



2026:AHC:102448

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2449 of 1983

Sahab Singh

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Dhirendra Kumar Pal, Ravindra Singh
Counsel for Respondent(s)	:	A.G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. Heard learned counsel for the appellant, Sri Dhirendra Kumar Pal, and learned A.G.A. for the State-respondent, Sri Rahul Asthana.

2. The present criminal appeal has been preferred against the judgment and order dated 06.10.1983 passed by the VI Additional Sessions Judge, Mainpuri, in Sessions Trial No. 504 of 1982, convicting the appellant under Section 395 I.P.C. and sentencing him to four years' rigorous imprisonment.

3. The First Information Report was lodged at Police Station Karhal, District Mainpuri. It was alleged that in the intervening night of 21/22.05.1982, at about midnight, nine to ten miscreants came to the house of the complainant, Lakhan Singh. At that time, the informant was sleeping outside his house under a chappar situated in his courtyard. His grandmother and maternal aunt were also lying there. The miscreants caught hold of him, assaulted him, and forcibly got the back door of the house opened. Thereafter, all the miscreants entered the house, while two persons remained outside holding the informant. The miscreants committed theft of clothes, cash, jewellery, and other household articles. On hearing the cries, Ramdhani, Vishram Singh, and Ram Sanchi Lal reached the spot. In the light of lanterns and torches carried by the miscreants, the informant and the witnesses claimed to have seen and identified them. The miscreants fled away with the looted articles, including a transistor, torch, pants, bag, utensils (four plates, one small plate, one large plate, two lotas, and two glasses), jewellery (one pair of earrings weighing 8 aatana and one ring weighing 4 chariyana), and cash amounting to Rs. 2,000/-.

4. On the basis of the written report, the FIR was registered and the G.D. entry was made. The investigation commenced, during which the Investigating Officer inspected the place of occurrence, prepared the site plan, and recorded the statements of witnesses. The accused was arrested,

and a test identification parade was conducted. The accused was identified by the informant and eyewitness Ramdhani. On the basis of the said evidence, a charge-sheet was submitted. The trial court framed charges against the appellant under Sections 395/397 I.P.C. The accused denied the charges and claimed trial.

5. The prosecution examined P.W.-1 Lakhan Singh (informant), P.W.-2 Ramdhani, P.W.-3 G.C. Saxena (Executive Magistrate), P.W.-4 S.I. Jaipal Singh, P.W.-5 Head Constable Mahendra Singh, and P.W.-6 Constable Amrat Singh. Documentary evidence was also adduced.

6. P.W.-1 Lakhan Singh supported the prosecution case and stated that while he was sleeping outside his house under a chappar along with his grandmother and maternal aunt, the miscreants arrived, assaulted him, got the lock of the house opened, and entered inside, where they committed dacoity of household articles. He further stated that he lodged a written report the next day. During investigation, the accused Sahab Singh was arrested, and he identified him during the test identification parade in jail. He further stated that he had seen and identified the accused in the light of a lantern. He also deposed that none of the miscreants had covered their faces and that he clearly recognized them. Some of the miscreants were armed with lathis, while others were carrying weapons. He admitted that he did not have a torch and that a lantern was burning on the wall of the kitchen.

7. P.W.-2 Ramdhani did not support the prosecution case regarding identification and was declared hostile. He stated that although he reached the spot upon hearing the alarm, he could not see the faces of the miscreants as they were fleeing towards the north. He further stated that he had gone to jail for identification and had identified one person there. However, in court, he stated that he had not seen the accused committing the dacoity and had only seen him earlier on some other occasion. Despite cross-examination by the prosecution, nothing material could be elicited to discredit his testimony.

8. P.W.-3 S.I. G.C. Saxena deposed that he arrested the accused Sahab Singh for the purpose of identification. The identifying marks were duly concealed, and about ten persons of similar age and appearance were made to stand in the identification parade. The informant was called, and the accused was identified by the informant Lakhan Singh and witness Ramdhani. In cross-examination, he stated that the accused was already a wanted person and several cases were pending against him. No recovery was made in connection with the present case. Although the accused allegedly confessed, no stolen property was recovered.

9. P.W.-5 Head Constable Mahendra Singh stated that the accused was arrested and brought to the police station. At the time of arrest, a country-made pistol and cartridges were recovered, leading to a separate case under

Section 25 of the Arms Act.

10. P.W.-6 Constable Amrat Singh deposed that on 22.05.1982, the informant submitted a written complaint on the basis of which the FIR was registered. He proved the chik FIR and G.D. entry in his handwriting.

11. The statement of the accused under Section 313 Cr.P.C. was recorded, wherein he denied the allegations and stated that he was falsely implicated after being apprehended from a threshing floor (khalihan). He further stated that he had been shown to the witnesses at the police station prior to identification.

12. After hearing the parties, the trial court convicted the accused and sentenced him to four years' rigorous imprisonment.

13. Aggrieved, the present appeal was filed on the grounds that the conviction is against the weight of evidence and bad in law, and that the sentence is too severe.

14. Learned A.G.A. supported the conviction.

15. Counsel for the appellant argued that the matter is over four decades old and that the appellant has no other criminal antecedents. It was contended that the identification is doubtful, as the test identification parade was conducted after about 25 days. It was further argued that identification in dim lantern light at midnight is unreliable, and that there is no corroboration, as P.W.-2 turned hostile. No looted property was recovered.

16. Upon consideration, this Court finds that the prosecution case rests primarily on identification evidence. The delay of about 25 days in holding the identification parade weakens its reliability. The informant admitted that he had no torch and relied only on lantern light. Identification of one person among nine to ten miscreants in such conditions, and retaining memory after such delay, does not inspire confidence.

17. Further, the identification is not corroborated by independent evidence. P.W.-2 did not support the prosecution and categorically denied seeing the accused at the time of occurrence.

18. It is also significant that none of the looted property was recovered from the accused, and no explanation was provided regarding its disposal.

19. In criminal jurisprudence, where conviction rests primarily on identification evidence, such evidence must be of sterling quality and

ordinarily requires corroboration.

20. In the present case, the evidence is too weak and uncertain to sustain conviction. The benefit of doubt must go to the accused. The appeal deserves to be allowed.

21. Accordingly, the appeal is allowed. The impugned judgment and order of conviction are set aside.

22. The appellant, Sahab Singh, is acquitted of all charges. As he is on bail, his bail bonds are cancelled and sureties discharged.

23. Let a copy of this judgment, along with the trial court record, if received, be transmitted forthwith to the court concerned.

April 15, 2026
Pravesh Mishra

(Mrs. Vani Ranjan Agrawal,J.)