

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case No.: - CRAA No. 90/2013

Reserved on:09.10.2025

Pronounced on:16.10.2025

Uploaded on:17.10.2025

*Whether the operative part or full
judgment is pronounced 16.10.2025*

State of J&K through SHO Ramban

...**Appellant(s)**

Through: - Mr. P.D. Singh, Dy.AG

V/s

1. Om Prakash S/O Tara Chand

2. Pardeep Singh S/O Tej Ram

Residents of Malmula Damot

Tehsil and District Ramban

... **Respondent(s)**

Through: - Mr. Imtiaz Mir, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

JUDGMENT

Per: Sanjay Parihar-J

1. By this acquittal appeal, the judgment dated **22.12.2012** passed by the Principal Sessions Judge, Ramban in case titled “*State of J&K vs. Om Prakash & another*”, arising out of **FIR No. 168/2007** registered at Police Station Ramban, for offences under Section 302 RPC read with Section 34 RPC, is assailed with a prayer for setting aside the same.

2. The primary contention raised is that the judgment impugned is contrary to law and facts of the case, since the trial court failed to appreciate the prosecution’s evidence in its correct perspective. It is urged

that the court below ignored the material testimony of the prosecution witnesses, resulting in a grave error in recording the acquittal of the respondents. According to the appellant-State, the prosecution had succeeded in establishing the guilt of the respondents through cogent documentary as well as ocular evidence, which has been brushed aside without proper appreciation.

3. Briefly stated, Police Station Ramban received reliable information regarding the suspicious death of one Om Singh, S/o Tara Chand R/o Mandlargam, whose dead body was found lying in the house of his close relative Prem Singh. On this information, inquest proceedings were initiated, and the dead body was seized and sent for post-mortem examination. During the course of inquiry, on 28.11.2007, a written report was lodged by the complainant, Pardeep Singh, before the SHO Police Station Ramban, alleging that on 25.11.2007, the deceased, along with the complainant, had gone to attend a marriage function in their village. The marriage concluded the following day, and during the evening hours, at about 5:30 PM, while the guests were dancing and feasting, the deceased also joined the dance, which was objected to by the respondents. Thereafter, the respondents allegedly assaulted the deceased, dragged him out of the marriage premises and continued beating him in the darkness.

4. The complainant and others later searched for the deceased and found him in an injured condition, bleeding from the head and bearing bruises on his throat and other parts of the body. They offered him water and took him to the house of Prem Singh, where he succumbed to his injuries on 27.11.2007 at about 5:30 AM. On the basis of the written

report, the case of suspicious death was converted into **FIR No. 168/2007** for the commission of an offence under Section 302/34 RPC, and investigation ensued.

5. During the investigation, it was found that the deceased had sustained fatal injuries due to a beating inflicted by the respondents, who, after taking him away from the marriage party, allegedly threw him down a hillside. Although the deceased was found alive initially, he succumbed to the injuries soon thereafter. The investigation revealed that the act was committed in furtherance of a common intention, following a quarrel between the parties at Prem Singh's wedding.

6. It further surfaced that the wife of the deceased (PW-2 Churi Devi) and the complainant (PW-1 Pardeep Singh) were the eyewitnesses to the occurrence. The prosecution examined several witnesses in support of the charge; however, during arguments, it was fairly conceded by counsel for the appellant that, except for the two witnesses above, the remaining alleged eye-witnesses did not support the prosecution's version and were declared hostile, while the rest were witnesses of a formal nature.

7. The prosecution examined PW-1 Pardeep Singh, the complainant, who deposed that the deceased was apprehended by the respondents and taken out of the room during the marriage function. The witness followed them and heard the deceased shouting "**bachao, bachao**" and requested the respondents to release him. The occurrence, as per the witness, took place around 1:30 AM. He further stated that the accused later met him on the way and told him that they had "got rid of" the deceased. PW-1 further

deposed that the wife of the deceased informed him that some persons had gone in search of the deceased with a gaslight and, after proceeding some distance, heard someone saying that the deceased had been “put to rest.” On the following morning, PW Khajoor Singh, told him that the deceased was lying in a gorge. Along with the wife of the deceased, he located the deceased, who was found bleeding from the head, while PW Jameet Singh and Mohan Singh were also present. The deceased was shifted to the house of Prem Singh and kept there overnight, but succumbed to his injuries. The witness also claimed that he had gone to fetch a local *Hakim* for medical help.

8. PW-2 Churi Devi, wife of the deceased, deposed that on 27.11.2007, she accompanied her husband to the marriage function at the house of Prem Singh. While dancing, the accused Om Prakash allegedly lifted and threw the deceased on the floor, and Partap Singh struck him on the forehead with a *chimta*. Thereafter, both accused, along with one Jugal, dragged the deceased out of the door and, after assaulting him with fists and blows on vital parts, threw him into a gorge. The witness further deposed that she and Pardeep Singh went down into the gorge and saw two persons, including Jameet Singh, dragging the deceased, and that Jameet Singh was speaking to someone on the phone, saying that they had completed the assigned work. According to her, the deceased told her that Om Prakash and Partap Singh, after beating him, had thrown him into the gorge. She also claimed that Jameet Singh and another bearded man told her that they had killed the deceased. The deceased was then shifted to the house of Prem Singh, where no one was present at that time, and later, at

around 2 PM, the police arrived and removed the body to Ramban Hospital.

In cross-examination, she reiterated that PW Jameet Singh and a bearded man had told them that they had killed the deceased and admitted that Prem Singh was arrested on her asking, as she suspected his involvement.

9. Learned counsel for the appellant, referring to the depositions of the aforesaid two witnesses, contended that the trial court failed to appreciate their evidence in the correct perspective, and that their testimony, if read as a whole, clearly implicates the respondents. It was argued that the court below erred in discarding their consistent version on flimsy grounds.

10. However, on a careful consideration of the record, it emerges that the incident occurred during the intervening night of 26th/27th November 2007, and while both PW-1 Pardeep Singh and PW-2 Churi Devi claim to have been present at the marriage, certain inconsistencies and material omissions in their conduct and statements cast doubt on their reliability. Notably, PW-2 Churi Devi narrated the incident for the first time in her statement under Section 164-A Cr.P.C. recorded before the Judicial Magistrate on 27.12.2007, i.e., after a delay of about one month. Her version that Jameet Singh and a bearded person told her that the respondents had killed the deceased is evidently based on hearsay. The delay in recording her statement and the introduction of new facts at that stage lend credence to the defence plea that her deposition was a product of deliberation.

11. Similarly, PW-1 Pardeep Singh, despite admitting that the deceased was taken away by the respondents from the marriage party, remained silent during the initial inquiry under Section 175 Cr.P.C., and only came forward with the complaint on 28.11.2007, i.e., after the death of the deceased on the morning of 27.11.2007. The Investigating Officer also deposed that initially there was no clue as to the cause of death, and it was presumed that the deceased had fallen and sustained injuries. Even PW-10 Jameet Singh, examined before the trial court, stated that Prem Singh came to his house around 12:30-1:00 AM and told him that the deceased had fallen and needed to be taken to the hospital. His testimony also does not indicate that the deceased was last seen in the company of the respondents. The alleged fact that the deceased was forcibly taken out by the respondents after a quarrel inside the marriage hall also remains uncorroborated by any independent witness.

12. In such circumstances, when the testimonies of PW-1 and PW-2 are found to be partially hearsay and uncorroborated by other ocular evidence, it was incumbent upon the prosecution to establish the complete chain of circumstances leading to the homicidal death of the deceased. The evidence on record rather shows that the deceased was found lying in a gorge in an injured condition, later shifted to the house of Prem Singh, where local efforts for treatment were made, but he succumbed before any medical aid could be provided. The consistent testimony of PW Khajoor Singh and other witnesses supports the view that the deceased had fallen into the gorge, and not that he was thrown there intentionally by the accused.

13. The medico-legal evidence, as proved through the testimony of PW Dr O.P. Bhagat, establishes that the deceased had died due to *internal haemorrhage resulting from damage to the liver and other vital organs*. However, the prosecution has failed to prove the precise cause or manner by which such an internal haemorrhage occurred. On the available evidence, two equally probable hypotheses emerge: first, that the deceased might have fallen into the gorge owing to pitch darkness after the marriage function was over, and second, that he might have been thrown down by the respondents. In a situation where two views are possible on the same set of evidence, the one which favours the accused must necessarily be adopted, as per the settled principle of criminal jurisprudence, since the respondents have earned acquittal from the trial court.

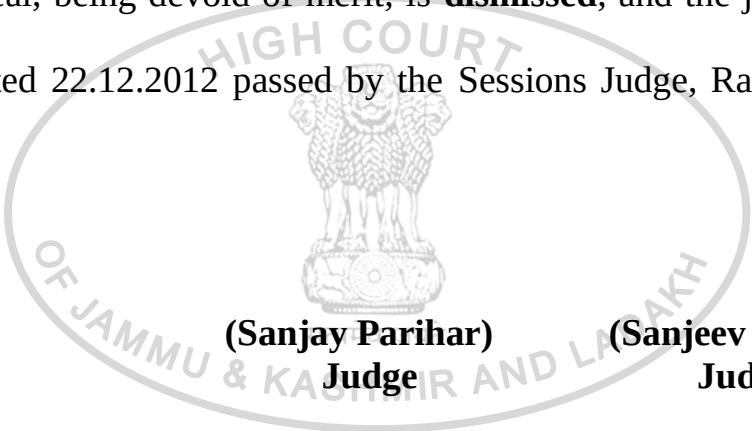
14. The learned trial court has meticulously analysed the statements of the prosecution witnesses and, upon due appreciation, rightly concluded that the depositions of PW-1 Pardeep Singh and PW-2 Churi Devi appear to be an afterthought. The trial court further noticed that several witnesses had categorically deposed that the complainant had earlier rebuked one of the respondents, Om Prakash, for allegedly making the deceased consume liquor, which subsequently resulted in his injuries and death. This prior altercation provided motive for the complainant to falsely implicate the respondents as an act of reprisal.

15. In such a backdrop, reliance on the testimony of PW-1 Pardeep Singh and PW-2 Churi Devi would have amounted to a travesty of justice, their statements being not only hearsay in substantial part but also

suggestive of an attempt to fabricate a version implicating the respondents without any corroborative foundation. The rest of the prosecution evidence, being either formal or exculpatory, lends no support to the charge under Section 302 RPC read with Section 34 RPC.

16. In view of the foregoing discussion, and upon an independent appraisal of the evidence, we find no illegality, infirmity, or perversity in the findings recorded by the trial court. The view taken by the court below is both plausible and based on a sound appreciation of evidence. Consequently, there is no ground warranting interference in appellate jurisdiction.

17. The appeal, being devoid of merit, is **dismissed**, and the judgment of acquittal dated 22.12.2012 passed by the Sessions Judge, Ramban, is upheld.



(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
16.10.2025
Pawan Angotra

Whether the order is speaking? : Yes/No
Whether the order is reportable? : Yes/No