



2026:AHC:186351

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL APPEAL No. - 2537 of 1984**

Shiv Pal And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

---

|                           |   |                                 |
|---------------------------|---|---------------------------------|
| Counsel for Appellant(s)  | : | Awadh Behari Singh, R.B.Singhal |
| Counsel for Respondent(s) | : | A.G.A.                          |

---

**Court No. - 75**

**HON'BLE DR. GAUTAM CHOWDHARY, J.**

**RESERVED ON 12.08.2026**

**DELIVERED ON 08.09.2026**

1. There were seven accused-appellants in this appeal. However, this appeal has already been abated against the appellant Nos. 1 to 5 and the appellant No. 7 due to their death. Thus, the present appeal survives only for the appellant No. 6-Dhanuwa, which is being heard and decided.
2. Heard Ms. Mamta Tiwari, learned Amicus Curiae, appearing for the appellant, Shri Chandan Singh, learned A.G.A. for the State and perused the material brought on record including the trial court record.
3. This appeal has been preferred against the judgment and order dated 04.09.1984 passed by learned Fourth Additional Sessions Judge, Fatehpur in Sessions Trial No. 281 of 1982 (State Vs. Shivpal and others), under Sections 147, 304 I.P.C., Police Station Sultanpur Ghosh, District Fatehpur, convicting and sentencing the accused-appellant, Shiv Pal under Section 148 I.P.C. for two years rigorous imprisonment and under Section 304/ 149 I.P.C. for five years rigorous imprisonment. Further, other accused-appellants, i.e., Bhawani Din, Ram Bhawan, Jodhi, Jagjit, Dhanuwa and Rajwa, have been convicted and sentenced under Section 147 I.P.C. for one year rigorous imprisonment and under Section 304/ 149 I.P.C. for five years rigorous imprisonment.
4. Prosecution case is that the informant-Smt. Rajrani is the wife of the

deceased Bankey Lal. In the morning of 28.03.1982 Smt. Rajrani and her husband Bankey Lal (deceased) received an information that the accused Shiv Pal and others are cutting their crops. On this information when Bankey Lal and Smt. Rajrani reached at their agricultural fields they found that all the eight accused were cutting their gram crops. Shiv Pal was having sickle (Hasiya) and other accused were having lathi. When the deceased restrained from cutting the crops, then all the accused started assaulting him. On making noise made by Bankey Lal and his wife Smt. Rajrani, three persons, namely, Rajaram, Indrapal and Chandrapal, who were working in their agricultural fields, reached there and on their exhortation all the accused fled away leaving the injured Bankey Lal, on the spot. Thereafter, the injured was taken to the Police Station in a cot and a first information report was lodged by Guwai Ram on the oral statement of Smt. Rajrani. In this regard in the G.D. the report was registered on 28.03.1982 at about 9:30 hours under Sections 147, 304 I.P.C. copy of which is Ex.Ka-16. Bankey Lal was medically examined in Primary Health Centre. He was medically examined by Dr. C. M. Mittal, who found following injuries on the person of the injured:

- (i) Lacerated wound 1-1/2 inch x 1/4 inch x scalp deep size on right parietal region of right side head 4 inch above the ear.*
- (ii) Lacerated wound of 1/4 inch x 1/4 inch x scalp deep size on the left parietal region of head 3 inch above the left ear.*
- (iii) Lacerated wound of 1 inch x 1/4 inch x scalp deep size on the mid 1 inch away from injury No. 1.*
- (iv) Lacerated wound of 1-1/2 inch x 1/2 inch x skin deep size on the right eye brow. Parallel to eye brow.*
- (v) Lacerated wound of 1/4 inch x 1/4 inch x skin deep size on the right foot. Blood is oozing.*
- (vi) Contusion of 3 inch x 1/4 inch size on the lateral aspect of right leg. 3 inch below the right patilla. Colour is reddish.*

All the injuries were found simple in nature except injury-6 which kept

under observation and advised X-ray. All the injuries were caused by some blunt object.

5. However, the deceased died at about 6:10 p.m. on the same day, which was informed by the written information send to the police station. Thereafter, Sub Inspector Deena Nath Singh reached at the hospital and prepared inquest report. Thereafter, postmortem was conducted on the next day at about 4:00 p.m., as per which report the deceased was aged about 50 years. Dr. S. C. Srivastava conducted the postmortem report and found as many as six injuries on the person of the deceased, as discussed above. In the postmortem he found bone of heel fractured and occipital bone fractured and the bone of brain was lacerated. The cause of death was found to be shock and haemorrhage due to ante mortem injuries.

6. During trial, the prosecution has relied upon documentary as well as oral evidence adduced by the prosecution witnesses.

7. After recording of evidence of prosecution witnesses, the accused-appellants were confronted with the evidence collected against them during trial. In their statements recorded under Section 313 Cr.P.C. they admitted that there was dispute of agricultural field and litigation also arose between them, in which informant-Smt. Rajrani, succeeded. They also stated that they also filed appeal, which is pending. They have also stated that they have been falsely implicated due to dispute of land and that the evidence adduced is not reliable.

8. On the basis of evidence accused by the prosecution witnesses, the Court of Sessions has come to conclusion that the guilt of the accused appellants has clearly been established beyond reasonable doubt and consequently, the accused-appellants have been convicted and sentenced, as stated above.

9. Challenging the impugned judgement and order of conviction and sentence, learned Amicus Curiae for the accused-appellants submits that the Court of Sessions has erred in recording the findings of guilt leading to conviction and sentence against the accused-appellants inasmuch as the testimony of witnesses are not reliable and the accused-appellants have been falsely implicated due to dispute of agricultural fields. The incident

occurred all of sudden. The sale deed of the said land was executed by the informant in favour of accused earlier, and they were in possession of the said land. At the time of occurrence the crops were standing on the said land which were sowed by them and they were cutting the crops standing there, on account of which the deceased and his wife (informant) opposed due to which incident occurred all of sudden. One prosecution witness- Rajaram (P.W.1) in his testimony has stated that he had not seen the occurrence and when he reached at the place of occurrence he found Bankey Lal lying down in injured state, he did not see to the accused while assaulting the deceased, and when he reached at the place of occurrence they were fleeing and they were at the distance of 3-4 Bigha.

10. Learned counsel further submits that all the injuries sustained by the deceased were caused by hard and blunt object and no any injury was caused by any sharp edged weapon, whereas, the informant as well as two other prosecution witnesses in their testimony have adduced the evidence that at the time of occurrence only one accused, i.e., Shivpal, was having Hasiya, and remaining accused were having lathi, in their hands. Since, these witnesses in their testimony have adduced the evidence that all the accused assaulted the deceased but there is no such injury of sharp edged weapon, which falsifies the prosecution story. It has further been argued that the deceased sustained as many as six injuries, whereas, these three prosecution witnesses have adduced their evidence that all the eight accused caused one or two lathi blow each to the deceased and in such a situation the deceased might have sustained more injuries, which also falsifies the manner of assault as alleged by the prosecution. Thus, the learned trial court has erred in recording finding of guilt against the accused-appellants. It is thus contended that the accused-appellants have been falsely roped in the present case and the surviving accused-appellant, namely, Dhanuwa is liable to be acquitted from the charges levelled against him.

11. Per contra, learned A.G.A. for the State has opposed the contentions advanced by the learned counsel for the accused-appellants and submits that there is no doubt that the alleged offence has been committed by the accused-appellants and the learned trial Court after considering the entire evidence available on record, recorded the findings of guilt of the accused

leading to their conviction and sentence, in accordance with law. Therefore, there is no illegality or perversity in the impugned judgment and order of conviction passed by the trial court and warrants no interference by this Court.

12. I have heard Ms. Mamta Tiwari, learned Amicus Curiae for the appellants, learned A.G.A. for the State and perused the material brought on record including the original records of the trial Court.

13. The manner in which the incident was occurred, has already been noticed above. It is the specific case of the prosecution that in the morning of 28.03.1982 Smt. Rajrani and her husband Bankey Lal (deceased) received an information that the accused Shiv Pal and others are cutting their crops. On this information when Bankey Lal and Smt. Rajrani reached at their agricultural fields, they found that all the eight accused were cutting their gram crops. Shiv Pal was having sickle (Hasiya) and other accused were having lathi, in their hands. When the deceased restrained to cut his crops then all the accused started assaulting him. On making noise made by Bankey Lal and his wife Smt. Rajrani, then Rajaram, Indrapal and Chandrapal, who were working in their fields, reached there and on their exhortation all the accused fled away leaving the injured Bankey Lal. The informant (P.W.3) in her evidence has deposed that when she reached at his agricultural field along with her deceased husband she found that the accused had already cut the crops standing in two Biswa land and when they opposed, all the accused assaulted her husband with lathi. Two other prosecution witnesses, i.e., Rajaram (P.W.1) and Indrapal (P.W.2) also deposed the evidence that these accused assaulted the deceased with lathi and Hasiya. It is an admitted case by both the sides that there were long standing dispute of the said agricultural field between them. The accused were cutting the crops standing on the said field and when P.W.3 and her deceased husband tried to restrain them, all the accused assaulted the deceased with a common intention, holding lathi and Hasiya, in their hands. Thus, there was motive for the accused to commit the crime. Though, there is no injury caused upon the person of the deceased by Hasiya, but that itself does not prove that no such incident was committed by the accused. All the prosecution witnesses in their testimony have sufficiently proved their

active participation in the alleged crime. The deceased was brutally assaulted by the accused who sustained as many as six injuries and out of those six injuries, four injuries were found caused on the vital part of the deceased. Dr. C. M. Mittal (P.W.6) who conducted medical examination of the injured at Primary Health Centre, at the trial, proved the medical examination report (Ex.Ka.-11). The doctor who conducted the postmortem of the deceased, also proved that the deceased sustained as many as six injuries, out of which four were on vital part. Though P.W.1 in his cross examination has stated that he had not seen the actual occurrence and when he reached at the spot he saw the deceased was lying on the ground in injured state and the accused fled away from the spot and they were at the distance of two Bigha from the place of occurrence. However, from the testimony of P.W.2 and P.W.3 it is crystal clear that they had seen the actual occurrence, even P.W.3 was with the deceased since departing to their agricultural fields on hearing information of cutting crops by the accused. Thus, there is no reason to disbelieve the testimony of P.W.2 and P.W.3, specially of P.W.3, who is the wife of the deceased and she reached at the place of occurrence along with her deceased husband, where, the alleged incident took place. There is no delay in reporting the alleged incident to the police. The incident took place at about 7:30 a.m. and the F.I.R. was lodged at 9:30 a.m. At the trial all the accused had admitted that there was dispute between them regarding the agricultural field, and for such dispute litigation reached to the court in which P.W.3 succeeded to obtain order in her favour. Thus, there is motive for the accused to commit the alleged crime. These circumstances, therefore, make the prosecution story reliable and trustworthy. The aforesaid circumstances and the prosecution evidence fully establish the charges levelled against them.

14. In the instant case, the prosecution version is in consonance with the statement of the prosecution witnesses. The injuries sustained by the deceased are duly corroborated with the medical evidence and the postmortem report. Thus, the reasoning assigned by the trial Judge while convicting and sentencing the accused-appellants is legal, just and proper, especially in view of the manner of assigning the role to the accused-appellants upon evaluation of evidence on record as well as the argument

advanced on behalf of the accused-appellants. Moreover, this Court finds that the finding of conviction recorded by the trial court is based on proper appreciation of materials on record. The finding of conviction is, therefore, sustained.

15. At this stage, learned counsel for the appellant submits that the incident took place in the year 1982 and since then a considerable period of more than 43 years has been passed. Now the only surviving appellant, namely, Dhanuwa, is aged about 72 years. Therefore, looking to his advance age, some lenient view may be taken while awarding sentence.

16. Bearing in mind that such a long period of 43 has been passed of the alleged incident and the surviving appellant-Dhanuwa, is now aged about 72 years, who has remained on bail during the pendency of the appeal, therefore, his sentence is reduced to six months with a fine of 10,000/-, thus, he is awarded such sentence. The period already undergone by him shall be adjusted against the sentence awarded by this Court in accordance with section 428 Cr.P.C. In default of payment of fine the appellant would further serve three months simple imprisonment. His sureties are discharged.

17. The surviving accused-appellant, Dhanuwa, is on bail. He is directed to surrender before the court concerned within a month from today, to serve out remaining sentence, if it exists, as awarded above.

18. In case, the appellant does not surrender before the court concerned within the stipulated time, the court concerned shall be at liberty to proceed against him in accordance with law.

19. A copy of this order along with record of trial Court be transmitted to the court concerned forthwith.

20. Let a copy of this judgment be sent through Registrar (Compliance) of this Court to the concerned Court below for necessary compliance.

21. This Court appreciates the assistance rendered by Ms. Mamta Tiwari, learned Amicus Curiae appearing for the appellant. The State Government is to pay Rs. 15,000/- as remuneration to her, at the earliest.

22. Accordingly, the present appeal is partly **allowed**.

**(Dr. Gautam Chowdhary,J.)**

**September 8, 2026**  
Mustaqeem.