



2025:AHC:175232-DB

Reserved on 29.8.2025

Delivered on 26.9.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1799 of 2015

Amresh

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Amrendu Singh, Arunendra Singh, Ac, Bhavya Sahai, Pankaj Bharti, Sanjeev Kumar Rai, Satyendra Narayan Singh, Sushil Kumar Pandey
Counsel for Respondent(s)	: G.A., Satyendra Narayan Singh

along with

CRIMINAL APPEAL No. - 1801 of 2015

Dhan Pal And Another

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Bhavya Sahai, Pankaj Bharti, Sanjeev Kumar Rai, Sushil Kumar Pandey
Counsel for Respondent(s)	: G.A.

Court No. - 44

**HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE ANIL KUMAR-X, J.**

(Per Anil Kumar-X, J.)

1. Heard Sri Pankaj Bharti, learned counsel for the appellant and Sri Vikas Goswami, learned AGA for the State.

2. These Criminal Appeals are directed against the judgment and order dated 10.4.2015 passed by the Additional Sessions Judge, Court No.3, Muzaffarnagar in Sessions Trial No.759 of 2006 (State vs. Amresh &

Others) arising out of Case Crime No.72 of 2003 under Section 302/34 by which the appellants have been convicted and sentenced to life imprisonment and fine of Rs.20,000/- each. In case of default in payment of fine, they have to undergo six months' additional imprisonment.

3. Prosecution story in a nutshell is that written complaint (Ex. Ka - 1) was submitted on 13.03.2003 by informant Bharat Kaur. She stated that Shalu, daughter of her elder brother-in-law (Jeth) Madanpal, was enticed by Sanjeet and Amresh, both sons of Baljit. Informant was witness in the said case. She along with her husband Ratanpal were peeling sugarcane crop in their fields at about 8:00 am on 13.03.2003. Sanjeet and Amresh, who bore enmity as informant was witness in the case against them, came there along with their two real brothers Dhanpal and Pradhan and were armed with gun and country made pistol. They said to her husband that today they will teach him a lesson for becoming a witness and started firing upon him. Her injured husband ran and fell in the fields of Roshan and died there due to bullet injuries. Omkar, who was also peeling sugarcane in the nearby fields, arrived there on hearing the alarm raised by informant. Other villagers also arrived on the spot and witnessed the incident. All accused were residents of Village Nirgajani Police Station-Bhopa District Muzaffarnagar.

4. On the basis of said complaint, FIR bearing Case Crime No. 72 of 2003 under Section 302 IPC against Sanjeet, Amresh, Dhanpal and Balbir on 13.03.2003 at 09:45 a.m. was lodged. SHO Surender Singh Tewatiya himself took over the investigation. He reached at the spot and prepared site plan (Ex. Ka-5). Inquest report (Ex. Ka -12) and Postmortem report (Ex. Ka -4) were prepared on 13.03.2003. Accused Dhanpal and Pradhan were arrested. Country made guns and cartridges were recovered at their instance on 10.04.2003 and 13.04.2013 respectively. Country made guns with an empty shell stuck in it was recovered at the instance of accused Amresh on 22.05.2003. Charge sheet against all accused u/s 302 IPC and section 25 Arms Act was submitted. Charges were framed under u/s 302 IPC and section 25 Arms Act against accused Dhanpal, Amresh and Pradhan on

05.12.2006. Accused denied the charges and claimed for trial. One of the accused Sanjeet was killed in police encounter before framing of charges.

5. Thirteen witnesses were produced by prosecution to prove its case. Informant Bharat Kaur was examined as P.W.-1. She stated that all accused were known to her and they belonged to village Nirgajani. After this incident, accused Sanjeet was killed in police encounter. Kumari Shalu, daughter of her elder brother-in-law (Jeth) Madanpal, was enticed by accused Amresh and Sanjeet. The informant was a witness of that case. However, the accused got this matter settled at the police station by exerting pressure upon her elder brother-in-law. She being witness of the case led accused to bore enmity towards her. Due to said enmity, accused Sanjeet, Dhanpal, Amaresh and Pradhan came at her field at about 8:00 am on 13.03.2003 when she along with her husband Ratanpal was peeling sugarcane. They said to her husband that they will teach him a lesson today. All accused, who were armed with gun and country made pistols, started firing upon her husband. Her husband, being hit by bullet, ran towards fields of Roshan and fell there. Upon raising alarm by her, Omkar, Jogendra and Harpal, working in their fields rushed there and witnessed the incident. When witnesses and other persons arrived at the spot, accused fled from the spot.

6. P.W-2 Jogendra has also corroborated prosecution version and has made similar statement. He has deposed that alleged incident was witnessed by him as he was also present in the nearby fields. He has also stated that accused were inimical towards Ratanpal and his wife Bharat Kaur, because they were pursuing the case against accused person who were involved in enticing the daughter of Madan Pal. P.W-3 Constable Shravan Kumar has proved chik FIR (Ex. Ka-2).

7. P.W-4 Dr. R.B. Singh has proved postmortem report (Ex. Ka-4). He has stated that postmortem of deceased Ratanpal was conducted by him at 3:45 p.m. on 13.3.2003. Following ante mortem injuries on the person of

deceased were found :-

"1. Gun shot wound of entry 6 cm x 5 cm x chest cavity deep 8.5 cm below the angle of mandible and 2 cm from midline situated around the medial end of right collar bone. Margins irregular inverted showing severe circular compressions on examination right clavicle and first rib fractured upper lobe right lung lacerated one plastic and 20 pellets removed from right lungs one litre blood present in right chest cavity.

2. Gun shot wound of entry 3 cm x 2 cm x chest cavity deep on lower sternum 11.5 cm below sternal notch, margins inverted, abraded collar present on examination body of sternum lacerated, both chamber of heart lacerated, left lung lower lobe lacerated, the wound is communicating with a wound of exit 11.5 cm x 1 cm width everted margins, situated 11 cm below the tip of left scapula and 11 cm from midline. ½ litre clotted and liquid blood present in left chest cavity.

3. Gutter shaped lacerated wound 3 cm x 6 cm x muscle deep on outer aspect of upper part of right arm and right scapular region. Margins irregular (14) pellet embedded in wound and its margin removed and sealed.

4. Gun shot wound of entry 5 cm x ½ cm muscle deep vertically of angle 13.5 cm below tip of right scapula and 6.5 cm below midline connecting into superficial bullet lodge below muscle 8 cm above the wound bullet removed and sealed. Margins inverted abraded collar present.

5. Gun shot wound of entry 5 cm x 4 cm x abdominal cavity deep and back of line of right flank 7 cm above and posterior superior iliac spine and 12 cm from midline, surrounded with multiple wound of entry 0.2 x 0.2 cm x abdominal cavity deep, around in an area 9 cm x 6 cm. On examination, loop of small intestine and right kidney lacerated half litre liquid blood present in abdominal cavity. One plastic piece and (15) pellets removed from lower abdomen and sealed."

8. P.W.-4 Dr. R.B. Singh has stated that death of deceased Ratanpal occurred due to shock and haemorrhage as result of ante mortem injuries.

9. P.W-5 S.I. Surendra Singh investigated the case and has proved site plan

(Ex. Ka-6). He has stated that inquest was prepared by S.I. Jagan Singh in his presence. He collected plain soil and blood stained soil from the spot and prepared its memo. Thereafter, he recorded statements of all the witnesses and submitted chargesheet (Ex. Ka-6) against accused persons. He has further stated that recovery of country made pistol and empty cartridges was made from accused Dhanpal and Pradhan on 10.4.2003. P.W-8 S.I. Jagan Singh has proved inquest report (Ex. Ka-12) and documents like photo lash, chitthi R.I., chitthi CMO and challan lash which were marked respectively as Ex. Ka-13, Ex. Ka-14, Ex. Ka-15 and Ex. Ka-16. P.W-6 Constable Jai Kumar, P.W-7 S.I. Krishna Avtar Singh, PW-9 S.I. Raj Kumar, PW-10 S.I. Resham Singh and PW-11 Manish Bharadwaj have proved chik FIR, arrest, recovery and prosecution sanctions etc. pertaining to Case Crime No. 95 of 2003 (State vs. Dhanpal) Case Crime No. 96 of 2003 (State vs. Pradhan) and Case Crime No. 121 of 2003 (State vs. Amresh). All the appellants were acquitted by the learned trial court for the aforementioned case crimes lodged against them under Section 25 of Arms Act.

10. P.W.-13 Omkar, stated to be an eye witness in first information report, has not supported prosecution version. He stated that he was about 1 kilometre away from the place of occurrence and could not witness the alleged incident. Statements of all the accused persons were recorded under Section 313 Cr.P.C. All accused have stated that they were falsely implicated in this case. Recoveries shown at their instance are bogus. They are innocent and they were not concerned with the alleged incident. Two witnesses D.W-1 Shalu and D.W.-2- Brahm Singh Rathi were also tendered by accused persons.

11. D.W.-1 Shalu has stated that she on her own freewill had gone with accused Amresh in January 2003 and also solemnized her marriage with Amresh on 25.1.2003. She along with her husband Amresh and brother in law (Devar) Dhanpal was residing at Haridwar after her marriage. In between, her uncle was murdered by some unknown persons. D.W-2 Brahm Singh Rathi has stated that he was present on the spot at the time when the

alleged incident took place. Bharat Kaur and Jogendra were not present there at the time of occurrence. Bharat Kaur arrived there after sometime and her hands were smeared with dough. Accused Amresh and other accused were not present in their village on the date of occurrence. Learned trial court convicted all the appellants for offence under Section 302 read with Section 34 IPC. However, all the appellants were acquitted for offences under Section 25/27 of Arms Act.

Arguments on behalf of Appellants

12. The appellant's counsel has submitted that prosecution has not produced a single piece of evidence to establish alleged motive. Statement of informant and P.W.-2 Jogender indicates that accused were inimical towards informant, Bharat Kaur. She has claimed to be a witness in a case pertaining to kidnapping of Shalu. If said motive is admitted, then accused would have targeted informant Bharat Kaur, rather than committing murder of her husband Ratanpal. It is not the case of prosecution that Ratanpal was in any way concerned to the alleged case. Even none of prosecution witnesses have stated that Madanpal, father of Shalu, was in any manner aggrieved by the said state of affairs. If there had been any such dispute over such an incident, Madanpal would have been most upset, not the informant or her husband. Instead, he would have been the first to oppose the accused persons, rather than informant or her husband.

13. It is significant that informant herself had admitted that said dispute was resolved between the parties at police station. In given circumstances, question of alleged motive does not arise. Even no proof of any pending criminal proceedings pertaining to alleged dispute was tendered at trial. The said facts themselves establish that no such motive was in existence at the time of occurrence as claimed by prosecution.

14. Shalu, examined by defence as D.W.-2, has categorically stated that she got married to appellant Amresh before the incident. She has also stated that she along with her brothers-in-law Dhanpal and Pradhan was living with her

husband at Haridwar at the time of occurrence. It emerges from her testimony that no dispute, whatsoever alleged, was in existence at the time of occurrence. Her testimony also reveals that appellant Amresh and Dhanpal were at Haridwar at the time of incident. D.W.2 Brahm Singh Rathi has also stated that he was present at the scene and Bharat Kaur along with Jogendra arrived shortly after the incident occurred with her hands smeared with dough. Testimony of D.W.-1 Shalu and D.W.-2 Brahm establish that appellant Amresh and Pradhan were at Haridwar at the time of incident, whereas Bharat Kaur in the early morning was busy at her home in household work.

15. Presence of P.W.-1 Bharat Kaur and P.W.-2 Jogendra at the spot is highly doubtful. P.W-1 Bharat Kaur has stated that her Tehrir was scribed on her dictation. Whereas, said Tehrir is type written. P.W-5 S.I. Surendra Singh has also stated that a typed Tehrir was submitted before him. P.W-1 Bharat Kaur has also said that she reached police station with her Tehrir between 12:00 and 1:00 in afternoon. However, P.W.-3 Constable Shravan Kumar has stated that informant submitted her Tehrir at 09:45 am and remained at police station for 10-15 minutes. Bharat Kaur has claimed that alleged incident occurred in her own field and she was present there. But she has failed in even telling Khasra number of her own field. Similarly, she has failed to describe the adjoining locations situated near her field. As far as P.W.-2 Jogendra is concerned, this witness was not in picture before commencement of trial. Neither was he named as a witness by the informant nor his statement was recorded by I.O. He was introduced as witness at stage of trial because alleged eye witness P.W-8 Omkar, claimed as eyewitness of incident denied his presence on the spot. It was submitted that overall view of aforesaid facts, reflect that none of the alleged eye witnesses were present on the spot. It is evident from prosecution story that incident occurred in the morning at about 8:00 O' clock. Normally, any woman who is house wife, will never be found in fields at the alleged time. Presence of P.W-1 Bharat Kaur at the said time is also unnatural. It can be easily assumed that she at

that time was present at her home. The said fact also finds support from testimony of D.W.-2 Brahm Singh Rathi, who has stated that her hands were smeared with dough at the time she arrived at spot. In the given circumstances, it is evident that prosecution has failed miserably either to prove motive or the presence of alleged eye witnesses at the time of occurrence.

16. It was further submitted that that prosecution has not produced any independent witness. Alleged witnesses produced by prosecution have themselves stated that other persons were also present in the adjoining fields and had also witnessed the incident. But none of them were produced. Informant is wife of deceased and her testimony is not reliable in any sense. P.W.-2 Jogendra is her relative and he does not reside in her village. His presence at spot is highly improbable. Hence, this appeal is liable to be allowed by setting aside the judgment of conviction passed against the appellants.

Arguments on behalf of State

17. Learned AGA has submitted that presence of P.W.-2 Jogender was found doubtful by the learned trial court and accordingly it has discarded his testimony. However, appellants have failed to bring any such fact on record from which they can raise a reasonable doubt on the testimony of P.W.-1 Bharat Kaur. Promptness in lodging FIR itself rules out any possibility of false implication. P.W.-1 Bharat Kaur has established the motive behind the murder of deceased Ratanpal. She has deposed that appellants bore enmity towards her as she was pursuing case against them. She has categorically stated that daughter of her elder brother-in-law was enticed by the appellants. Though prosecution was unable to bring on record any document to substantiate any such dispute as stated by Bharat Kaur, yet this fact is not denied by appellants. Appellants have also argued that Omkar, an eye witness claimed by Bharat Kaur, has not supported prosecution story. But said fact alone has no bearing upon testimony of P.W.-1 Bharat Kaur. It is a

well settled law that quality and not the quantity of witness is material. Therefore, unless some material discrepancy exists in testimony of P.W.-1 Bharat Kaur, her testimony cannot be discarded. Appellants are hardened criminals and they have long criminal history.

18. It is a very common fact that generally independent witnesses are reluctant to testify against any criminal out of fear. Therefore, P.W.-8 Omkar turning hostile can in no way affect the testimony of P.W.-1 Bharat Kaur. Certain minor inconsistencies and contradictions are bound to occur in testimony of a witness. Such contradictions and inconsistencies, unless material, do not affect the reliability of a witness. This witness was very much present at the spot. Said incident occurred in the morning at about 8:00 O' clock and FIR was lodged at 9:45 a.m. Had this witness been absent on the spot, FIR would not have been lodged with such promptness. Therefore, testimony of this single witness which does not suffer from any major infirmity cannot be discarded only on the basis of minor contradictions. The judgment passed by the trial court does not suffer from any illegality as it has minutely scrutinized the evidence tendered during the trial. Hence, this appeal lacks merit and is liable to be dismissed.

Conclusion

19. Heard learned counsel and perused the records. Details of prosecution story discussed earlier reveal that informant Bharat Kaur along with her deceased husband Ratanpal were in their fields on 13-03-2003. At about 8:00 o' clock in the morning, appellant came there and fired at the deceased who succumbed to the bullet injuries. FIR was lodged shortly after one hour and forty minutes at 9:45 am. P.W.-1 Bharat Kaur has stated that Tehrir was scribed on her dictation and she reached police station at about 12 to 1 pm. It is true that Tehrir (Ex-Ka 1) available on record is in fact typed one. It is a known fact that various formalities like preparing an inquest report, taking the body to postmortem house and performing last rites etc. take place after commission of such crimes. When heinous crimes occur in front of family

members, they panic, get shocked, and become disoriented. In such situations, FIRs are often lodged with assistance from other person's. Even family members themselves may not be in a position to dictate or write the FIR. They may only narrate about the incident as they may have witnessed. It is not possible to expect from any person, particularly a widow, who had witnessed the murder of her husband to tell the exact details of the incident. Hence the doubt raised regarding lodging of F.I.R by informant with a view to create suspicion on her presence at the spot is ill founded. FIR was lodged promptly in this case and there is no cogent reason to raise any reasonable doubt, in that regard. The reliability of prosecution witnesses is to be tested on the basis of what they have deposed in their testimony about the alleged occurrence, rather than what they state about subsequent events.

20. Appellants have raised various questions about the motive imputed against them. P.W.-1 Bharat has consistently stated that her niece Shalu (daughter of her elder brother in law) was enticed away by the appellants . Appellants were holding grudges against her as she was pursuing the said case against them. She stated that said dispute was settled between the parties. It is true that prosecution has not produced any evidence that any such criminal proceedings between parties ever existed. Yet, D.W.-1 Shalu, admitted that she had left with appellant Amresh and had solemnised her marriage with him at Arya Samaj Mandir. This fact indicates that marriage was not performed with the consent of the families. Apart from narrating that appellants held grudges against informant, nothing cogent was tendered by the witnesses to establish animosity between the parties. It is settled law that motive is an important factor for consideration in a case of circumstantial evidence, but when there is a direct eye witness, motive loses its significance. In Shivaji **Genu Mohite v. State of Maharashtra, AIR 1973 SC 55**, it was held that it is a well-settled principle in criminal jurisprudence that when ocular testimony inspires the confidence of the court, the prosecution is not required to establish motive. Appellants have also contended that they have been falsely implicated in this case because

informant was enraged due to the marriage between Shalu and appellant Amresh. So far as false implication is concerned, it is trite that when a plea of false implication is taken, it is imperative for appellants to prove allegation of false implication by leading cogent evidence. But appellants have failed to adduce any such cogent evidence from where it can be inferred that they have been falsely implicated in this case.

21. Appellants have also raised questions on the presence of P.W.-1 Bharat Kaur on the spot. Question raised regarding certain facts stated by her in reference to lodging of FIR have been dealt earlier. It will be appropriate to examine other contentions. It was argued that PW-1 claimed herself to be present with deceased in her fields at the time of occurrence. But she was unable to tell the khasra no. of the field where murder took place. She was even unable to disclose the owners of adjoining fields. It is true that land owners are well aware of the owners of adjoining fields. It is very much usual that any land owner is not ignorant about owners of neighboring land. However, when a witness appears before the court for deposition, he may become confused in the charged atmosphere of court coupled with other factors like piercing cross-examination and compulsion upon him to answer every relevant and irrelevant question. Therefore, such omissions on part of witness may occur. Therefore, such omissions on part of witness cannot be held to be material or decisive. Similarly, it is unnatural to expect from a household lady to disclose khasra number of his field unless there is pending litigation regarding them. It is something strange that P.W-1 was unable to tell the names of owners of adjoining fields. From the circumstances disclosed by her, it is apparent that PW-1 Bharat Kaur frequently visited her fields. But on the basis of said single fact alone, her testimony cannot be discarded and she cannot be categorised as an unreliable witness. Place of occurrence as stated by PW-1 Bharat Kaur has not been disputed. Alleged place of occurrence is her sugarcane field and that fact was not challenged by the appellant. Therefore, her testimony may not be disbelieved. One can not be unmindful of the fact that after suffering trauma of losing her husband

in front of her eyes, she again had to recall entire episode during rigour of her cross examination. In given circumstances, it is not unusual that she may have failed to recall the names of owners of adjoining fields.

22. The learned trial court has thoroughly discussed the deposition of P.W.-1 Bharat Kaur. It held that in her testimony, she proved that she was present at the time of the occurrence. We have also perused her testimony. Her testimony has remained consistent. Her version in the FIR remained unchanged until her cross-examination, without any significant improvement. In this case, there is a single eyewitness, and circumstances manifest that other witnesses in the vicinity would have also been present. The same has also been admitted by informant who had stated that other farmers in the neighbouring fields were also present. It cannot be doubted that said incident would have been witnessed by other persons also who were present in the adjoining fields. It is also true that those witnesses were not produced by prosecution. There is high expectation of impartiality from an independent witness. But it is difficult to procure independent witnesses in those cases where witnesses belongs to the same place where the offence took place. In **Darya Singh Vs. State of Punjab, AIR 1965 SC 328**, it was held by Hon'ble Supreme Court that:

"It is well-known that in villages where murders are committed as a result of factions existing in the village or in consequence of family feuds, independent villagers are generally reluctant to give evidence because they are afraid that giving evidence might invite the wrath of the assailants and might expose them to very serious risks."

23. Thus, non examination of independent witnesses is not always fatal. It depends upon existing circumstances. In **Bir Singh and others- Vrs- State of Uttar Pradesh, A.I.R.1978 S.C.59** it was held that it is not incumbent on the prosecution to examine each and every witnesses so as to multiply witnesses and burden the record. This rule however, does not apply where the evidence of the eye witnesses suffers from various infirmity and could be

relied upon if properly corroborated. Where all the eye witnesses examined by the prosecution had serious animus against the accused and were interested in implicating the accused and neither independent witnesses were examined nor any reasonable explanation was given by the prosecution, the court would be justified in drawing adverse inference against the prosecution. Here, there is no suggestion of such animosity. Therefore, non examination of independent witnesses is not fatal for the prosecution. Overall circumstances and background of this case not suggest that any such situation as referred in Bir Singh(Supra) existed. Hence, we do not find any force in this argument of appellants. Similarly, contention regarding false implication also lacks force. Ordinarily, any family member, especially a wife, would not depose falsely against innocent persons so as to allow the real culprit to escape unpunished, rather she would always try to secure conviction of real culprit. As far as PW-2 Jogendra Singh is concerned, his testimony was also discussed by the learned trial court and it found that presence of this witness at the time of occurrence is doubtful. Therefore, we are not of view to re-appreciate his testimony because reasons assigned by the learned trial court while discarding his testimony were found cogent.

24. Thus, from the foregoing discussion, we are of the view that judgement of learned trial court does not suffer from any infirmity. Appellants have failed to show any such inconsistency or discrepancy in prosecution evidence which can form a basis of extending them benefit of doubt. Prosecution has succeeded in establishing the fact that the appellants namely Amresh, Dhanpal and Pradhan have committed the murder of Ratanpal by causing gun shot injuries .Accordingly, their conviction for offence under 302/34 of I.P.C. is hereby affirmed. Sentence awarded by the Trial Court is hereby affirmed. The judgment and sentence dated 10-04-2015 passed by Additional Sessions Judge, Muzaffar Nagar in S.T. No. 759/2006 is hereby affirmed.

25. The appellants Amresh , Dhanpal and Pradhan are on bail. Their bail bonds are cancelled. They are directed to immediately surrender before the

Trial Court.

26. A copy of judgment, free of cost, be provided to the appellants.

27. The Criminal Appeals Nos. 1799 of 2015 and 1801 of 2015 fail and are hereby dismissed.

(Anil Kumar-X,J.)

I agree

(S.D. Singh,J.)

September 26, 2025
Ujjawal