

Reserved on – 17.06.2026

Delivered on – 06.07.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Appeal No. 73 of 2026

Tejendra *alias* Seetu and another Appellants

Versus

State of Uttarakhand Respondent

Present:-

Mr. Navneet Kaushik and Ms. Divya Jain, Advocates for the appellants.

Mr. J.S. Virk, learned Additional Advocate General with Mr. Sunil Upadhyaya, Brief Holder for the State.

Criminal Appeal No. 108 of 2026

Sonu Syaoran Appellant

Versus

State of Uttarakhand Respondent

Present:-

Mr. Sandeep Tandon, Advocate with Ms. Poonam Rana, Advocate for the appellant.

Mr. J.S. Virk, learned Additional Advocate General with Mr. Sunil Upadhyaya, Brief Holder for the State.

Criminal Appeal No. 184 of 2026

Sonu Syaoran Appellant

Versus

State of Uttarakhand Respondent

Present:-

Mr. Sandeep Tandon, Advocate with Ms. Poonam Rana, Advocate for the appellant.

Mr. J.S. Virk, learned Additional Advocate General with Mr. Sunil Upadhyaya, Brief Holder for the State.

Criminal Appeal No. 185 of 2026

Sonu Syaoran Appellant

Versus

State of Uttarakhand Respondent

Present:-

Mr. Sandeep Tandon, Advocate with Ms. Poonam Rana, Advocate for the appellant.

Mr. J.S. Virk, learned Additional Advocate General with Mr. Sunil Upadhyaya, Brief Holder for the State.

JUDGMENT

Coram: Hon'ble Ravindra Maithani, J.
Hon'ble Siddhartha Sah, J.

Per: Hon'ble Ravindra Maithani, J.

Since all these appeals arise from the common judgment and order passed by the court of Additional District and Sessions Judge, Vikasnagar, Dehradun, they are heard together and being decided by this common judgment.

2. By means of Criminal Appeal No. 73 of 2026, the appellant Tejendra *alias* Seetu has challenged his conviction and sentence recorded on 10.02.2026/13.02.2026 in Sessions Trial No. 26 of 2017, State v. Tejendra *alias* Seetu and another, by the court of Additional District & Sessions Judge, Vikasnagar, Dehradun, whereas the appellant Piyush Sharma has challenged his conviction and sentence recorded on 10.02.2026/13.02.2026 in Sessions Trial No. 87 of 2015, State v. Sonu Syaoran and others, by the court of Additional District & Sessions Judge, Vikasnagar, Dehradun. Both the appellants Tejendra *alias* Seetu and Piyush Sharma have been convicted under Sections 302 read with 34, 364A, 394, 387, 506 IPC and sentenced as under:-

- (i) Under Section 302 read with 34 IPC – Life imprisonment with a fine of Rs. 50,000/- each and in default of payment of fine, to undergo further imprisonment for a period of two years.

- (ii) Under Section 364A IPC – Rigorous imprisonment for a period of ten years with a fine of Rs. 20,000/- each. In default of payment of fine, to undergo further imprisonment for a period of two years.
- (iii) Under Section 394 IPC – Rigorous imprisonment for a period of five years with a fine of Rs. 10,000/- each. In default of payment of fine, to undergo further imprisonment for a period of one year.
- (iv) Under Section 387 IPC – Rigorous imprisonment for a period of five years with a fine of Rs. 10,000/- each. In default of payment of fine, to undergo further imprisonment for a period of six months.
- (vi) Under Section 506 IPC – Rigorous imprisonment for a period of two years with a fine of Rs. 2,000/- each. In default of payment of fine, to undergo further imprisonment for two months.

In addition to the above, the appellant Piyush Sharma was also convicted under Section 411 IPC and sentenced to rigorous imprisonment for a period of three years with a fine

of Rs. 5,000/-. In default of payment of fine, to undergo further imprisonment for three months.

3. Criminal Appeal No. 108 of 2026 has been filed by the appellant Sonu Syaoran challenging the judgment and order dated 10.02.2026/13.02.2026 passed in Sessions Trial No. 87 of 2015, State v. Sonu Syaoran and others, by the court of Additional District & Sessions Judge, Vikasnagar, Dehradun, by which the appellant Sonu Syaron has been convicted under Sections 302 read with 34, 364A, 394, 387, 411, 506 IPC and sentenced as under:-

- (i) Under Section 302 read with 34 IPC – Life imprisonment with a fine of Rs. 50,000/- each and in default of payment of fine, to undergo further imprisonment for a period of two years.
- (ii) Under Section 364A IPC – Rigorous imprisonment for a period of ten years with a fine of Rs. 20,000/- each. In default of payment of fine, to undergo further imprisonment for a period of two years.
- (iii) Under Section 394 IPC – Rigorous imprisonment for a period of five years with a fine of Rs. 10,000/- each. In default of payment of fine, to undergo further imprisonment for a period of one year.

- (iv) Under Section 387 IPC – Rigorous imprisonment for a period of five years with a fine of Rs. 10,000/- each. In default of payment of fine, to undergo further imprisonment for a period of six months.
- (v) Under Section 411 IPC – Rigorous imprisonment for a period of three years with a fine of Rs. 5,000/- each. In default of payment of fine, to undergo further imprisonment for three months.
- (vi) Under Section 506 IPC – Rigorous imprisonment for a period of two years with a fine of Rs. 2,000/- each. In default of payment of fine, to undergo further imprisonment for two months.

4. Criminal Appeal No. 184 of 2026 has been filed by the appellant Sonu Syaoran challenging the judgment and order dated 10.02.2026/13.02.2026 passed in Sessions Trial No. 86 of 2015, State v. Sonu Syaoran, by the court of Additional District & Sessions Judge, Vikasnagar, Dehradun. By it the appellant Sonu Syaoran has been convicted under Section 25 of the Arms Act, 1959 and sentenced to rigorous imprisonment for a period of three years with a fine of Rs. 20,000/- and in default of payment of fine, to undergo further imprisonment for a period of six months.

5. Criminal Appeal No. 185 of 2026 has been filed by the appellant Sonu Syaoran challenging the judgment and order dated 10.02.2026/13.02.2026 passed in Sessions Trial No. 85 of 2015, State v. Sonu Syaoran, by the court of Additional District & Sessions Judge, Vikasnagar, Dehradun. By it the appellant Sonu Syaoran has been convicted under Section 25/4 of the Arms Act, 1959 and sentenced to rigorous imprisonment for a period of one year with a fine of Rs. 10,000/- and in default of payment of fine, to undergo further imprisonment for a period of two months.

6. Prosecution case, briefly stated, is as follows. The dead body of the deceased Nitesh was found in a car bearing Registration No. HR-18B-7777 and the blood was found in his room. PW 2 Ashok Kumar, who is the uncle of the deceased, gave a report, Ex. A-1 before the Reporting Outpost Selakui, on which Case Crime No. 45 of 2014, under Section 302 IPC was lodged against the unknown persons. Chik FIR is Ex. A-9 and the extract of GD entry is Ex. A-10. The inquest of the dead body of the deceased was done, which is Ex. A-2. The post-mortem of the deceased was done on 20.09.2014 at 04:30 p.m. According to the doctor, who conducted the post-mortem, the cause of death was due to shock and haemorrhage as a result of the ante-mortem injuries. There were multiple injuries on his person. The post-mortem report is Ex. A-5. The Investigating Officer also collected the blood stained bedsheet and other articles on 20.09.2014 only. He prepared a recovery memo, Ex. A-3. The Investigating Officer also took into custody the car in which the dead body was found. The memo of it, Ex. A-4 was also prepared. In fact, on the same day, PW 6 Anuj Kumar had also given a report to the police stating that he along with

Kashish, Chirag, Kaku, Aashu, Piyush, Captain and Nitesh were staying in the rented house at Selakui, when in the intervening night of 19/20-09.2014, appellants Tejendra *alias* Seetu, Sonu Syaoran, and Anup and Kalia entered into their house; did *maarpeet* with them and stabbed Nitesh, due to which he died. Thereafter, those assailants took Chirag with them and also took various articles. They demanded Rs. 5,00,000/- so that Chirag may be released.

7. It is the prosecution case that the appellant Piyush Sharma though was staying with the deceased, but he had conspired with the other appellants in the killing of the deceased Nitesh and abducted Chirag so that ransom may be demanded. According to the prosecution, on 20.09.2014, the police reached near Panchkula and below Zirakpur Flyover, Chandigarh, PW 6 Anuj Kumar indicated that the assailants are in the Scorpio car. The police raided and arrested the appellants Sonu Syaoran and Piyush Sharma. One of the assailants could manage to run away with the car. The appellants Sonu Syaoran and Piyush Sharma were arrested and an arrest memo, Ex. P-21 was also prepared. Thereafter, at the instance of the arrested appellants Sonu Syaoran and Piyush Sharma, the police raided a residence in a flat in Panchkula and released the abducted Chirag. Along with him was one Gopal, who was also arrested. The recovery memo of it, Ex. P-22 was also prepared. Subsequent to arrest of appellant Sonu Syaoran, at his instance, according to the prosecution, on 21.09.2014, a pistol along with four live cartridges were recovered, of which recovery memo, Ex. P-29 was prepared. Further, as per the prosecution, at the instance of the appellant Sonu Syaoran, on 27.09.2014, the weapon of offence was also recovered, of which a

recovery memo, Ex. P-36 was recorded. Separate cases were also lodged against the appellant Sonu Syaoran being Case Crime No. 210 of 2014 under Section 25 of the Arms Act, 1959 with regard to recovery of pistol and Case Crime No. 216 of 2014 under Section 25/4 of the Arms Act, 1959, with regard to recovery of knife, the weapon of offence. The police sent the articles recovered for forensic examination. The forensic examination report is on the record. Blood was not detected on the knife that was allegedly recovered at the instance of the appellant Sonu Syaoran. The Investigating Officer prepared the site plan and after investigation, submitted charge sheets.

8. On 09.12.2015, the trial court framed charges under Sections 120B, 302 read with 34, 394 read with 34, 364A read with 34, 387 read with 34 and 506 read with 34 IPC against the appellants Sonu Syaoran and Piyush Sharma. On 09.12.2015 itself, the trial court also framed charge under Section 411 IPC against the appellants Sonu Syaoran and Piyush Sharma. On 09.12.2015, the Trial Court, separately framed charges against appellant Sonu Syaoran under Section 25 of the Arms Act, 1959 and under Section 25/4 of the Arms Act, 1959 also. So far as the appellant Tejendra *alias* Seetu is concerned, on 16.10.2017, charges under Sections 120B, 302 read with 34, 394 read with 34, 364A read with 34, 387 read with 34 and 506 read with 34 IPC were framed against him. The appellants denied the charges and claimed trial.

9. In order to prove its case, the prosecution examined as many as fourteen witnesses, namely, PW 1 Kashish, PW 2 Ashok Kumar, PW 3 Ramesh, PW 4 SI Arvind Kumar, PW 5 Dr. Alind

Pokhariyal, PW 6 Anuj Kumar, PW 7 Chirag, PW 8 Constable Manoj Kumar, PW 9 Constable Virendra Singh, PW 10 Smt. Shashi Prabha Tomar, PW 11 Inspector Pratap Singh, PW 12 Jaipal Singh, PW 13 Inspector Yashpal Singh and PW 14 Retd. SI Jai Prakash Kohli.

10. After the prosecution evidence, the appellants were examined under Section 313 of the Code of Criminal Procedure, 1973 ("the Code"). According to them, they have been falsely implicated and the witnesses have given false statements.

11. Heard learned counsel for the parties and perused the record.

12. Learned counsel for the appellants submit that it is a no evidence case. PW 6 Anuj Kumar, who is author of the report allegedly given to the police post lodging of the FIR has not supported the prosecution case. He submits that, in fact, post lodging of the report, the document, which has been signed by PW 6 Anuj Kumar and proved by him as Ex. A-6 cannot be read in evidence as it is hit by the provisions of Section 162 of the Code. It is also argued that, in fact, PW 1 Kashish, one of the eyewitnesses, who was allegedly in the room when allegedly the deceased was stabbed has not supported the prosecution case and, in fact, the abducted person Chirag has also not supported the prosecution case. But, by reading the statements of the witnesses recorded under Section 164 of the Code, conviction has been recorded, which is bad in the eyes of law. The statement under Section 164 of the Code is not a substantive evidence, because it was not placed for cross-examination. It cannot be read against the appellants.

Hence, it is argued that the conviction is bad and deserves to be set aside.

13. Learned State Counsel submits that PW 1 Kashish, PW 6 Anuj Kumar and PW 7 Chirag were in the same flat, where the deceased was killed. They have proved the time and the incident. In addition to it, PW 6 Anuj Kumar and PW 7 Chirag have admitted their signature in the statements under Section 164 of the Code. He submits that PW 7 Chirag has stated that the person, who committed the offence in the intervening night of 19/20.09.2014 took him to Panchkula.

14. Before arguments are appreciated, it would be apt to examine as to what the witnesses have stated.

15. PW 1 Kashish was in the room, when allegedly in the intervening night of 19/20.-0.2014, the incident took place. He has stated that on the date of incident, he and Nitesh both had liquor together and thereafter they slept. But, suddenly, hearing some noise he woke up and saw that Nitesh was in the car, he was injured. Nitesh died. Thereafter, they went to Haridwar, where PW 6 Anuj Kumar informed the police. The police sent them to Dehradun. He has not supported the prosecution case.

16. PW 2 Ashok Kumar is the uncle of the deceased, who lodged the FIR. He is not an eyewitness.

17. PW 3 Ramesh is a witness of inquest. He is also a witness of recovery of other articles by the Investigating Officer. He has stated about it.

18. PW 4 SI Arvind Kumar is the Police Sub Inspector. He has stated that arrest of Anup was made by him in Haryana.

19. PW 5 Dr. Alind Pokhariyal conducted the post-mortem of the deceased on 20.09.2014 at 04:30 p.m. and opined that the cause of death was due to shock and haemorrhage as a result of the ante-mortem injuries. He found the following injuries on the person of the deceased:-

- “(i) Abrasion 1.0 x 1.0 cm right side of neck 6 cm below from right angle of mouth.
- (ii) Incised wound with clear cut margins on the left side of chest wall measuring in size 3 x 1.5 cm and it is thoracic cavity deep and direction obliquely downwards and 7 cm below the supra-sternal-notch and 1.5 cm away from the mid of sternum on left side. And 12 cm above and medial to left nipple at 11 O'clock position of nipple and it is 9 cm above from the lower side of sternum.”

20. PW 6 Anuj Kumar is a person, who gave a report to the police, who was one of the occupants in the room when the deceased Nitesh was stabbed. He has not supported the prosecution case and in his cross-examination, stated about the statement recorded under Section 164 of the Code. He is also the author of Ex. A-6. According to him, PW 7 Chirag was taken to Panchkula, but handed over to him at Selakui. In his cross-examination, he also tells that he could not identify any of the assailants as their faces were masked. In para 27, he tells that statement under Section 164 of the Code was given by him under the pressure of the police.

21. PW 7 Chirag is the victim, who was allegedly abducted. He has also not supported the prosecution case. Though in the cross-examination, he also states that he had given statement under Section 164 of the Code, which he proved, but, according to him, the

statement was given under the pressure of the police (para 13 of the statement of PW 7 Chirag).

22. PW 8 Constable Manoj Kumar and PW 9 Constable Virendra Singh are the police personnel, who recorded the GD entry, etc. PW 8 Constable Manoj Kumar lodged the chik FIR in the case of Section 302 IPC. He has proved the chik FIR, Ex. A-10 and GD entry, Ex. A11. PW 9 Constable Virendra Singh recorded the chik FIR in the case of recovery of pistol and knife and proved the GD entries. They are Ex. A-12 to Ex. A-15.

23. PW 10 Smt. Shashi Prabha Tomar is a scientist in the forensic science laboratory. She has proved the FSL report, Ex. A-16.

24. PW 11 Inspector Pratap Singh is the Investigating Officer in the case of recovery of the pistol from the appellant Sonu Syaoran. He has prepared the site plan in this regard and filed charge sheet Ex. A-19.

25. PW 12 Jaipal Singh is a witness of inquest.

26. PW 13 Inspector Yashpal Singh is the Investigating Officer of the case. He has stated about the site plan, which he prepared. He arrested the appellants Sonu Syaoran and Piyush Sharma on 20.09.2014 from Panchkula. He is also a person of recovery of victim Chirag, who was abducted. He has also stated about it and proved the documents. According to him, on 21.09.2014, at the instance of the appellant Sonu Syaoran, a pistol along with live cartridges was recovered, of which recovery memo was prepared. According to this witness, on 21.09.2014, at the instance of the appellant Sonu Syaoran, again a knife, which is the weapon of offence,

was recovered. Finally, he submitted the charge sheet. He has also proved various articles, including knife, pistol, etc.

27. PW 14 SI Jai Prakash Kohli has investigated the case relating to recovery of knife from the appellant Sonu Syaoran. He proved the site plan, Ex. P-42 and the charge sheet, Ex. P-43.

28. There are three main witnesses, namely, PW 1 Kashish, PW 6 Anuj Kumar and PW 7 Chirag. PW 1 Kashish, who according to the prosecution, were in the same room, when the deceased Nitesh was stabbed on the fateful night. They have not supported the prosecution case. They have not identified any of the appellants. Their evidence is not helpful to the prosecution.

29. PW 6 Anuj Kumar is the person, who had given a detailed report to the police. It is a signed statement, post lodging of the FIR. But, he has also not supported the prosecution case. His statement was recorded under Section 164 of the Code, which he has admitted to have signed and proved it. But, according to him, he was forced to give that statement by the police (Para 20).

30. Be as it may, merely based on the statements recorded under Section 164 of the Code, a conviction cannot be made. Law is well settled that the statement under Section 164 of the Code is not a substantive piece of evidence for the simple reason that it is not offered for cross-examination. The statement under Section 164 of the Code may be used for corroboration and contradiction, but it is not a substantive piece of evidence. Therefore, the evidence of PW 6 Anuj Kumar also does not help the prosecution.

31. PW 7 Chirag is the person, who was allegedly abducted. He has totally denied the prosecution case. He has not supported the prosecution case. Although, according to him, the incident had taken place and he was abducted from his room and recovered from Panchkula. But, the fact remains that PW 6 Anuj Kumar has also stated that he did not join the company of the police to arrest any of the assailants at Panchkula in Haryana. According to PW 6 Anuj Kumar, PW 7 Chirag was handed over to him at Selakui. Similarly, PW 7 Chirag, the abducted person has also stated that he was taken to Panchkula where he was released by the police and thereafter the police took him to Sahaspur and there, they handed him over to PW 6 Anuj Kumar. He also denies the prosecution story that when the appellants Sonu Syaoran and Piyush Sharma were arrested from Zirakpur Flyover, it is the PW 6 Anuj Kumar, who had identified them. PW 6 Anuj Kumar has denied of having joined the police at Panchkula (para 24 of the statement of PW 6 Anuj Kumar.)

32. The statement of PW 13 Yashpal Singh, the Investigating Officer is there with regard to recovery of knife and pistol at the instance of the appellant. It is the sole testimony. There is no other eyewitness. The recovery was made from an open place. Even there is no other witness of recovery examined by the prosecution. The sole testimony of PW 3 Ramesh may not be a basis for conviction for alleged recovery.

33. In view of the foregoing discussions, this Court is of the view that the prosecution has utterly failed to prove the case beyond reasonable doubt. The appellants deserve to be acquitted of the charges levelled against them. Accordingly, the impugned judgment and order passed by the court below convicting and sentencing the

appellants deserves to be set aside and the appeals deserve to be allowed.

34. The criminal appeals are allowed.

35. The impugned judgment and order dated 10.02.2026/13.02.2026 are set aside *qua* the appellants.

36. The appellants Piyush Sharma and Sonu Syaoran are acquitted of the charge under Sections 302 read with 34, 364A, 394, 387, 411, 506 IPC.

37. The appellant Tejendra *alias* Seetu is acquitted of the charge under Sections 302 read with 34, 364A, 394, 387, 506 IPC.

38. The appellant Sonu Syaoran is also acquitted of the charge under Section 25 and 25/4 of the Arms Act, 1959.

39. The appellants Tejendra *alias* Seetu, Piyush Sharma and Sonu Syaoran are in jail. Let they be set free forthwith, unless wanted in any other case.

40. The appellants shall furnish a personal bond and two reliable sureties, each of the like amount, by each one of them, to the satisfaction of the court concerned under Section 437 A of the Code within a period of one month from their release.

41. Let a copy of this judgment along with the trial court record be sent to the court concerned.

(Siddhartha Sah, J.)
06.07.2026

Avneet/

(Ravindra Maithani, J.)
06.07.2026