



2026:AHJ:55165

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2235 of 1983

Vikram Singh And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Suresh Dhar Dwivedi, Jitendra Kumar Chakraborty, Lalji Sahai Srivastava
Counsel for Respondent(s)	: A.G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. This appeal has been filed by the appellants against the judgment and order dated 30.08.1983 passed by Additional District and Sessions Judge, Shahjahanpur, in Criminal Case No.73 of 1982, convicting the appellants under Section 307 read with Section 34 and 307 I.P.C. and sentencing them to undergo simple imprisonment for 3 years and further convicting Brijpal Singh under Section 27 of Arms Act and sentencing him to undergo three years simple imprisonment, both the sentences shall run concurrently.
2. Heard Sri Suresh Dhar Dwivedi, learned counsel for the appellants and Sri Rahul Asthana, learned A.G.A. for the State.
3. During the pendency of the appeal, appellant No.1- Vikram Singh and appellant No.3- Brijpal Singh, who is alleged to have fired the shot, died and the appeal to that extent stands abated. The present appeal survives only in respect of appellant Nem Pal Singh.
4. The prosecution case, in brief, is that there existence of prior enmity between the parties owing to village Pradhan elections. It is alleged that the complainant's brother, Kedar Singh, had contested the election against accused Vikram Singh. Vikram Singh lost the election and had filed a petition in Court. On the date of incident, the date was fixed in Court for hearing of the petition and complainant's brother Kedar Singh went to Shahjahanpur to attend the Court. The complainant's brother Roop Singh was proceeding towards his fields at about 9.00 a.m. in the morning, near the house of Ranjit Singh, the accused Vikram Singh, Nem Singh and Brijpal Singh allegedly surrounded him. One of them exhorted to kill him and Vikram Singh took the licensee gun of Nem Pal Singh and shot two fires upon Roop Singh with intention to cause death. Roop Singh sustained serious gunshot injuries in the occurrence. On hearing alarm, the complainant, Raghuveer Singh, Uday Pal Singh and Ranjit Singh came on

the spot and exhorted to accused persons. They fled from the spot.

5. FIR was registered on the basis of a written report submitted by the complainant. Prosecution sanction for offence under Section 27 of the Arms Act was obtained from District Magistrate, Shahjahanpur. The matter was investigated and after completion of investigation, charge-sheet was submitted for offence under Section 307 read with Section 34 I.P.C. and Section 27 Arms Act against accused Vikram Singh.

6. Charge was framed and read over to the accused persons in the Court. They pleaded not guilty and claimed trial.

7. Prosecution, in order to prove its case, examined as many as five witnesses namely, the complainant Prabal Singh P.W.-1, P.W.-2 injured witness Roop Singh, P.W.-3 Dr. S.K. Jain, P.W.-4 Sub Inspector Virendra Singh and P.W.-5 Constable Israr Ali.

8. Documentary evidences including written report, FIR, carbon copy of G.D., injury report, site plan, charge-sheet etc. are also available on record, which have been duly proved by the prosecution witnesses.

9. All the accused persons, in their statements recorded under Section 313 Cr.P.C. denied all the charges levelled against them and stated that they were falsely implicated in the case due to previous enmity. D.W.-1 Shiv Dayal has been examined on behalf of defence.

10. The trial court, after hearing arguments advanced by the both parties and considering oral and documentary evidences available on record, returned the finding of guilt and convicted the accused persons for offence under Section 307 read with Section 34 I.P.C. Accused Brij Pal Singh convicted for offence under Section 27 of Arms Act also. The trial court sentenced all the accused persons to undergo three years of simple imprisonment for offence under Section 307 I.P.C. read with Section 34 I.P.C. Accused Brij Pal was sentenced for offence under Section 27 of Arms Act also.

11. Aggrieved with the judgment of conviction and sentence the present appeal has been preferred.

12. It is submitted that the conviction of the appellants is against the weight of evidence on record and is bad in law as well as on facts. The sentences passed upon the appellants are too severe.

13. In this appeal, the following issues arise for consideration :-

- (i) Whether the offence under Section 307 I.P.C. is made out.
- (ii) Whether the conviction requires modification in the light of medical and documentary evidences on record.

14. The injured witness P.W.-2 Roop Singh was medically examined by P.W.-3 Dr. A.K. Jain on 07.09.1982 at about 3.00 p.m. Gunshot entry wound

were found on his face, arm, back and ribs. Injury No.1 to 3 were opined by the doctor as simple in nature, whereas injury No.4 was kept under observation and advised X-ray. The medical evidence indicates that the multiple firearm entry wounds were present on the body of the injured Room Singh, however, it is significant that no X-ray report was brought on record or proved in evidence. In absence of X-ray report, it cannot be conclusively determined whether any injury sustained by the injured was grievous in nature or dangerous to life.

15. The injured Roop Singh has stated that he remained in hospital for about 10 days during treatment of the injuries caused by the accused persons but no discharge summary, bed-head ticket or medical papers have been produced by the prosecution. The omission casts doubt on the severity of injuries.

16. To sustain a conviction under Section 307 I.P.C. the prosecution must establish intention or knowledge to cause death and that act was such that it could have resulted in death in ordinary course.

17. The Hon'ble Supreme Court in **Sarju Prasad Vs. State of Bihar, AIR 65 SC 843** and **State of Madhya Pradesh Vs. Saleem, (2005) 5 SCC 554** has held that nature of injuries, weapon used and surrounding circumstances are crucial to determine the applicability of Section 307 I.P.C.

18. Section 326 reads as under :-

326. Voluntarily causing grievous hurt by dangerous weapons or means—

Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

19. In the present case, although a firearm was used in causing injury, but in the absence of prove regarding grievous or life threatening injury and lack of supporting medical evidence creates doubt regarding the intention to cause

death.

20. A perusal of oral and documentary evidences available on record. It is evident that injury was caused by accused person with common intention using a firearm but the nature of injuries was not proved to be grievous or life threatening to attract Section 307 I.P.C., therefore, provision under Section 324 is also to be considered. Section 324 deals with voluntarily causing hurt with dangerous weapon including firearm. Section 324 reads as under :-

"Voluntarily causing hurt by dangerous weapons or means

Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

21. Considering the nature of injury, being simple, absence of X-ray report, lack of medical record, supporting grievous injury, the offence would appropriate fall under Section 324 read with section 34 I.P.C.

22. The specific allegation is that the firearm used in the incident belonged to the present appellant and the shot was fired by co-accused Vikram Singh. The appellant's liability arises with the aid of Section 34 I.P.C.

23. In view of the above analysis, the conviction under Section 307 I.P.C cannot be sustained and deserves to be altered for offence under Section 324 I.P.C. read with Section 34 I.P.C. The appeal deserves to be partly allowed.

24. Accordingly the appeal is partly allowed.

25. The conviction and sentence of the appellant recorded by the learned trial court for offence under Section 307 read with section 34 I.P.C. is hereby set aside. The appellant is convicted for offence under Section 324 read with section 34 I.P.C.

26. Considering the facts and circumstances of the case, the incident is of the year 1982 i.e. more than 40 years have been elapsed and the appellant has faced the agony of protracted litigation for more than 4 decades. He is sentenced to the period already undergone (9 days) and the fine to the tune of Rs.5000/-. The amount of fine is to be deposited within a period of 30 days from the date of receiving a certified copy of this judgment.

27. In default of payment of fine, the appellant shall undergo one month's simple imprisonment.

28. The appellant is on bail. His bail bonds are cancelled and sureties are discharge.

29. Let a copy of this judgment be transmitted along with the copy of trial court record to the court concerned for necessary compliance.

March 18, 2026

P. Pandey

(Mrs. Vani Ranjan Agrawal,J.)