



2026:0001:1024901

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2325 of 1983

Haneef And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Kavita Tomar, P.N. Misra
Counsel for Respondent(s)	:	A.G.A.

Court No. - 86

HON'BLE SUBHASH CHANDRA SHARMA, J.

1. This criminal appeal has been preferred against the judgment and order dated 30.09.1983 passed by II Additional Sessions Judge, Azamgarh in Session Trial No. 434 of 1977 (State Vs. Haneef and others) arising out of Crime No. 55 of 1977, under Sections 147, 307/149 and 323/149 IPC, Police Station Tarwa, District Azamgarh by which the appellants were convicted and sentenced for the offence under section 147 IPC for a period of 1 year rigorous imprisonment, under Section 307/149 IPC for a period of 7 years rigorous imprisonment and under Section 323/149 IPC for a period of 1 years rigorous imprisonment. All sentences were to run concurrently.

2. During pendency of this appeal, appellant no.1 Haneef, appellant no. 2 Ishhag, appellant no. 3 Sudama Singh, appellant no. 5 Chandra Bhan Singh, appellant no. 6 Narsingh Singh and appellant no. 7 Abhimanyu Singh have died, therefore, appeal on their part stood abated. Appellant no. 4 Sarda Singh is still alive

3. The prosecution case in brief is that on 10/11.06.1977 in the night at about 12:00 o'clock Vishwanath Singh was talking with Jyoti Shankar Singh and others at his door where lantern was lit. Accused persons Nar Singh equipped with countrymade pistol, Abhimanyu and Haneef equipped with pistol; Sudama Singh, Sarda Singh, Ishhak, Chandrabhan @ Nanga equipped with lathi came there. The accused Nar Singh exhorted others to kill Vishwanath Singh on which all the accused persons with common object started firing and also assaulted with lathi inflicting injuries on the person of Vishwanath Singh. The wife of the injured came for rescue who was prevented by the present appellant Sarda Singh. The F.I.R. was lodged by

the informant at the police station concerned. The injuries on the person of injured were examined at the hospital.

4. During the course of investigation, the Investigating Officer inspected the place of occurrence and recovered empty cartridges from the place of occurrence and also collected blood stained & plain soil and lantern. Torch was also taken into possession. Site plan was prepared and after recording the statements of informant and other witnesses, he found the case established against all accused persons and submitted charge sheet.

5. The learned court concerned, took cognizance of the offences and after complying with the provisions of Section 207 Cr.P.C, committed the case to the Court of Sessions for trial.

6. The learned trial court framed the charge against them on the basis of material on record which was read-over and explained to the appellants. They did not plead guilty but claimed for trial.

7. In support of its case, prosecution examined, P.W.1 Vishwanath Singh; P.W.2 Jitendra Shankar Singh; P.W. 3 Prabhakar Singh; P.W. 4 Dr. P.S. Shukla, P.W.5 Constable Ram Bali Mishra.

8. After conclusion of prosecution evidence statements of appellants under Section 313 Cr.P.C. were recorded in which they denied the allegations and testimony as deposed by prosecution witnesses and told to be implicated falsely in the present case due to enmity. They did not adduce any evidence in defence.

9. After hearing the arguments for accused/appellants as well as the State, learned trial court passed the impugned judgment and order dated 30.09.1983 convicting and sentencing the accused/appellants as aforesaid.

10. Being aggrieved with the conviction and sentence, this criminal appeal has been preferred by the appellants but owing to the death of appellant no.1 Haneef, appellant no. 2 Ishhag, appellant no. 3 Sudama Singh, appellant no. 5 Chandra Bhan Singh, appellant no. 6 Narsingh Singh and appellant no. 7 Abhimanyu Singh during pendency of appeal, appeal on their parts was abated.

11. Heard Mr. Jai Raj Singh, learned counsel for appellant no. 4 Sarda Singh as well as learned A.G.A. for State and perused the record.

12. Learned counsel for the appellant constrained his argument to the extent of sentence without going into merit of the case. He argued that the incident is said to have taken place on 10/11.06.1977 and till now about 49 years have elapsed and the appellant has also become 90 years old and now suffering from old age infirmities and is unable to discharge his routine functions. As per custody certificate, during trial and appeal, he served in jail for a period of 10 days and at that time he was 47 years old i.e. on 01.10.1983. Since the appellant has become 90 years old, therefore, it will be of no use to send him to jail to serve out the remaining part of sentence but request to reduce the sentence to the period already undergone by the appellant.

14. Learned A.G.A. vehemently opposed the contentions made by learned counsel for the appellant but could not dispute about the age of the appellant and time gap from the occurrence till now i.e. 49 years.

15. Considering the facts and circumstances of the case, submissions made by learned counsel for the appellant as well as learned A.G.A. perusal of record the specific role of the appellant, it appears that the incident took place in the year 1977 and till now 49 years have elapsed. The appellant was convicted and sentenced on 30.09.1983 and was sent to jail. On 01.10.1983, he was 47 years old age as per jail record as mentioned in custody certificate. Now he has become 90 years old and undoubtedly is suffering from old age infirmities. During trial and appeal, he remained in jail for a period of 10 days as per custody certificate dated 05.01.2026. His role in the incident was to prevent the wife of the injured who came in rescue of the husband. All other accused persons/appellants have already died and appeal stood abated for them.

16. In the case of ***Ramesh Vs. State of U.P. AIR 1992 S.C. 664*** where a single injury was found in the back of the neck of injured, appellant who was tried alongwith two others under Section 307/34 IPC and he was sentenced to undergo rigorous imprisonment for four years while two other were acquitted, appeal was partly allowed by Hon'ble the Apex Court. His conviction was altered into Section 324 IPC and sentence was reduced to the period already undergone with fine of Rs. 3000/- which was to be paid to the complainant as compensation.

17. In the case of ***Merambhai Punjabhai Khachar & Ors vs. State Of***

Gujarat, 1996 AIR 3236, there was an attempt to commit murder with fire arm and injury was by a pellet that struck the head, Hon'ble the Apex Court held that Section 307 IPC cannot be held to have been satisfied and conviction was altered to Section 324 IPC.

18. In the case of **Neelam Bahal and another Vs. State of Uttarakhand 2010 (2) SCC 229** where conviction and sentence of appellant under Section 307 IPC was converted into Section 326 IPC simplicitor. Incident took place in the year 1987 and appellant was about 25 years old. Considering the facts and circumstances of the case, Hon'ble the Apex Court, reduced the sentence to the period already undergone by him.

19. In considered opinion of this Court, in view of observation made by Hon'ble Apex Court in aforesaid cases, the time gap from the date of incident till now, present age of the appellant and his specific role, it will be of no use to send appellant to jail for serving out the remaining period of sentence, but it will be just to reduce the sentence as already undergone by him.

20. Accordingly, this criminal appeal is **partly allowed**.

21. Copy of this judgment be transmitted to the Court concerned for necessary compliance. A compliance report be sent to this Court within two months. Office is directed to keep the compliance report on record.

May 5, 2026
Anurag Singh

(Subhash Chandra Sharma,J.)