



2026:AHC:205472-DB

Reserved on : 28.07.2026

Delivered on : 30.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2590 of 1984

R.Pal and others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Apul Misra, V.c Katiyar
Counsel for Respondent(s)	: A.G.A.

Court No. - 45

HON'BLE SALIL KUMAR RAI, J.

HON'BLE PADAM NARAIN MISHRA, J.

(Delivered by Hon. Padam Narain Mishra, J.)

1. Heard Shri Apul Misra, learned Senior Counsel assisted by Shri Devvrat Misra, the counsel for the appellants and Shri Vikas Goswami, the Additional Government Advocate for the State-respondent.

2. The present criminal appeal has been preferred against the judgment and order dated 12.09.1984, passed by the Fourth Additional Sessions Judge, Shahjahanpur in Sessions Trial No. 566 of 1982, whereby The appellant, Rais Pal, has been convicted under Section 302 of the Indian Penal Code and sentenced to imprisonment for life, along with a fine of Rs. 500/-. He has also been convicted under Section 307 read with Section 34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for five years. The other co-accused, namely, Sua Lal and Sadhu Ram, were also convicted under Section 302 read with Section 34 of the Indian Penal Code and under Section 307 read with Section 34 of the Indian Penal Code, and were sentenced accordingly.

3. During pendency of the appeal, co-accused Sua Lal died and this appeal, in his respect, stood abated vide order dated 29.01.2019. Thus, the present appeal survives only in respect of the surviving appellants namely, Rais Pal and Sadhu Ram.

4. The prosecution case, in brief, is that a report was lodged by one Chhaddammi at about 10:45 A.M., stating therein that on 27.04.1982, at about 09:00 A.M., the deceased, Ram Nath, and injured Thakur Das were returning towards their house. At that time, the accused, namely, Sua Lal, Rais Pal and Sadhu Ram, came from behind and started assaulting them. It was alleged that Sadhu Ram and Sua Lal were armed with *Kaanta* (a sharp-edged weapon), whereas Rais Pal was carrying a *Tamancha*. Rais Pal fired at Ram Nath from behind, as a result of which Ram Nath fell down and subsequently succumbed to his injuries. In the said incident, Thakur Das also sustained injuries. On hearing the cries, Fakeere (deceased) reached the spot and was also assaulted by the accused persons. He attempted to flee towards the southern side, but the accused persons chased him and assaulted him near the *Ghada* of Shyam Lal, where he was killed.

5. On the basis of the FIR, the Investigating Officer commenced the investigation, recorded the statements of the witnesses under Section 161 Cr.P.C., inspected the place of occurrence, and collected plain soil, blood-stained soil and blood-stained hair of the deceased, Fakeere. He also collected the injury report of the injured Thakur Das, the post-mortem reports of the deceased, Ram Nath and Fakeere, as well as the inquest reports. Upon completion of the investigation, the Investigating Officer submitted a charge-sheet against the accused persons for the offences punishable under Sections 302 and 307 read with Section 34 IPC.

6. The learned trial court took cognizance of the offences, framed charges against the accused persons and proceeded with the trial. In support of its case, the prosecution examined ten (10) witnesses. Chhaddammi, PW-1, the informant and an eye-witness to the incident; Thakur Das, PW-2, an eye-witness as well as an injured witness; and

Ram Pal, PW-4, a relative of the informant, who was also produced as an eye-witness, were examined by the prosecution along with other formal witnesses. The prosecution also adduced medical and documentary evidence in support of its case.

7. In defence, Rameshwar Dayal was examined as a defence witness.

8. Upon due appreciation of the evidence available on record, the learned trial court found the accused persons guilty and accordingly convicted and sentenced them, as aforesaid. Aggrieved by the said judgment and order, the present appeal has been preferred.

Submission on behalf of the appellants:-

9. Learned counsel for the appellants submits that the appellants have been falsely implicated because of previous enmity between the accused persons and the family of the informant and deceased. It is argued that the prosecution witnesses are related to the deceased and are interested witnesses and their presence at the place of occurrence is doubtful.

10. It is further submitted that there is material contradiction between the ocular and medical evidence. According to the prosecution, Sua Lal and Sadhu Ram were armed with *Kaanta*, whereas Rais Pal was armed with a *tamancha*. However, injured Thakur Das sustained lacerated and blunt forced injuries which, according to learned counsel, could not have been caused by a sharp-edged weapon (Kante).

11. Learned counsel for the appellants further submits that the real occurrence has been suppressed. According to the defence, during the intervening night, a dacoity had taken place in the house of informant where the marriage of his daughter was fixed and unknown dacoits had robbed ornaments and other articles and had caused the deaths of Ram Nath and Fakeere. It is also submitted that the postmortem report indicates that the death took place during the night and that the defence witness Rameshwar Dayal has supported the theory of dacoity at about 2.00 a.m on the day of said incident.

12. Learned counsel has further pointed out certain contradictions in the testimony of PW1, PW2 and PW4 regarding their presence, the manner of assault and the place from which they allegedly witnessed the occurrence. He further submitted that considering the above, the appeal is liable to be allowed.

Submission on behalf of the State:-

13. *Per contra*, learned AGA has opposed the present appeal and submitted that the prosecution had produced not merely an eye-witness but an injured witness PW2 Thakur Das, whose presence at the place of occurrence is established by the medical evidence. Learned AGA further submitted that the FIR was lodged with promptitude, within one hour and 45 minutes of the occurrence, and all the accused persons were named therein from the very beginning. Further, specific roles were assigned to the accused persons. It is further submitted that PW-1 Chhaddammi, PW-2 Thakur Das and PW-4 Ram Pal have consistently stated that they were present at the house, as the marriage of the informant's daughter was scheduled to be solemnised on the next day.

14. Learned A.G.A. further submits that the witnesses have specifically stated that they witnessed the occurrence from in front of the door of the informant's house. Their presence at the said place was, therefore, natural, and there is no reason to disbelieve their testimony on this count.

15. Learned A.G.A. further submits that the doctor, in his deposition, has clarified that injuries nos. 1, 2, 4 and 5 could also have been caused by a *Kaanta* if it was used from its opposite side, and that such injuries could have been sustained at about 9:00 A.M. on 27.04.1982. Learned A.G.A. further submits that, instead of contradicting the ocular version, the medical evidence materially corroborates the same, therefore, the present appeal is liable to be dismissed.

Analysis:-

16. We have considered the rival submissions raised by the learned counsel for appellants and the learned AGA for state and carefully examined the evidence available on record.

17. At the outset, the prompt lodging of the FIR is a circumstance of considerable significance. The occurrence is alleged to have taken place at about 9:00 A.M. on 27.04.1982, and the FIR was lodged at 10:45 A.M. on the same day. All the accused persons were named in the FIR from the very inception, and specific allegations were made against each of them.

18. We find the ocular testimony of PW-1 Chhaddammi, PW-2 Thakur Das and PW-4 Ram Pal to be materially consistent on the broad features of the occurrence. PW-1 and PW-2 have stated that, on the relevant day, a marriage in the family was scheduled to be solemnised. PW-4 Ram Pal has also stated that he had come to attend the marriage of the informant's daughter. Thus, their presence at the house and in its vicinity has a perfectly natural explanation. PW-1 and PW-4 have specifically stated that they witnessed the occurrence from in front of the door of the house. There is nothing inherently improbable in their having witnessed the occurrence from that place. Further, the site plan corroborates the testimony of PW-1, PW-2 and PW-4 and lends support to their presence at the relevant places. The defence has not been able to demonstrate that their presence at the stated place was physically impossible.

19. PW-2 Thakur Das stands on an even stronger footing. He is not merely an eye-witness to the occurrence but also an injured eye-witness. His presence at the place of occurrence is further corroborated by the injury report prepared in the course of the investigation.

20. The Supreme Court has consistently attached special evidentiary value to the testimony of an injured eyewitness. In ***Abdul Saeed vs State of Madhya Pradesh, 2010 (10) SCC 259***, the Court held that an injured witness has a special status because his presence at the scene of occurrence is duly established by the injuries suffered by him. The Court cautioned that such testimony should not be discarded lightly unless

compelling reasons exist. Aforesaid principle has been reiterated by the Supreme Court in ***Rajan vs State of Haryana, 2025 INSC 1081***, whereby the Supreme Court summarized the settled principle that the presence of an injured eyewitness ordinarily cannot be doubted unless there are material contradictions, that an injured witness would not ordinarily allow the real culprits to escape and falsely implicate another, and that minor contradictions do not justify rejection of the entire testimony. Applying the aforesaid principles, we find no justification to discard the testimony of PW2 merely because he is related to deceased, or because the defence pointed out minor discrepancies in his deposition. His presence is independently established by the injuries sustained by him.

21. PW-1 Chhaddammi, PW-2 Thakur Das and PW-4 Ram Pal have consistently stated that the accused persons initially assaulted Thakur Das and thereafter resorted to firing at Ram Nath. Their testimony is also consistent with regard to the weapons carried by the accused persons. Sua Lal and Sadhu Ram were armed with *Kaantas*, whereas Rais Pal was carrying a *Tamancha*. All the eye-witnesses have stated in their respective depositions that Sua Lal and Sadhu Ram were armed with *Kaantas*, and a specific role has been attributed to Rais Pal of firing at Ram Nath. The broad features of the prosecution case have remained intact despite lengthy cross-examination. The witnesses have not departed from the fundamental assertion that the appellants participated in the assault.

22. The ground taken by the learned counsel for the appellants is that the medical evidence does not corroborate the ocular testimony. We have carefully examined the said submission in the light of the testimony of PW-5, Dr. R.C. Agrawal. The doctor found five injuries on the person of the injured, Thakur Das. According to the medical examination, injuries nos. 1, 2, 4 and 5 were caused by a hard and blunt object, whereas injury no. 3 was caused by a *Kaanta*. In his deposition, he specifically clarified that injuries nos. 1, 2, 4 and 5 could also have been caused by a *Kaanta* if the weapon had been used from its opposite side. Thus, the medical

evidence itself answers the contention raised by the learned counsel for the appellants. The prosecution witnesses have consistently stated that the accused persons were armed with *Kaantas*, and the doctor has expressly stated that injury no. 3 was caused by a *Kaanta*. As regards the remaining injuries, he clarified that they could also have been caused by the same weapon if its opposite side had been used. It is further relevant to note that an injury caused by a sharp-edged weapon, particularly where the cut is deep, may sometimes give the appearance of a lacerated wound. The mere description of an injury as lacerated or as having been caused by a hard and blunt object cannot, therefore, be considered in isolation. The nature and appearance of an injury may depend, *inter alia*, upon the particular portion of the weapon that comes into contact with the body, the angle and force of impact, and the manner in which the weapon is wielded. Therefore, where a weapon has a sharp or cutting edge on one side and a comparatively hard or blunt portion on the other, an injury caused by the use of its opposite side may assume a lacerated character. Consequently, the description of injuries nos. 1, 2, 4 and 5 as having been caused by a hard and blunt object does not, in the facts of the present case, render the ocular testimony inconsistent with the medical evidence.

23. The position in law is well settled that medical evidence is ordinarily corroborative and opinionative in nature. In ***Ramanand Yadav v. Prabhu Nath Jha*, (2003) 12 SCC 606**, the Supreme Court held that ocular evidence ordinarily carries greater evidentiary value and that an adverse inference on the basis of medical evidence is warranted only where the medical evidence completely rules out the possibility of the injury having been caused in the manner alleged in the ocular testimony. In the present case, there is no question of the medical evidence completely ruling out the prosecution version. On the contrary, the medical evidence lends support to and corroborates the ocular testimony. The doctor further opined that the injuries could have been sustained on 27.04.1982 at about 9:00 A.M. This is another circumstance which corroborates the prosecution version with regard to the time of occurrence. Thus, the

medical evidence corroborates the prosecution case, both with regard to the nature of the assault and the time of occurrence. The contention that the medical evidence is inconsistent with the ocular version is, therefore, rejected.

Previous enmity or motive:-

24. The prosecution has also brought on record the background of previous enmity between the parties. PW-1 Chhaddammi has specifically stated that Meva Ram, the brother of accused Sua Lal, had earlier been murdered and that suspicion regarding his murder had been raised against Ram Nath, Thakur Das and Ram Swaroop, the brother of the deceased, Fakeere. PW-2 Thakur Das has also stated that, in connection with the murder of Meva Ram, accused Sua Lal had suspected him and his brother, Ram Nath. Thus, there was a definite background of previous enmity between the parties, which furnished a motive for the occurrence. It is true that Previous enmity is a circumstance of dual significance; while it may furnish a motive for the commission of the crime, it may, in an appropriate case, also afford a reason for the false implication of the accused. The Court is, therefore, required to scrutinise the ocular evidence with greater care and caution. In the present case, however, the evidence regarding previous enmity is not being relied upon in isolation. Rather, it finds support from the prompt lodging of the FIR, the consistent testimony of the eye-witnesses and the medical evidence on record. The existence of prior enmity, therefore, strengthens rather than weakens the prosecution case, particularly when considered alongside the other circumstances proved on record.

25. There is also an important circumstance arising from the statements of the accused recorded under Section 313 Cr.P.C. The accused persons denied that they had suspected Ram Nath and Thakur Das in connection with the murder of Meva Ram and suggested that they had been falsely implicated on account of prior enmity. Thus, the accused themselves admitted the existence of enmity between the parties. Further, the

defence version does not satisfactorily explain the nature or background of such enmity. There is no convincing explanation as to why the prosecution witnesses would falsely implicate the accused persons by name in a promptly lodged FIR. We, therefore, find that the evidence regarding previous enmity furnishes a plausible motive for the occurrence and, in any event, does not constitute a sufficient ground to discard the otherwise reliable ocular testimony.

26. The defence has taken a specific plea that, during the intervening night, at about 2:00 A.M., some unknown dacoits came to the place of occurrence, robbed the ornaments and other articles, and caused the deaths of Ram Nath and Fakeere. This version has been categorically denied by PW-1, PW-2 and PW-4. All three eye witnesses have denied the suggestion that they were not present at the spot and that Ram Nath and Fakeere were murdered by unknown dacoits during the course of the alleged robbery. Except for the statement of the defence witness, Rameshwar Dayal, there is no reliable or independent evidence in support of the alleged dacoity. No satisfactory material regarding the articles allegedly looted, nor any contemporaneous report of such an occurrence, has been brought on record. The defence witness namely Rameshwar Dayal has also failed to furnish any convincing explanation regarding his presence at the place of occurrence or his opportunity to witness the alleged incident at about 2:00 A.M. in the night. The mere fact that the marriage of the informant's daughter was scheduled to take place does not, by itself, establish that a dacoity had occurred. On the contrary, the impending marriage provides a natural explanation for the presence of relatives and acquaintances, including PW-4 Ram Pal, at the house on the date of the incident. We, therefore, are unable to accept the defence version of dacoity as a probable alternative explanation of the occurrence.

27. The submission that PW-1, PW-2 and PW-4 are related or interested witnesses and, therefore, their testimony should be discarded, also cannot be accepted. Relationship is a circumstance which requires careful scrutiny; it is not a rule of law that the testimony of a related

witness is liable to be discarded merely on account of such relationship. In the present case, the presence of these witnesses is independently supported by the surrounding circumstances.

28. PW-1 was the informant and was present in front of the house at the time of the occurrence. PW-2 was an injured witness, whose presence at the place of occurrence stands corroborated by the injuries sustained by him. PW-4 Ram Pal stated that he had come to attend the marriage of the informant's daughter and had witnessed the occurrence from in front of the house. Thus, the presence of these witnesses was natural and their testimony cannot be rejected merely because of their relationship with the deceased or the informant.

29. In the present case, so far as appellant- Rais Pal is concerned, the prosecution witnesses have consistently stated that he was carrying a *Tamancha* and fired at Ram Nath. So far as appellant- Sadhu Ram is concerned, the prosecution witnesses have attributed to him a specific role in the assault and have stated that he was carrying a *Kaanta*. His participation is, therefore, not founded upon any vague or omnibus allegation. The testimony of the eye-witnesses, when considered as a whole, establishes the participation of the surviving appellants in the occurrence. The present case is, therefore, not one where the Court is required to choose between an inherently doubtful ocular account and medical evidence which completely contradicts it. On the contrary, the medical evidence substantially supports the ocular account. It is well settled that the law does not require the prosecution evidence to be perfect in every minute detail. What is required is that the evidence, when considered as a whole, should inspire confidence and establish the guilt of the accused beyond reasonable doubt.

30. Learned counsel for the appellants has also referred to the site-plan and submitted that the same does not correspond with the statement of the witnesses.

31. We have examined the submissions of learned counsel for the parties and the testimony of the witnesses. On the perusal of the

statements, it is evident that PW1 and PW4, have specifically stated that they witnessed the occurrence from the place in front of the door. No such discrepancy in the site-plan has been demonstrated, which makes their presence at that place physically impossible. A site plan is an aid to appreciate the evidence regarding the place of occurrence and cannot be treated as a mathematically exact reproduction of every movement made by the witnesses and assailants during a certain occurrence. The site plan, therefore, does not create any reasonable doubt regarding the prosecution version.

32. We are also conscious that the appeal is against the judgment of conviction and that the appellate court is required to independently reappraise the evidence. Having undertaken such reappraisal, we find that the conclusion reached by the trial court is fully supported by the evidence on record. On the other hand, Defence has failed to demonstrate any circumstance which would render the presence of PW1 and PW2 or PW3 improbable. The testimony of PW2 is further fortified by his injuries. The doctor's evidence also supports incident and injury sustained by the injured and time of the occurrence. The theory of dacoity is also not established. The defence has not been able to provide a credible alternative explanation for the prompt naming of the accused persons, the injuries of PW2 and consistent ocular evidence.

33. On a cumulative consideration of the entire evidence, we are satisfied that the prosecution has proved the guilt of the surviving appellants Rais Pal and Sadhu Ram beyond reasonable doubt.

34. For the reasons recorded above, we find no merit in the present appeal and the same is liable to be dismissed.

35. Accordingly, the present criminal appeal is hereby **dismissed**.

36. The judgment and order of conviction passed by the learned trial court is hereby **affirmed**.

37. The appeal, so far as it relates to the co-accused Sua Lal, has already been abated vide order of this Court dated 29.01.2019.

38. The surviving appellants are on bail. The surviving appellants shall surrender before the court concerned within fifteen days from today. In

the event of their failure to surrender within the aforesaid period, the court concerned shall take all necessary steps, in accordance with law, to secure their custody. Subject to the appellants surrendering within the aforesaid period, their bail bonds shall stand cancelled and the sureties shall stand discharged.

39. Lower Court Record be transmitted back, forthwith.

40. Office is directed to send a copy of this judgment to the concerned jail superintendent.

(Padam Narain Mishra,J.) (Salil Kumar Rai,J.)

September 30, 2026

Rama Kant