



2025:0001-1 K03:29852

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL REVISION No. - 1463 of 2025

Mohd. Kais

.....Revisionist(s)

Versus

State Of U.P. Thru. Prin. Secy. Deptt. Of Home
Lko. And 2 Others

.....Opposite
Party(s)

Counsel for Revisionist(s) : Desh Ratan Mishra, Neeraj Pandey
Counsel for Opposite Party(s) : G.A.

Court No. - 27

HON'BLE RAM MANOHAR NARAYAN MISHRA, J.

Heard learned counsel for the revisionist, learned A.G.A. for the State and perused the record.

Criminal Revision Under Section 397/401 Cr.P.C. (now 438/442 BNSS, against the order dated 13.11.2025 passed by Additional Sessions Judge Room No. 9, Ayodhya whereby rejected the application under section 311 Cr.P.C./348 BNSS of the Revisionist in Sessions Trial No. 233 of 2022 "State Versus Ramesh & others", arising out of case crime No. 216 of 2022, under section under section 302, 201 IPC, police Station- Raunahi, District-Ayodhya.

Learned counsel for the revisionist submits that revisionist is an informant and de facto complainant in Session Trial No. 233 of 2022 in which accused persons are being tried for the offense under sections 302 and 201 IPC. He submitted that the revisionist had filed an application 32 B under Section 311 Cr.P.C./ 348 BNSS on 28/10/2025 at the stage of final argument with averments that he had lodged the FIR against the accused persons regarding the murder of his brother, Mohammad Imran @ Chand Babu.

It is stated in the FIR that in the night of the incident, Aquil Ahmad and others, who are residents of the Mohalla, had seen the accused person, but they thought that they would be taking some ailing person. They did not

take it seriously. The dead body of his brother was found floating in the Sarda Canal on 26/06/2022. The police conducted inquest of the dead body and got its post-mortem done. The dead body was buried after the post-mortem. Thereafter, he came to know that accused Jyoti had called his brother in a planned manner from his house by telephone and he was killed by Ramesh, Jyoti and others and the dead body was thrown in the Sarda Canal for concealment of evidence.

He next submitted that Salman and Gufran, who are witnesses of circumstantial evidence and for just decision of the case, their evidence is material. The investigating officer has not made them as witnesses in the chargesheet. They were not examined by the investigating officer. The learned trial court had dismissed the application under section 311 Cr.P.C. on the ground that the complainant, who is the informant, was examined on 28/02/2023 and on several dates, he did not appear for cross-examination and after much delays his cross-examination was completed. The concerned witnesses are neither named in the FIR nor they were examined as witnesses under section 161 CrPC. They are not named in the charge sheet as witnesses. One Aquil Ahmad, who is said to be a witness of circumstantial evidence has not supported the prosecution case.

Learned counsel for the revisionist has placed reliance on the judgement of the Hon'ble Supreme Court in the case of **Rajaram Prasad Yadav vs State of Bihar**, AIR 2013 SC 3081. The learned trial court has also observed that the case is eight years old and it is expected to be decided expeditiously. The examination of the said witnesses is not essential for a just decision of the case.

He further submits that the learned trial court has wrongly stated that the case is eight years old. In fact, the FIR in the case was itself lodged in the year 2022. He also submitted that the accused persons Ramesh and Karan had filed an objection on the application under section 311 CrPC on 11/11/2025. He next submitted that the said witnesses, Salman and Gufran had filed affidavits addressed to the Senior Superintendent of Police, Ayodhya in which they have stated to have seen some vital aspects of this case, which may be treated as an important link in the chain of circumstantial evidence. These affidavits are part of the record

of the trial court. In spite of the affidavits of the said witnesses, the investigating officer did not examine them as witnesses.

Par contra, learned A.G.A. submitted that if the said affidavit was filed as early as on 30.06.2022, it is not clear as to why the application under section 311 CrPC for their examination was moved by the informant on 28.10.2025 at the stage of final arguments. This fact has been stated in the evidence of PW-1 that witness Salman told him that Jyoti had called Chandu Babu and that he left her at the place of Jyoti.

It is also stated in the evidence of PW1 that Gufran had told him at about 1:30 AM in the night of the incident that certain cries were emanating from the house of Ramesh. He had seen from the roof of his house that Ramesh, Karan, Ram, Avtar, Arjun, Jyoti, wife of Ramesh, and Ankit were carrying someone in a covered manner on a moped. They thought that it would be someone ailing. It is difficult to believe that so many persons were carrying a person on a moped.

Considering the totality of the facts and circumstances of the case, I do not find that the evidence of the two witnesses, who had not been examined at any stage during investigation nor made witnesses in the charge sheet is essential for a just decision of the case.

I do not find any illegality or infirmity in the order passed by the court below. The revision is liable to be dismissed.

Accordingly, the revision is **dismissed**.

(Ram Manohar Narayan Mishra, J.)

December 17, 2025

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