



2026:AHC:208217

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 133 of 1984

Satya Pal And Another

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Umang Srivastava, V.S. Chaudhary
Counsel for Respondent(s)	:	A.G.A.

Judgment reserved on 21.07.2026

Judgment delivered on 6.10.2026

Court No. - 87

HON'BLE HARVIR SINGH, J.

1. The instant appeal has been filed against the judgment and order of sentence dated 21.12.1983, passed by learned Additional Sessions Judge, Meerut, in S.T. No. 193 of 1978, by which the accused persons, namely, Satya Pal S/o chandrabhan and Balbira S/o Deepu both R/o village Baoli, Police Station Baraut, District-Meerut (now Baghpat) have been convicted for the offence punishable U/s 323/34 IPC and both have been sentenced to undergo a period of six months rigorous imprisonment. It is informed by learned A.G.A. that accused/appellant Balbira has died during the pendency of the instnat appeal, hence his appeal stands abated.

2. Accused Satya Pal (22) son of Chandrabhan, Balbira (24) son of Deepu and Mangey (36) son of Hukam chand, resident of village Baoli, P.S. Baraut, District Meerut have been tried for committing offence punishable under Sections 307 and 307/34 I.P.C. on 14.1.76 at about 12.45 P.M. in village Mahawatpur, under the Police Circle Baraut, District Meerut.

3. The case of the prosecution is that the accused Balbira and Satyapal are first cousins being the grand sons of Bhukan and accused mangey is their second cousin being the grand son of Bhukan's brother Tika. The accused Satyapal had borrowed Rs. 5/- from the victim Vedu (P.W.1) about 2-3 years before this

occurrence. On 14.1.1976 Vedu (P.W.1) along with Rajendra (P.W.2) and Teja was working at the sugar machine of Sita Ram (P.W.6) fitted in his house-cum-Gher in village Mahawatpur. At about noon Vedu (P.W.1) saw the accused Setyapal passing by the side of the Gher of Sita Ram. He approached him and requested to pay a sum of Rs. 5/- to him. He represented to Vedu that Balbire and Mangey had asked him not to pay the money. Vedu and accused Satyapal then went in the enclosure of Sita Ram and accused Mangey and Balbira also joined them, there after some time. The accused persons started beating Vedu with slapa and when Vedu tried to get ride of them, the accused Balbira and Satyapal said to beat him, whereupon the accused Mangey gave a Moosal blow lifting the Moosal lying in the Gher, on the head of Vedu causing serious injuries to him. MAHABIRA (P.W.4), Teja, Rajendra (P.W.2) and Sita Ram (P.W.6) present at the scene saved Vedu, then the accused went away. Vedu was taken to the Police Station Baraut by the witnesses, where a report of this occurrence was orally lodged by Vedu against the accused person under Section 323 I.P.C. Vedu was sent to Baghpat Primary Health Centre, where he was medically examined by Dr. P.H. Mehta (P.W.5) at 4.30 P.M. He found the following injury on his person.

4. Lacerated wound, 5.5 cm x .75 cm x bone deep on the right side head 8.5 cm from right ear and 11 cm. Above the right eye brow. Fresh blood was coming and there was swelling around the wound in an area of 7 cm. X 4 cm. There was also bleeding from right ear.

5. Dr. Mehta advised the x-ray of the skull bone of Vedu and on seeing the x-ray report, he had found the fracture of parital and temporal bones of Vedu. Vedu then went to Delhi and got his treatment in Irvin Hospital by remaining admitted there for 18 days.

6. The check FIR of this case was prepared by constable clerk Shyam Lal (P.W.8) and no investigation in this case was made by Baghpat police in the beginning. On 16.1.76 when Sita Ram (P.W.6) produced the medical report of Vedu at the Police Station Baghpat at 5.15 P.M. The head constable clerk Bhudutt Prasad

(P.W.7) had registered a case under section 308/325 IPC against the accused. The investigation of the case was entrusted to S.I. Kishan Kumar Sharma. He interrogated the witnesses and after inspecting the scene of occurrence, prepared a site plan (Ex.Ka-3) on 17.1.76. After concluding the investigation, he submitted charge sheet (Ex.Ka04) against the accused appellants on 24.1.76.

7. The case was committed to Sessions by the Judicial Magistrate, Baghpat at Meerut, the accused appeared before trial Court a charge under Section 307 IPC with the aid of Section 34 IPC, was framed against accused Mangey and Satyapal and Balbira. The accused pleaded not guilty to their charges and their defence is that they have been falsely implicated and claimed trial.

8. The prosecution has examined 8 witnesses in this case. The accused did not produce any evidence in their defence.

9. Certain facts are not in dispute in this case. The accused admitted in their statements that they are cousins and belong to one family. It has also not been disputed, that on 14.1.76 Vedu P.W.1 was employed as a worker at the sugar machine of Sita Ram P.W.6 in village Mahawatput. It was also not disputed on behalf of the defence that, on 14.1.76 at about noon. P.W.1 had sustained his injury, as noted above in the Gher of Sita Ram. S.I. Kishan Kumar Sharma, who had made investigation in this case and had prepared the site plan Ex. Ka-3 was not traceable, as stated by constable Shyam Lal P.W. 8. In the site plan Ex.Ka-3 the investigating officer has shown the place where blood was found. This fact also supports the contention that the occurrence had taken place in the Gher of Sita Ram, where Vedu was working at that time. In this way, there is no dispute in this case about the fact, that on the date and at the time and place alleged by the informant Vedu P.W.1 had sustained his injury noted above.

10. The main question arising for determination in this case, therefore, is whether the accused persons are responsible for the injury sustained by Vedu. To prove this fact prosecution had

examined 3 eye witnesses, but two of them turned hostile and did not support the prosecution. P.W.1 Vedu is the victim himself and it has been stated by him that about 2-3 year before the occurrence the accused Satyapal had borrowed Rs. 5/- from him, which he had not repaid despite repeated demands. On the date of this occurrence, when he was in the Gher of Sita Ram and saw the accused Satya Pal going by the side of the Gher on the way, he approached him to make the payment of his money. He and Satyapal having conversation over the matter entered the Gher of sita Ram and after sometime the accused Balbira and Satyapal also joined them. On their arrival the accused persons, the witness stated, started beating him with slaps and when he tried to run away from their fold, the accused Balbira and Satyapal told to beat him and the acccused Mangey after lifting the Moosal lying there, gave a blow with it on his head. He was saved by Sita Ram P.W.6, Mahabira P.W.4, Rajendra P.W.2 and Teja, who were present at the scene. His blood had fallen at the scene of occurrence.

11. It was further stated by the injured that after the occurrence he was taken by the witnesses to P.S. Baraut, where he had orally lodged a report of the incident. His medical examination was conducted at Primary Health Centre Baghpat and he was x-rayed at Meerut and thereafter he went to Delhi, where he remained in Irvin Hospital, Delhi for 18 days in connection with treatment.

12. In his cross-examination there is no suggestion that, no blood had fallen at the scene or the occurrence had not taken place in the Gher of Sita Ram and he had received his injuries at some other place in any other manner. There was also no cross-examination about the injuries sustained by him and his treatment in Irvin hospital Delhi. Therefore, an inference can be drawn that Vedu P.W.1 had sustained his injuries in the Gher of Sita Ram.

13. The injured was cross-examined regarding his dues on accused Satyapal and it was stated by him that even, prior to the current borrowing the accused Satyapal had borrowed money from him several times and about the sum of Rs. 5/- he had made

demands, at least 15 times to him and every time he used to make a promise. There is nothing in his cross-examination to suggest that he himself was not in a position to advance money to others or the financial condition of Satyapal was so good, that he could never required any money. There is thus nothing in his statement to belies the fact that this witness had advanced money to Satyapal and at the time of this occurrence Satyapal was indebted to him to the extent of Rs. 5/-.

14. On further cross-examination it was stated by him that when he had demanded his money from accused Satyapal, he was all alone and he had demanded the money on visiting him and he had not stopped him by giving a call. On being confronted with his statement recorded under Section 161 Cr.P.C. it was stated by him, that he had stated before the investigating officer, that he had given a call to Satyapal to stop and on reaching near him, he had demanded his money.

15. In his cross-examination the witnesses submitted that he had taken Satyapal to the Gher of Sita Ram by catching hold of his hand affectionately. The other accused were not present at that time, and they had reached there soon thereafter. There were no weapons with them at that time.

16. The witness clarified in his cross-examination that though he was given a beating for 5-7 minutes, he had not sustained any injury except one injury on the head. This is in conformity with medical evidence on record. He denied the defence suggestions given on behalf of accused Satyapal and Balbira, that he was falsely implicated on account of the Ranjish of Mangey with Sita Ram.

17. In his cross-examination on behalf of accused Mangey, it was stated by him that he had not given the money to Satyapal in the presence of Sita Ram and he had never said anything about this money to Sita Ram, prior to this occurrence. It has also come in his statement on further cross-examination that he accused Satyapal

belongs to the family of Sita Ram and as Satyapal had not repaid his money; he had taken Satyapal in the Gher of Sita Ram where he was working at the machine. It thus follows from his statement that all the accused are of the family of Sita Ram P.W.6. Vedu P.W.1 further stated in his cross-examination, that the accused persons had given him beating with slaps for 2-3 minutes and at that time the witnesses had arrived and they had tried to save him. The accused had not given him any lathi blow. He was taken to the Police station by Sita Ram P.W.6, Mahabir P.W.4, Rajendra P.W.2 and Teja and many other persons of the village had arrived at the scene. He further denied the suggestion made on behalf of accused Mangey, that on account of pressure of Sita Ram he has given false statement in the Court.

18. Rajendra P.W.2 stated that, he knows the parties. Vedu was not beaten by the accused persons in his presence. On this statement he was declared hostile by the prosecution and in his cross-examination made on behalf of the State, he denied his having given the statement under Section 161 Cr.P.C. in support of the prosecution case and denied the suggestion he has colluded with the accused. There is nothing else note worthy in his statement.

19. The third eye witness is Sita Ram P.W.6 at whose sugar machine, the victim was working at the time the incident took place. It was stated by him in August, 1983 that about 5 years ago Vedu P.W.1, Tejpal and Rajendra P.W.2 were working at his sugar machine fitted at his house in the village, but the incident had not taken place in his presence and he came to know about it at 4 p.m. when he reached there. This witness was also declared hostile by the prosecution and in his cross-examination it was stated by him that he had left his house at 4 in the morning on the date of this occurrence for Baraut and on his coming back he had known about it. He denied of having taken the injured to the police station or hospital. He denied the suggestion that, he has colluded with the accused and the occurrence had taken place in his presence and he himself had taken the injured to the hospital. He was not cross-

examined on behalf of the defence.

20. Asa Ram P.W.3 is a formal witness of the recovery of the blood stained and unstained earth by the investigating officer from the scene of occurrence but he too turned hostile and stated that the investigating officer had come to his village in connection with this incident. He had not collected the samples of soil in his presence. By putting the phials of blood stained and unstained soil before him it was informed to him by the investigating officer that they contain the soil of the Gher of Sita Ram and his signatures were obtained on the memo. He admitted his signatures on the memo, paper no. 7/A 9Ex.Ka-5) regarding the recovery of Moosal, but stated that, it is not known to him whether the Moosal was taken by the investigating officer in his presence or not. Mahabir P.W.4 is also a formal witness of the recovery of the blood stained and unstained soil and it was stated by him that the investigating officer had found blood in the Gher of Sita Ram and he had collected the samples of blood stained and unstained soil from there in his presence. There is nothing in his cross-examination to doubt his testimony. Bhudutt Prasad P.W.7 then posted as Head constable clerk at P.S. Baraut had registered a case under Section 308/325 IPC against the accused on 16.1.1976 at 5.15 P.M. and constable clerk Shyam Lal P.W.8 had recorded the F.I.R. under Section 323 IPC against the accused on the oral report of Vedu.

21. This is the whole evidence in the case. Though Rajendra P.W.2 did not support the prosecution at all, the part of the prosecution story finds support from the statement of the other hostile witness Sita Ram P.W.6. He corroborates the statement of Vedu P.W.1 on the point that on the date of this occurrence Vedu P.W.1, Teja and Rajendera P.W.2 were working at his machine. The fact why Rajendra P.W.2 and Sita Ram P.W.6 turned hostile and did not support the prosecution is apparent from the cross-examination of Vedu P.W.1, wherein he had stated that the accused belong to the family of Sita Ram. Vedu P.W.1 is too small person in status in comparison to Sita Ram P.W.6 and the prosecution, therefore, could not help turning the witnesses hostile.

22. It has now to be seen whether under these circumstances of the case the solitary statement of P.W.1 Vedu can be accepted to prove the complicity of the accused in the case. Under the law no minimum number of witnesses are required to prove any version and even the solitary statement of a witness, whose presence cannot be disputed, can be accepted, if otherwise dependable. So far as, the presence of Vedu P.W.1 is concerned, it cannot be disputed as the incident had taken place with him. The suggestions given by the defence that the accused were falsely implicated on account of rivalry with Sita Ram has been falsified, as Sita Ram P.W.6 himself is hostile to the prosecution. Now there is no other reason before the Court to doubt or discard evidence of Vedu. The prosecution has been handicapped in this case, because the original F.I.R. is not on the record and the check register and the General Diary of that period have been weeded out as stated by constable clerk Shyam Lal P.W.8. It, however, appears from the statement of the constable clerk Shyam Lal P.W.8 that, on the dictation of Vedu he himself had recorded the F.I.R. of a non cognizable case u/s 323 I.P.C. against accused Satyapal, Balbira and Mangey at 2.55 P.M. on 14.1.76. There was no cross-examination about this fact. The occurrence is stated to have taken place at noon and the F.I.R. was lodged at 2.55 P.M. the same day against the accused persons.

23. The only other point now left for consideration is as to, whether any offence was committed by the accused in this case. The learned counsel for the appellant submitted that, no evidence whatsoever existed against the appellant, as far as his role in the incident is concerned. Learned counsel for the appellant submitted, that the investigating officer, Kishan Kumar Sharma was not traceable and he was not produced during the course of the trial. Learned counsel for the appellant submitted that out of the three witnesses, two of them have turned hostile and did not support the prosecution and testimony of the injured alone was considered by the learned trial court. Learned counsel for the appellant further submitted that the dispute of borrowing Rs. 5 by Satya Pal could

not be established.

24. Learned counsel for the appellant submitted that, initially the injured was taken to Police Station-Baraut and thereafter his treatment was carried out in Delhi, but no evidence or the medical papers were produced by the injured. Learned counsel for the appellant submitted, that as per the treatment carried out by the injured at Irwan Hospital, no cross-examination was made to that extent. Learned counsel for the appellant submitted that when the injured made the alleged demand of money from accused Satya Pal, the injured was all alone. Learned counsel for the appellant submitted that, when the injured was heading towards Gher of Sitaram, both have gone there in a friendly manner. Learned counsel for the appellant submitted that the medical report did not support the nature of injuries as referred.

25. As far as the oral examination of injured Vedu is concerned, learned counsel for the appellant submitted that P.W.2, namely, Rajendra has made a categorical statement during the course of trial, that, Vedu was not beaten by accused in his presence. Learned counsel further submitted that the witness P.W.6, namely, Sita Ram also denied to the said incident, in which Vedu got injured and stated that no such incident had taken place in his presence. Learned counsel for the appellant submitted that P.W.3, namely, Aasha Ram has also denied the recovery of blood stained and unstained earth by the Investigating Officer in his presence. Learned counsel for the appellant submitted that the entire prosecution story is false and based on assumption and presumption and it has come on record that the injured Vedu sustained injury elsewhere or by any other object.

26. Learned A.G.A. appearing on behalf of state submitted that Dr. P.B. Mehta P.W.5 had examined Vedu on 14.1.76 at 4.30 P.M. in Primary Health Centre, Baghpat and he proved the injury report Ex. Ka-1 and stated that, he had found the injury noted above on the person of Vedu and also the head injury and the ear were oozing blood at that time. It is further stated in his statement that,

as the injury was on the vital part of the body of Vedu, it could cause death and the oozing of blood from the ear could be possible due to head injury. He further opined that the injury of Vedu could have been caused by a Moosal at 12 or 1'0 clock that day. He had also stated about his preparing the supplementary report Ex. Ka-02, on seeing the x-ray report. In his cross-examination, it was stated by him, that the injured was not brought by the police for medical examination. It was suggested to him by the defence, that in case the head of Vedu would have struck against the handle of the wheel of the machine on his standing up, after sitting near it, he could get such injury. The possibility of receiving the injury by Vedu in this way was completely ruled out by the medical witness and in his opinion the injury could not be received in this manner as suggested in the incident. The suggestion implies, that Vedu had received his injury in the Gher of Sita Ram, where he was working at the machine. The witness further stated that the x-ray, on the basis of which the supplementary report was given by him, was not before him at the time of his statement recorded in Court. There is nothing else significant in his statement. The unrebutted statement of Vedu P.W.1 is that he got his treatment in Irvin Hospital for 18 days and he had become unconscious for about 3-4 minutes after his receiving the injury and in the opinion of Dr. P.B. Mehta P.W.5, the injury being on the vital part could prove fatal, irrespective of the fact, whether the blow on the head of Vedu was given with an intention to kill or not, his death could have been caused by that blow, under the circumstances established in this case.

27. It is significant in this case that though Satyapal accused was indebted to Vedu and the conversation had started between Vedu and Satyapal, Vedu did not implicate Satyapal regarding the blow of Moosal given to him and he charged Satyapal and Balbira, only for giving slaps to him and on their instigation, the Moosal was stated to have been given by accused Mangey. However, as accused Mangey did not have the Moosal or any other weapon in his hand at that time and there is nothing in the statement of Vedu

P.W.1 that, these accused had asked Mangey to beat him with Moosal or any other weapon, they cannot be held guilty of instigating him for attempting to commit his murder and at the most they can not be held guilty of instigating him for attempting to commit his murder and at the at least they can be held guilty of causing hurt only with the aid of Section 34 IPC. However, these two accused persons i.e. Mangey got acquitted by the learned Trial Court.

28. Having considered the rival contention and a perusal of the entire evidence on record the criminal appeal is **allowed**. The appeal in respect of Balbira stands abated, since he passed away, during the pendency of the appeal.

29. The judgment and order of conviction dated 21.12.1983, passed by learned Additional Sessions Judge, Meerut, in Sessions Trial No. 193 of 1978 is hereby set aside.

30. Appellant **Satya Pal** is acquitted of the charges under Sections 323/34 IPC.

31. The appellant was on bail. His bail bonds are cancelled, and sureties are discharged. He need not surrender, unless required in connection with any other case.

32. Let a copy of this judgment along with the learned Trial Court Record (LCR) be transmitted to the trial court concerned forthwith, for compliance and necessary action.

(Harvir Singh,J.)

October 6, 2026

Kumar Manish