999, 17 persons including the two appellants unlawfully assembled together with a common object to murder Ramasamy and they came at his house at about 9 P.M. when he was sleeping on a F cot outside his house. The accused encircled him and caused indiscriminate cuts over his body using an Aruval which caused instantaneous death. In order to save Ramasamy, his two sons, namely Paulmeli and Vijayasamy intervened and they also got injuries. After committing the offence, accused persons ran G away. The matter was reported to the police by one Mr. Setu Raman to Mr. Gandhi (PW.16), the Head Constable of Viracholan Police Station. However, as the incident occurred outside the territorial jurisdiction of the said police station, the said Setu Raman informed the Inspector of Parthi Banoor

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Police Station at about 11 P.M. who went to the place of occurrence and recorded the statement of Malliga (PW.1), wife of deceased. On the basis of the same, an FIR was registered under Sections 147, 148, 324, 326, 307 and 302 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') in the morning of next day at 7.30 A.M., wherein 17 accused persons including two appellants had been named. The dead body was sent for post-mortem and the two sons of the deceased were medically examined. The accused were taken into custody on different dates and on their disclosure statement, recoveries were made. After completing the investigation, chargesheet was filed against 17 accused persons and the case was committed to the Sessions Court. The Trial Court vide judgment and order dated 27.11.2001 acquitted all the accused.

C. Aggrieved, the complainant Vijayasamy, son of deceased challenged the said order of acquittal by filing Criminal Revision No.274 of 2004 before the Madras High Court (MD) which was allowed and the Sessions Court was directed to have the trial afresh.

D. In a fresh trial, prosecution led the evidence wherein Malliga (PW.1) supported the case of the prosecution. Paulmeli (PW.2), the injured did not support the case and thus was declared hostile. Another injured Vijayasamy, son of deceased was not examined by the prosecution. Thus, relying upon the evidence of Mallinga (PW.1), the Trial Court vide judgment and order dated 18.11.2008 acquitted all the accused except the appellants Paulmeli (A.5) and Chockaiah (A.7) who were found guilty for the offences punishable under Section 302 IPC and sentenced them as referred to hereinabove.

E. Aggrieved, the appellants preferred the appeal before the High Court which has been dismissed vide impugned judgment and order dated 6.10.2009.

Hence, this appeal.

A 3. Ms Shirin Khajuria, learned counsel for the appellants has submitted that the courts below have committed an error convicting the appellants on the evidence which has been totally disbelieved on the basis of which the other remaining 15 accused stood acquitted. More so, Paulmeli (PW.2), son of B deceased did not support the case of the prosecution and another injured son of deceased, Vijayasamy was not examined by the prosecution. There was a complete darkness in the night thus, the question of identifying the appellants does not arise even while Malliga (PW.1) could not identify the C appellants in darkness. More so, there had been material discrepancies in respect of the manner and number of injuries caused by the appellants to the deceased. Thus, the appeal deserves to be allowed.

4. Per contra, Shri M. Yogesh Kanna, learned Standing D counsel appearing for the State, has opposed the appeal contending that the parties are closely related. Therefore, Paulmeli (PW.2) turned hostile, but in the examination-in-chief he has named the appellants and attributed them the overt act in participation of murder of his father. There was sufficient light E as per the evidence on record and Mallinga (PW.1) could identify the appellants being closely related and well-known even in the darkness. The discrepancy, if any, in the evidence of the witnesses is insignificant as there was no material discrepancy which go to the root of the cause. More so, in a F case where a retrial was conducted, the witnesses could not give the same version after a long lapse of time. If some persons had been acquitted disbelieving the deposition of Malliga (PW.1), that cannot be a ground for acquittal of the appellants. The appeal lacks merit and is liable to be G dismissed.

5. We have considered the rival submissions made by the learned counsel for the parties and perused the record.

6. Dr. Prakash Karath (PW.11) conducted the autopsy on

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the dead body of deceased on 31.7.1999 and found the following external injuries on the dead body.

"(1) An incised wound of 10 x 4-1/2 x 4cms in front of neck on the right side just below the lower border of the mandible right from the chin to the angle of mandible. The lower skin flab vessels found severed. Blood clots present over the wound.

(2) An incised wound of 8-1/2 x 4-1/2 x 4cms in the front of the cheek just 3cm above the supra external notch 3cms on the right side midline 5-1/2cm on the left side in the horizontal direction. Trachea found cut. Vessels found severed. The cut ends are regular and smooth. Blood clots seen on the wound.

(3) An incised wound of 13 x 3-1/2 x 3 cm on the back of neck 3 cm from the midline extending just below the lower border of left mandible upto the chin. The medial end in the front is tapering. Underlying vessels and muscles severed.

(4) An incised wound of 15 x 3-1/2 x 2-1/2cms extending from the nose in the midline towards the right side of neck just below the right ear in the oblique direction, medial end of the wound is tampering. Maxillary bone found cut. Blood clots present.

(5) A Elliptical incised wound of 2-1/2 x 1cm bone depth just above the injury number 4.

(6) An elliptical stab wound of 6 x 2-1/2 x 8cms. The wound found communicate with the thoracic cavity on the right side in the front of chest just below the right clavicle.

(7) An elliptical incised wound of 5 x 2 x 1cms on the medial end of left clavicle.

A (8) An elliptical stab wound of 6 x 2-1/2 x 7-1/2cms on the front of the left chest just below the middle of the left clavicle to 2.5 cm medial to the anterior axillary line.

9). An elliptical incised wound of 4 x 1-1/2 x 1-1/2cms on the lateral aspect of right shoulder in A.P. direction.

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(10) An incised wound of 1-1/2 x 1-1/2 x 1cm on the front of right shoulder in the horizontal direction.

(11) An incised wound of 6 x 1-1/2 skin depth on the back C of right elbow towards the right forearm in vertical direction.

(12) An incised wound of 6 x 1-1/2 x skin depth on the back of right forearm in horizontal direction.

(13) An incised wound of 1-1/2 x ½ x 1/2cms on the ulna D border of right forearm.

(14) An incised wound of 10 x 6 cms x bone depth on the dorsal aspect of right hand. The meta carpal bone of right index and middle finger found partially cut and right index E finger found missing at the level of metacarpus phelengeal joint. Blood clots found on the wound.

(15) An incised wound of 3-1/2 X ¼ x bone depth on the dorsal aspect of left ring finger.

F All the above wounds found with blood clots."

7. Vijayasamy, the son of the deceased was also injured in the occurrence. He was treated by Dr. Maheswaran (PW.22) and he issued Ex.P.40-Accident Register copy. He found the following injuries:

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"(1) Cut injury back of neck (L) 5 cm x 1 cm skin deep.

(2) Cut injury back of left supra 7cm x 7cm x 3cm mandible deep.

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(3) Cut injury back of left forearm 4cm x 2cm x skin deep." A

8. On the same day, Dr. Maheswaran (PW.22) examined Paulmeli (PW.2) and he issued Ex.P.39-Accident Register Copy. He found the following injury:

"(1) Cut injury back left elbow 7" x 5" exposing bone, with skin deep." B

M.O.1 is the X-Ray taken for Vijayasamy and M.O.2 is the X-Ray taken for Paulmeli by Dr. Indrani (PW.12), Radiologist.

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9. There had been recovery on the disclosure statement of the accused. So far as the present appellants are concerned in their statement under Section 313 of Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.'), they denied their involvement and did not lead any evidence in their defence. D

10. In the instant case, Malliga (PW.1), wife of deceased, in the FIR, in her statement under Section 161 Cr.P.C. and in her deposition in the court, had specifically named both the appellants. Even though, she had named other persons also. E The appellants had been known to the said witness for a long time as they were closely related. There was sufficient light as per the evidence on record even otherwise there can be no difficulty to recognise so closely related persons even in darkness. The injuries found on the person of the deceased are F duly supported by medical evidence as well as got corroborated by the deposition of Malliga (PW.1). The concurrent findings have been recorded by the courts below in this regard. We do not find any force in the submissions advanced by Ms. Khajuria, learned counsel for the appellants G that the injuries attributed to the appellants could not be caused by Aruval as the findings recorded by the trial court in this regard is that all injuries may be caused by the attack of Aruval. It has further been held by the trial court that the appellants herein came with Aruval and attacked the deceased H

A indiscriminately causing injuries on the neck, chest and other parts of the body, though, inadvertently, the trial court has mentioned that the injuries found on all over the body, had caused the death.

B 11. More so, with respect to various issues raised by the learned counsel for the appellants in respect of the injuries found on the person of the deceased, questions have not been put to the doctor who conducted the postmortem when he appeared in the witness box. In fact, he was the only competent person who could have furnished the explanation for all such C issues.

It is a settled legal proposition that in case the question is not put to the witness in cross-examination who could furnish explanation on a particular issue, the correctness or legality of D the said fact/issue could not be raised. (Vide: *Atluri Brahmanandam (D), Thr. LRs. v. Anne Sai Bapuji,* AIR 2011 SC 545; and *Laxmibai (dead) Thr. L.Rs. & Anr. v. Bhagwantbuva (dead) Thr. L.Rs. & Ors.,* AIR 2013 SC 1204).

E 12. In respect of the deposition of Ganesan (PW.3), it has been submitted that he may not be a trustworthy witness as he is not an independent witness. His evidence revealed that he reached the place after the incident was over and he saw the accused people leaving the place of occurrence. Had he not been a truthful witness he could have definitely improved his F version and could depose describing the overt acts of the appellants. Therefore, the submission so advanced has no force.

13. So far as the issue of presence of light at the place of G occurrence at the relevant time, the trial court recorded the findings to the fact that there was sufficient light. The High Court reappreciated the evidence and came to the conclusion that admittedly there was light in the facet of the house and there was also street light illuminating the place of occurrence. Even H in the observation Mahazar Ex.P-18, the light has been shown.

The evidence of Kumareshan (PW.19), the wireman of Electricity Board, was examined to prove the fact that at the relevant point of time, the electricity was in supply at the place of occurrence. There is some discrepancy in the statement of Malliga (PW.1) in this regard but she might have not been able to give exact specific account being an illiterate village woman and as the appellants have not been strangers, there could be no difficulty for her to identify the appellants even in the darkness.

14. The Trial Court recorded the finding that the FIR had been lodged promptly. The High Court reappreciated the full particulars as under what circumstance the FIR had been lodged. The relevant parts thereof reads as under:

> "31. The evidence on record would show that there is no delay in registering the F.1.R. after the receipt of the complaint. P.W.21 registered the F.I.R. at 00.45 hours and send the same to the Judicial Magistrate through P.W.14 - Mohamed Sherif. P.W.14 received the F.I.R. at 2.15 A.M. Since it was night, at 6.00 A.M. he proceeded to the Paramakudi Judicial Magistrate's Court. Since nobody was there he went to the house of Head Clerk of Paramakudi Judicial Magistrate's Court, where he was informed that Judicial Magistrate No.2, Ramanathapuram was the incharge Magistrate. So, he went to the Judicial Magistrate Court No.2, Ramanathapuram. At that time the Judicial Magistrate was conducting cases. and later he gave the F.I.R. to the Judicial Magistrate. So, the explanation offered by the Judicial Magistrate is quite convincing. So, there no delay in registering the F.I.R."

Thus, there can be no doubt that the FIR had been lodged promptly.

15. Paulmeni (PW.2) has supported the case of the prosecution so far as the present appellants are concerned. He was declared hostile when he did not name the other accused,

A who stood acquitted by the courts below and there could be no difficultly to accept his deposition to that extent.

16. This Court in *Ramesh Harijan v. State of U.P.*, AIR 2012 SC 1979 while dealing with the issue held:

B *"It is a settled legal proposition that the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross examine him. The evidence of such witnesses cannot be treated as effaced or washed off the record*
C *altogether but the same can be accepted to the extent that their version is found to be dependable on a careful scrutiny thereof.(Vide: Bhagwan Singh v. The State of Haryana, AIR 1976 SC 202; Rabindra Kumar Dey v. State of Orissa, AIR 1977 SC 170; Syad Akbar v. State*
D *of Karnataka, AIR 1979 SC 1848; and Khujji @ Surendra Tiwari v. State of Madhya Pradesh, AIR 1991 SC 1853)."*

17. In *State of U.P. v. Ramesh Prasad Misra & Anr.*, AIR 1996 SC 2766, this Court held that evidence of a hostile witness
E would not be totally rejected if spoken in favour of the prosecution or the accused but required to be subjected to close scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence can be relied upon.

F A similar view has been reiterated by this Court in *Sarvesh Narain Shukla v. Daroga Singh & Ors.*, AIR 2008 SC 320; *Subbu Singh v. State by Public Prosecutor*, (2009) 6 SCC 462; *C. Muniappan & Ors. v. State of Tamil Nadu*, AIR 2010 SC 3718; and *Himanshu @ Chintu v. State (NCT of Delhi)*,
G (2011) 2 SCC 36).

Thus, the law can be summarised to the effect that the evidence of a hostile witness cannot be discarded as a whole, and relevant parts thereof which are admissible in law, can be
H used by the prosecution or the defence.

18. Learned counsel for the appellants submits that in case, on the basis of the same evidence, 15 accused persons had been acquitted, the appellants could not have been convicted. We do not find any force in such a submission for the reason that there may be some exaggeration in depositions of the prosecution witnesses. The courts below had not accepted the evidence to that extent and have given benefit of doubt.

19. In *Balka Singh & Ors. .v. State of Punjab,* AIR 1975 SC 1962, this Court considered a similar issue, placing reliance upon its earlier judgment in *Zwinglee Ariel v. State of Madhya Pradesh,* AIR 1954 SC 15 and held as under:

> *"The Court must make an attempt to separate grain from the chaff, the truth from the falsehood, yet this could only be possible when the truth is separable from the falsehood. Where the grain cannot be separated from the chaff because the grain and the chaff are so inextricably mixed up that in the process of separation, the Court would have to reconstruct an absolutely new case for the prosecution by divorcing the essential details presented by the prosecution completely from the context and the background against which they are made, then this principle will not apply."*

20. In *Sukhdev Yadav & Ors. v. State of Bihar,* AIR 2001 SC 3678, this Court held as under:

> *"It is indeed necessary however to note that there would hardly be a witness whose evidence does not contain some amount of exaggeration or embellishment, sometimes there would be a deliberate attempt to offer the same and sometimes the witnesses in their over anxiety to do better from the witness-box details out an exaggerated account."*

21. A similar view has been reiterated in *Appabhai & Anr. v. State of Gujarat,* AIR 1988 SC 696, wherein this Court has

A cautioned the courts below not to give undue importance to minor discrepancies which do not shake the basic version of the prosecution case. The court by calling into aid its vast experience of men and matters in different cases must evaluate the entire material on record by excluding the exaggerated
B version given by any witness for the reason that witnesses now a days go on adding embellishments to their version perhaps for the fear of their testimony being rejected by the court. However, the courts should not disbelieve the evidence of such witnesses altogether if they are otherwise trustworthy.

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22. In *Sucha Singh v. State of Punjab,* AIR 2003 SC 3617, this Court had taken note of its various earlier judgments and held that even if major portion of the evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, it is the duty of the court to separate grain from chaff.
D Falsity of particular material witness or material particular would not ruin it from the beginning to end. The maxim *falsus in uno falsus in omnibus* (false in one thing, false in everything) has no application in India and the witness cannot be branded as a liar.In case this maxim is applied in all the cases it is to be
E feared that administration of criminal justice would come to a dead stop. Witnesses just cannot help in giving embroidery to a story, however, truth is the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of credence, and merely because in some respects the court
F considers the same to be insufficient or unworthy of reliance, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well.

23. In view of the above, we are of the considered opinion
G that the appeal is devoid of any merit and is accordingly dismissed.

Nidhi Jain Appeal dismissed.