



2026:AHC:192492-DB

Judgment Reserved On:-07.07.2026

Judgment Delivered On:-15.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1647 of 1984

Chandrapal And Others

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	:	P.N. Mishra, Raghuvarsh Misra, Rahul Misra, Suresh Dhar Dwivedi
Counsel for Respondent(s)	:	A.G.A.

Court No. - 43

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

(Delivered by Hon'ble Siddharth,J.)

1. Heard Sri Rahul Misra and Sri Suresh Dhar Dwivedi, learned counsel for the appellants and Sri Prem Shankar Prasad, learned AGA for the State. Perused the Trial Court record and the judgment of the Trial Court.
2. The present criminal appeal has been filed against the judgment and order dated 29.05.1984 passed by Addl. Sessions Judge, Shahjahanpur, dated 29.05.1984 in Sessions Trial No. 23 of 1983 (State Vs. Chandra Pal and Others), convicting the appellant Chandra Pal under section 302 I.P.C. and the appellants, Rampal, Raghunandan and Purushotam, under sections 302/34 I.P.C., and sentencing all of them to life imprisonment.
3. The prosecution case is that complainant, Balak Ram, was irrigating his field situated at village, Kapura Pur, police station- Khudaganj, with canal water for sowing purposes since a day before the incident. It is said that on 27-10-1982 in the morning he came to his plot and found the water diverted from his field to that of accused. Chandra Pal and Purshottam. There was a paddy crop field where the canal water was diverted. Complainant diverted water again to his field and forbade, Chandra Pal, from diverting it again to his field. Complainant then returned home. Then at 9:00 a.m., complainant's brother-in-law, Babu Ram's, brother Kalyan, accused, Chandra Pal and Puroshottam and their clan members, Raghunandan and Rampal, indulged in

verbal altercation. Thereupon complainant and his son, Jai Veer, emerged from their house to forbid them from hurling abuses. They spotted accused, Chandra Pal with country made pistol and rest with *lathis*. Witnessing the complainant the accused exclaimed that it was he who had diverted water. They extended threat. The noise made by complainant attracted his brother-in-law, Babu Ram. The later's brother, Kalyan, complainant's wife, **Angani** and his son, Jai Veer's, wife, Lajjawati, came to the scene of occurrence. Accused, Chandra Pal, fired from his country made pistol that hit complainant's son, Jai Veer on his left chest and thumb of right hand. The complainant and others challenged the accused who then fled away northward. Injured, Jai Veer, rushed towards his house but fell at his portals. Complainant then sent for Rampal 'Kori' with his *tonga* and transported injured, Jai Veer, his spouse, Agani and Jai Veer's spouse, Lajjawati to the portals of the police station. By the time they reached, Khudaganj, town Jai Veer died. The dead body was then transported in that tonga to the police station.

4. Leaving the dead body there in the custody of the *tanga* man, Angani and Lajjawati, and complainant, Balak Ram, entered the police station and dictated F.I.R. Ex.Ka-1 to the Head Moharir at 10:30 a.m. On the basis of the F.I.R., a case under section 302 IPC was registered in the G.D. at 10:30 a.m. itself at serial no.11 vide Ex.Ka-13. Investigation of the case was entrusted to S.I. Dinesh Singh, P.W.-3. He recorded statements of complainant and witnesses and held inquest proceedings of the dead body preparing inquest report Ex.Ka-2, diagram of dead body Ex.-Ka-3, Challan Ex.Ka-4 and letters addressed to C.M.O. Exs. Ka-5 & Ka-6. He sealed the dead-body in a cloth and retained the sample of seal Ex.Ka-7. He then did local inspection of the place of occurrence and prepared site plan Ex.Ka-8. He also inspected the site of running of canal water. It is Ex.Ka-9. He recovered blood stained and simple earth Exs. 1 and 2 from the place of occurrence and prepared the memorandum Ex.Ka-10. The earth was sealed in two separate boxes. He searched the houses of the accused. The accused were not traceable. He prepared the memorandum Ex.Ka-11. Further, investigation was taken up by S.O., Jagdish Chauhan, in his hands. The S.O. recorded statement of eye witness, Babu Ram.

5. On 28.10.1982 at 03:00 P.M. Dr. P.K. Gupta, P.W.-5, performed autopsy on dead body of Jai Veer. The dead body was one day old and was of average built. Rigor mortis stood passed off the upper limbs but was present

in the lower ones. Abdomen stood distended. There present faecal matter present at anus. The surgeon found the following ante mortem injuries on the person of the victim:-

(i). Gun shot wound of entry with inverted margins with blackening in an area of 3 c.m. x 3 c.m. x cavity deep on left side of chest 2 c.m. above left nipple with multiple gun shot wounds of entry each .3 c.m x .3 c.m. x skin /and muscle deep all around the wound in an area of 10.5 c.m. x 10 c.m.

(ii) Gun shot wound 3.8 c.m. x 1.5 c.m. x through and through on index finger and thumb and dorsum of hand with lower half palmar part of wound as wound of entry with inverted margins and blackening and upper half (dorsum of hand) above wound 2.5 c.m., in width as wound of exit with everted in margins.

6. On internal examination of the dead body the doctor found left III and IV ribs fractured and left side of pleura lacerated. Blood stood accumulated in cavity. Left lung stood lacerated. Small intestines were empty and large ones contained faecal matter. The surgeon recovered wading pieces and 49 small metallic pellets from left side of chest cavity, left lung, tissues and skin of chest. In the opinion of the surgeon death was caused due to shock and haemorrhage as a result of antemortem injury no.(i). The surgeon took 'tahmad' underwear, shirt, *banian* and ring of the deceased, sealed them in a bundle and handed it over tot he constable. He also sealed the wading pieces and metallic pellets in an envelop and entrusted it to the constable.

7. After conclusion of investigation the investigating officer submitted charge-sheet against the accused. The case was then committed to sessions as aforesaid. On 20.04.1983 a prima facie case under section 302 IPC was found to be made out against accused, Chandra Pal. Again there was found to be made out a prima facie case under sections 302/34 IPC against accused, Purshottam, Raghunandan and Rampal. The accused were charged accordingly. They pleaded not guilty to the charge and claimed to be tried.

8. The prosecution has produced chik F.I.R. Exs Ka-1, inquest report Ex. Ka-2 diagram of dead body Ex.ka-3, challan Ex.Ka-4, letters addressed to C.M.O., Exs. Ka-5 and Ka-6, sample of seal Ex.Ka-7 site plan of place of occurrence Ex.Ka-8, site plan of irrigated plot Ex.Ka-9 memorandum of recovery of search of the accused Ex.Ka-11, inquest report Ex.Ka-12 and

g.d. extract Ex.Ka-13. The prosecution has also produced blood stained and simple earth Exs.1 and 2 and tahmad, underwear, banian, shirt of the deceased Exs-3 to 6 and pellets Ex.7. The defence has relied upon injury report of accused, Raghunandan Prasad Exs. Kha-1 and Raghunandan's F.I.R. Ex.Kha-2.

9. The prosecution has produced, Balak Ram, as P.W.-1, Smt. Agani as P.W.-2, I.O. Dinesh Singh as P.W.-3, Constable, Sukh Lal as P.W.-4 and Dr. P.K. Gupta as P.W.-5.

10. In his statement under section 313 Cr.P.C., accused, Raghunandan, has stated that after diverting water towards his field complainant, Balak Ram, returned home. He has maintained that shortly thereafter while he was proceeding homeward and came in front of house of Kalyan and Babu Ram, Balak Ram and Jai Veer encountered him. They encircled him and hurled invectives upon him. He stated that Jai Veer dealt *lathi* blow to him. The accused stated that Balak Ram held his licensed gun that he fired salvo therefrom with a view to making work of him. He fled to safety. He stated that he heard sound of gun shot. He asserts that the shot hit Jai Veer and that he lodged F.I.R. to that effect at the police station and had got himself examined medically. Accused, Chandrapal, has maintained that complainant, Balak Ram and his son Hari Singh had dispute. He has maintained that on ouster from parental home, Hari Singh, was rehabilitated by him in his house. His case is that it is this enmity that is responsible for his implication in the instant false case. The case of accused, Purshottam, is that canal water was running into his field and that it was Balak Ram who had diverted it into his own field. He maintains that he diverted it again into his field. He then states that his brother, Raghunandan, diverted water into his field and that Balak Ram then went home. The case of accused, Rampal is that foundation of his house stood filled in and that complainant, Balak Ram, took out his bullock cart some eight days before the incident. He stated that he prevented Balak Ram from committing mischief and scolded him too. He attributes his false implication to that enmity.

11. Learned counsel for the appellant has submitted that it is settled principle of the criminal jurisprudence that prosecution should prove its version beyond reasonable doubt while defense proves only preponderance of probability in this case on the following basis the defense case seems to be more probable in comparison to the prosecution case. (*State of Punjab Vs.*

Gurbux Singh and others- 1995 Suppl.(3) SCC). Unexplained injuries on the person of accused, Raghunandan, clearly shows that the defense version is more probable than the prosecution case. It clearly shows that the prosecution has not come with clean hands and true version of the incident has been suppressed. The genesis of the incident has been concealed and prosecution has created a false, fabricated and afterthought version to falsely implicate present appellants to escape their liability. (***Laxmi Singh and others Vs. State of Bihar-1976(4)SCC 394***). Highly interested and inimical witnesses (only mother and father of the deceased), i.e., P.W.-1 and P.W.-2 were produced by the prosecution though there was availability of many independent witnesses but prosecution produced none of them. Not equal but greater motive was against P.W.-1, Balak Ram, he was present at scene of crime. All four accused were armed with *lathi* and country made pistols but no one made any attempt to cause injury to him. Whereas Jaiveer (against whom there was no motive) shot dead by accused appellants. It is very unusual. Both parties present at police station on same time to lodge their F.I.R. and accused, Raghunandan, was in injured condition. Prosecution has not explained the injury found on person of accused Raghunandan (Ext. Kha-1). Medical report has not corroborated prosecution story in this case because:-

a. The wad and 49 pellets which were found in dead body of the deceased as mentioned in postmortem examination report was not possible from the distance of 5-6 steps/ paces (i.e., about 15 feet) by country made pistol. It shows that a mass entry of firing occurred while in case of a fire coming from the country made pistol due to small barrel and very low striking energy in the pellets, pellets disperse just after leaving the barrel of country made pistol in these situation it was not possible as P.W.-1, P.W.-2, stated that the accused fired from 5 steps/paces and made solitary fire which hit the deceased because in that situation it is not possible and a mass entry and wading found in wound along with 49 pellets, blacking also did not come from this distance.

b. Dr. says in his statement that the injury occurred on the person of the deceased (firearm injury) from within 3 feet while prosecution case is single shot fired from a distance of 5-6 steps/ paces (i.e., 12 to 15 feet) and firstly it hit palmer side of hand and then on the chest it clearly shows that doctor statement clearly

make impossible the prosecution story, which is stated by the prosecution witnesses in their statement about the distance from which the solitary shot was fired.

c. It is also very relevant to mention here that the damages caused by a single shot clearly shows that this injury was caused by a regular license gun as per the defense story and it can not be caused by country made pistol as the prosecution story goes. It is also supported by the medical jurisprudence mentioned in Parikh's Textbook of Medical Jurisprudence and Toxicology (page no. 264) "the striking energy of fired bullet is proportional to its mass (m) and square of its velocity (v) [Energy= $0.5mxv^2$.] it follows that the higher the velocity the greater the striking energy and the damage". (Page No. 269) "the muzzle velocity of shot fired from standard shotgun are around 1000 ft./second. In case of country made hand gun using shotgun ammunition, velocities upto and above 500 feet/second have been observed. It is clearly shows that a very great and extensive damage occurred on the dead body clearly shows that this fire was come from the regular licensed shotgun as the defense story stated. It is not possible that this injury came from a country made pistol as prosecution story stated.

12. Learned counsel for the appellant has further submitted that there was a serious contradiction in statements of both the eyewitnesses where P.W.-1 stated that the deceased after being injured by a gunshot about 30-32 steps from the door and ran away from that place to the house and fell down while P.W.-2 states that the deceased fell down on the door of the house after receiving the gunshot injury. It clearly shows that prosecution made an afterthought story when P.W.-1 stated that Chandra Pal had spade in the field while P.W.-2, Balak Ram, empty hand because if it so then while Chandra Pal and other appellant not made any reaction on the field when the four appellants having spade on the field while as P.W.-1, Balak Ram, was alone having no arm with him. It means appellants has no intention to cause any type of harm to him. It is also very surprising that after the F.I.R. of Raghunandan that Balak Ram made a fire from his gun which hit deceased Jaiveer there was no positive action taken by the police/ investigating agencies to investigate this thing. Even the licensed gun of Balak Ram neither deposited nor sent for the Forensic Science Laboratory to verify this

fact that any fire made from this gun or not. A very important fact in this case that there is no blood trail found as the prosecution witnesses stated from scene of crime to the door of the first informant where Jaiveer fell down. No recovery of any country made pistol or any *lathi* from pointing out of any accused. It is also relevant to mention here that according to the prosecution story after receiving the gunshot wound deceased Jaiveer ran away from the place to his door about 30-35 steps and after that he fell down but the great and extensive damages on his body described in doctor's statement of page no. 32 of the paper book clearly shows that it is not possible to ran away 30-35 steps after receiving that injury was not possible and it also falsified the prosecution story.

13. Contrary to the prosecution version, the defence version is that after diverting the water to his agricultural field of Balak Ram went to his house. After some time the accused, Raghunandan, was passing from the way opposite to the house of Kalyan and Babu Ram and going to his house when Balak Ram (P.W.1) and his son, Jaiveer (deceased) stopped him and started abusing. Jaiveer was armed with lathi while Balak Ram had licensed gun. Jaiveer attacked him by lathi and Balk Ram fired on him. He ran towards his house while running to house he heard the sound of firing. He saw that Jaiveer suffered fire arm injury which was caused by Balak Ram. The accused, Raghunandan, claimed that he suffered injuries caused by *lathi* and filed his injury report as Exhibit- Kha(2) and two papers in defence at Exhibit kha(1) before the trial court.

14. Learned AGA has pointed out that the defence version is absolutely reliable. No father would be careless enough to risk the murder of his son in the manner alleged by the defence. He has submitted that trial court has given well reasoned judgment and dealt with defence case in detail.

15. We find that the motive of the crime is clearly made out from the F.I.R. and proved from the evidence on record. Complainant, Balak Ram, was irrigating his plots with canal water since the day before the incident, but in the morning of the day of incident, he found that the water has been diverted to the field of accused, Puroshotam, by accused, Chandra Pal. Complainant diverted the water to his field and forbade Chandra Pal from distributing the same. Thereafter the accused persons gathered near the enclosure of Kalyan, relative of the informant and started abusing the complainant. When the complainant along with his son, Jaiveer, came out. Chandrapal pointed out

his loaded pistol towards Jaiveer and caused fatal injuries to him. Purshottam, had admitted that dispute took place regarding diversion of water on the fateful day, but he alleged that the mistake was on the part of the complainant. However, Purshottam, has admitted that Ragunandan, diverted the water to his field and therefore, it is clear that Raghunandan and Purshottam, who are cousins made the mistake of diverting water from the field of Balak Ram, the informant, to their agricultural field. Raghunandan claimed that after they were returning to their houses, Balak Ram and Jaiveer met him and challenged him. He fled from the spot and later, he came to know that the gun shot hit Jaiveer. He also lodged the F.I.R. at the Police Station. Chandrapal denied that he is related to Purshottam, but Purshottam has admitted relationship with Chandrapal. The trial court has found that he was most cogent, potent and proximate motive for the accused to perpetrate the crime. The motive in this case stands corroborated from the defence version also regarding the diversion and re-diversion of the water. We do not find any reason to defer from the findings recorded by the trial court. The prosecution witnesses of fact are said to have been interested witnesses being father and mother of the deceased.

16. This Court cannot disbelieve the prosecution case only because the prosecution witnesses are closely related to the deceased and appeared to be interested witnesses. It is common experience that no one gets involved in dispute on third parties. Reliance has been placed upon the judgment of the Apex Court in the case of **Laxmi Singh and Other(Supra)** is not warranted in this case. The trial court has found that there was only lacerated wound in the injury report of Raghunandan of size 4.5 cm x .5 cm. 6/10 cm located on left side of head. Injury was simply caused by *lathi*. Therefore, the defence case that the prosecution story doubtful and is not correct. Heavy reliance has been made by the counsel for the appellant on the lack of possibility of suffering the fire arm injuries by the deceased from 5 to 6 paces by country made pistol as per the distance of firing stated by the prosecution witness.

17. Regarding argument of the learned counsel for the appellant that the injury no.1 suffered on the chest by the deceased was not possible from, distance of 5-6 steps/paces which is about 15 feet distance by country made pistol, deserves consideration.

18. Learned counsel for the appellant has submitted that a wad and 49 pellets were found inside the first wound, which could not have entered wound no.

1 if the firing was made from 5 paces, as stated by P.W.1 and P.W.2. Great stress has been laid on the argument that the injuries on the person of the deceased could not have been caused from a distance of 5 feet. In this case, the witnesses P.W.1 and P.W.2 are rustics, and P.W.1 has stated in his cross-examination that the accused persons were at a distance of 20-25 steps away when firing was made on his son. During cross-examination, he further stated that the Inspector showed him the place from which the accused, Chandrapal, fired on his son and the place where Chandrapal suffered gunshot injury, though he could not tell whether the distance between the two places was 15 steps or any other distance. He admitted in his cross-examination that he saw the accused, Chandrapal, taking out a country-made pistol when he was 5-6 steps away from him, and no firing was made on him. Meanwhile, P.W.2, the wife of P.W.1, stated that the place where her son suffered gunshot injuries was 5-6 paces away. It is notable that P.W.-1 and P.W.-2 both are rustics. P.W.-1 has stated that when firing took place on his son, he was 4-5 steps away from the accused. The distance of 5 steps is dependent upon the height and stride of an individual. The average step length is also different between men and women. For taller men average step length may come to 2.5-2.7 feet, while for shorter men it **comes** about 2 feet. Therefore, for taller men, average step length of 5 steps comes to around 12.5-13.5 feet, while for the shorter ones it comes to about 10 feet in 5 steps.

19. P.W.-1 and P.W.-2 have stated the distance between the place from where Chandrapal fired and the place where he caused the fatal injury to the deceased to be about 4 to 6 paces. In this regard, the length of the assailant's hand and the length of the pistol are also required to be considered, since the firing would have been made after extending the hand, and the length of the hand as well as that of the pistol is required to be excluded from the distance from which the firing was made. The length of the hand varies from person to person, and the length of a country-made pistol may also vary.

20. Therefore, if the argument of the learned counsel for the appellant that the firing was made from a distance of about 5 paces is accepted, and a distance of about 2 paces is excluded, considering the length of the assailant's hand and pistol, the actual firing distance would be about 3 paces, which comes to approximately 6-7.5 feet. If the length of the pistol is further excluded, the actual distance would be reduced even further. A country-made pistol is effective at a close range of about 5 to 10 metres

(approximately 15 to 30 feet).

21. In the present case, we have found that the firing was made at the deceased from a distance of about 6-7.5 feet. In view of the discussion made hereinabove, it cannot be said that the fatal injury could not have been caused to the deceased by a country-made pistol fired by Chandrapal from a distance of five paces. The reliance placed by learned counsel for the appellant on the *Parikh Textbook of Medical Jurisprudence and Toxicology* does not advance the case of the appellant, as there is no dispute with regard to the proposition that the striking energy of a fired bullet is proportional to its mass and the square of its velocity. In the absence of any details regarding the type of country-made pistol and the ammunition used therein, the striking energy and distance of the weapon cannot be calculated.

22. In view of the foregoing discussion, we find that the role of appellant No. 1, Chandrapal, in causing the fatal injuries to the deceased is clearly established. Accordingly, we confirm his conviction and the sentence awarded by the trial court, along with the findings recorded against the aforesaid appellant. The implication of the appellant nos. 2 and 3 with the aid of section 34 IPC needs consideration.

23. In **Ramashish Yadav v. State of Bihar, (1999) 8 SCC 555** the Apex Court considered the ingredients of section 34 IPC as follows. :-

"Section 34 lays down a principle of joint liability in the doing of a criminal act. The essence of that liability is to be found in the existence of common intention animating the accused leading to the doing of a criminal act in furtherance of such intention. The distinct feature of Section 34 is the element of participation in action. The common intention implies acting in concert, existence of a pre-arranged plan which is to be proved either from conduct or from circumstances or from any incriminating facts. It requires a pre-arranged plan and it presupposes prior concert. Therefore, there must be prior meeting of minds. The prior concert or meeting of minds may be determined from the conduct of the offenders unfolding itself during the course of action and the declaration made by them just before mounting the attack. It

can also be developed at the spur of the moment but there must be per-arrangement or premeditated concert."

24. We also find that appellant no.2, Purshottam and appellant no.3, have been implicated in this case on the role of causing *lathi* blows to the deceased, but P.W.-5, Dr. P.K. Gupta, has not found any *lathi* injury on the person of the deceased. Initially another accused, namely, Rampal, was assigned the similar role, who has died during the pendency of appeal. Therefore, we are inclined to extend the benefit of doubt to **the appellant no.2, Purhottam and appellant no.3, Raghunandan, and acquit them of all charges.**

25. The appellant no.2, Purhottam and appellant no.3, Raghunandan, **are on bail and need not surrender.** Their bail bonds are cancelled and sureties are discharged.

26. However, the conviction and sentence of appellant no.1, Chandrapal, is **confirmed.** He is on bail. His bail bonds are cancelled and sureties are discharged. He shall surrender forthwith and carry out the remaining sentences.

27. The appeal is **partly allowed.**

28. Let the record of trial court along with this judgment be returned to the trial court within 10 days.

September 15,2026.
Abhishek

(Vinai Kumar Dwivedi,J.) (Siddharth,J.)