



2026:AHC:104347

**HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL APPEAL No. - 734 of 1987**

Raksha Pal and others

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	: Rakesh Kumar Singh, S.k. Yadav
Counsel for Respondent(s)	: A.G.A.

Court No. - 79

HON'BLE TEJ PRATAP TIWARI, J.

1. The present criminal appeal has been filed by appellants Raksha Pal, Sadhu Singh, Mansha Ram and Amit Singh challenging the judgement and order dated 07.03.1987 passed by 7th Additional Sessions Judge, Etah in Session Trial No. 189 of 1986 (State vs. Raksha Pal and others) under Sections 325 / 34 and 304 / 34 I.P.C., Police Station Soron, District Etah whereby all the appellants have been convicted and sentenced under Section 304 read with Section 34 I.P.C. to undergo 10 years rigorous imprisonment with fine of Rs. 1,000/- each and the appellants were further convicted and sentenced under Section 325 I.P.C. read with Section 34 I.P.C. to undergo one year rigorous imprisonment and in default of payment of fine, the appellants were to undergo one year rigorous imprisonment. All the sentences were to run concurrently.

2. During the pendency of the instant criminal appeal, the appellant no. 1 Raksha Pal and appellant no. 3 Mansha Ram

have died, on behalf of them, the instant criminal appeal was abated by this Court. The present appeal is being decided only for the appellant no. 2 Sadhu Singh and appellant no. 4 Amit Singh.

3. As per the prosecution story, the incident occurred on 22.08.1985 at 12:00 noon, when the accused persons, namely Mansha Ram, Raksha Pal, Amit Singh, and Sadhu, having their field nearby the field of complainant, assaulted the complainant (Bhure Singh) and his brother, Atar Singh, (subsequently died on 25.08.1985). After the post-mortem examination, the case was registered. It has further been stated in the written report (Ex.Ka-1) that he was examined by a doctor at Kasganj and was advised for X-ray and when the X-ray (Ex.Ka-16) was done, a fracture of the left index finger was found. On the basis of the aforesaid report, a Non-Cognizable Report was lodged by the concerned police.

4. After the investigation, the charge sheet was filed on 05.09.1985, under Sections 325, 506, 304 I.P.C. against all the aforesaid four accused persons. The said charge sheet was marked and exhibited as Ex.Ka-14 at the trial.

5. The panchayatnama of the body of the deceased was done on 26.08.1985 at 10:00 a.m. which was marked and exhibited as Ex.Ka-6 at the trial. After this, the post mortem was conducted on 27.08.1985 by Dr. S.R. Gupta (P.W.-4) which was marked and exhibited as Ex.Ka.-2.

6. In the post mortem report of the deceased Atar Singh, following anti-mortem injuries were found :-

1. contusion 2 cm x 2 cm on posterior aspect of skull in mid-line 10 cm above occipital protuberance. On dissection conjunction present in layer out on the skull bone not exposed

2. abrasion scabbed 3 cm x 1.5 cm on back of right elbow joint

3. scabbed abrasion on dorsum of root of index finger of right hand size 1 cm x 1 cm

4. scabbed abrasion 2 cm x 1.5 cm on back of left elbow joint.

5. scabbed abrasion 2.5 cm x 1.5 cm on right side scrotum front aspect

6. scabbed abrasion 3.5 cm. x 2.5 cm on front of left knee joint just below patella.

7. The injuries caused to the complainant Bhure Singh has also been proved by the prosecution during the trial as Ex.Ka-15 and 16 at the trial.

8. The charge sheet has been filed by I.O. concerned and thereafter, the case was committed to the court of Session, whereby the learned Sessions Judge framed the charges against the aforesaid accused persons under Sections 325 read with Section 34 I.P.C. and 304 I.P.C., on which the accused persons denied the charges and claimed for trial.

9. To prove its case, the prosecution has examined the witnesses as follows : -

Prosecution witnesses	Name of witnesses	Paper proved	Role
P.W.-1	Bhure Singh	Supported the F.I.R. version	Complainant (witness of fact)
P.W.-2	Aram Singh	Supported the prosecution story	Injured
P.W.-3	Ram Swaroop	Supported the prosecution story	Injured
P.W.-4	Dr. S.R. Gupta	Prepared the	Doctor

		post mortem report of deceased Atar Singh	
P.W.-5	Sri Ram Bahadur Gautam	Prepared and proved the Chik report and general diary	Constable
P.W.-6	S.I. Sugadh Singh	Prepared and proved the inquest report, challan Nash and photonash	Sub-Inspector
P.W.-7	Dr. I.P. Singh	Proved the injury report and medical examination report	Medical Officer, Primary Health Center, Kasganj
P.W.-8	Dr. Shamshad Akhtar	Proved the X-ray report of Bhure Singh and X-ray plate	Radiologist

10. After the prosecution witnesses were examined, the statement of the accused persons were recorded under Section 313 Cr.P.C. In their statements, the accused persons have stated that they have been falsely implicated due to enmity and village party politics.

11. The learned Sessions Judge, having heard the learned counsel for the parties and perusing the records available, had convicted the accused-appellants, as stated above.

12. Heard the learned counsel for the appellants, learned AGA for the State of U.P. and perused the records.

13. At the first instance, learned counsel for the appellants submitted that as per the prosecution story, the incident in question took place on 22.08.1985, in which complainant Bhure Singh (P.W.-1) and Atar Singh (deceased) got injuries by the

accused-appellants, but since the time of the occurrence i.e. 22.8.1985 till the death of Atar Singh, there is no medical report of Atar Singh, submitted and proved by the prosecution side, which unerringly creates doubt on the prosecution story. As regards, the second injured person, namely, Bhure Singh (complainant) P.W.-1, is concerned, he has not been medically examined before 25.08.1985. He has been examined on 26.08.1985 by the Medical Officer of PHC, Kasganj, Etah. This also builds the doubt in the prosecution story. After this, learned counsel for the appellants, submitted that, since lodging of the First Information Report and till the statements on oath made by the prosecution witnesses, in court, the allegations levelled against all the accused-appellants are of general nature. No specific role has been assigned to any of the accused-appellants, except the statement of P.W.-2, Aram Singh, who has specifically alleged that the injuries caused by lathi by Mansha Ram resulted into the death of Atar Singh (the deceased). Likewise, the deposition made by prosecution witness P.W.-3, Ram Swaroop, specifies, that he reached the spot after the occurrence had taken place. This finds support by the statements of the doctor who conducted the autopsy of the deceased, Atar Singh. Learned counsel for the appellants has pointed out that the death was caused due to neurogenic shock, which is stated to be possible by injury no. 1. He has further submitted that injury no. 1 was sufficient in the ordinary course of nature to cause death.

14. Referring to the statement of P.W.-6, Sugadh Singh (I.O.), learned counsel for the appellants pointed out that Bhure Singh (P.W.-1) and Aram Singh (P.W.-2) had informed him that they had taken treatment from a private doctor, Dr. Satya Prakash Gupta. However, when the statement of the said witness was recorded, Dr. Satya Prakash Gupta, has denied having treated any patient, particularly Bhure Singh and Aram Singh.

15. Referring on the aforesaid contradictions, learned counsel for the appellants has emphasized that these contradictions creates a doubt in the prosecution case and, on the basis of it, the accused-appellants deserves acquittal. He further pointed out that in the instant case, there are two surviving appellants, namely, Sadhu Singh and Amit Singh are more than 60 years of age and the learned counsel for the appellants prayed for leniency looking to the age as well as physical and mental hazard which they have suffered during last three decades.

16. Per contra, Ms. Harshita Rani, learned AGA for the State of U.P. had strongly opposed the arguments submitted by the learned counsel for the appellants and had submitted that as the doctors in the Government Hospital / PHC were not available because of which the complainant (P.W.-1) Bhure Singh and Atar Singh (deceased) did not get the treatment between 22.08.1985 to 25.08.1985. In the instant case, the deposition of the prosecution witness made on oath in open court by P.W.-1 Bhure Singh (who is also injured in the instant case) cannot be doubted. So far as the minor discrepancies / contradiction in the statements of the prosecution witnesses of fact, is concerned, the Apex Court in **Brahm Swaroop and Another Vs. State of Uttar Pradesh, 2011 (6) SCC 288**, paragraph 16 as under :-

"It is a settled legal proposition that while appreciating the evidence of a witness, minor discrepancies on trivial matters, which do not affect the core of the prosecution case, may not prompt the court to reject the evidence in its entirety. Irrelevant details which do not in any way corrode the credibility of a witness cannot be labelled as omissions or contradictions." Difference in some minor details, which does not otherwise affect the core of the prosecution case, even if present, would not itself prompt the court to reject the evidence on minor variations and discrepancies. After exercising care and caution and

shifting through the evidence to separate truth from untruth, exaggeration and improvements, the court comes to a conclusion as to whether the residuary evidence is sufficient to convict the accused. Thus, an undue importance should not be attached to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basis version of the prosecution witness. As the mental capabilities of a human being cannot be expected to be attuned to absorb all the details, minor discrepancies are bound to occur in the statements of witnesses."

17. Learned AGA finally submits that the order of conviction and sentence passed by the learned trial court, assailed by means of the present criminal appeal, needs no interference by this Court, as the prosecution has proved its case beyond reasonable doubt.

18. Having heard the learned counsel for the parties and perused the records.

19. At the first instance, it would not be out of context to quote the provision of law under which the present accused-appellants have been charged and tried. In this context, Sections 304, 325 and 334 I.P.C. are quoted herein below :-

"Section 304. Punishment for culpable homicide not amounting to murder.—

Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to

cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Section 325:- Punishment for voluntarily causing grievous hurt:-

Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 334 Voluntarily causing hurt on provocation :-

Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.”

20. Looking to the charges levelled against the appellants in the light of the arguments advanced by the learned counsel for the appellants as well as the learned AGA, it would be appropriate to examine the lapse, if any, on the part of the prosecution to prove its case, with regard to the injuries. Undoubtedly, as per the documentary as well as the oral evidences available on record, it is evident that neither the injured nor the deceased were taken to any hospital or clinic for treatment prior to 25.08.1985. As per prosecution, the person who succumbed to injuries has sustained injuries of a serious nature; however, the lack of evidence on this point creates a doubt, which goes in favour of the appellants.

21. The next point which has been argued by the learned counsel for the appellants regarding the contradictions /

discrepancies in the statement of the prosecution witnesses is also not to be ignored, as there were several persons who have seen the occurrence, when it took place, but none of the independent witness has been examined by the prosecution. Moreover, neither the report (NCR) nor the statements of the prosecution witnesses speaks about the specific role of the accused-appellants. On this point, if the statement made by P.W.-2, Aram Singh, regarding the injury, alleged to have been caused to the deceased, Atar Singh, by Mansha Ram, is seen where he has stated that this resulted to his death, also creates doubt, if seen in the light of post mortem report (Ex.Ka.-2) where the cause of death is shown due to neurogenic shock caused by injury no. 1. The benefit of such doubt to give in favour of the accused-appellants.

22. Reliance to be placed on the judgment of the case **Pankaj v. State of Rajasthan, (2016) 16 SCC 192**, where the Hon'ble Supreme Court has held :-

"It is a well-settled principle of law that when the genesis and the manner of the incident is doubtful, the accused cannot be convicted. Inasmuch as the prosecution has failed to establish the circumstances in which the appellant was alleged to have fired at the deceased, the entire story deserves to be rejected. When the evidence produced by the prosecution has neither quality nor credibility, it would be unsafe to rest conviction upon such evidence. After having considered the matter thoughtfully, we find that the evidence on record in the case is not sufficient to bring home the guilt of the appellant. In such circumstances, the appellant is entitled to the benefit of doubt".

23. In **Natthu v. State of U.P., 2019 SCC OnLine All 3547**, the Hon'ble Supreme Court held thus:-

“...One of the golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. [Vide Kali Ram v. State of Himachal Pradesh, (1973) 2 SCC 808; State of Rajasthan v. Raja Ram, (2003) 8 SCC 180; Chandrappa v. State of Karnataka, (2007) 4 SCC 415; Upendra Pradhan v. State of Orissa, (2015) 11 SCC 124 and Golbar Hussain v. State of Assam, (2015) 11 SCC 242]. In the instant matter, considering evidence on record and analysis made herein above, we are of the considered opinion that prosecution has concealed genesis of incident and has not come up with true facts and the presence of alleged eye witnesses at the scene of offence appears to be doubtful and consequently all the accused-appellants are entitled for benefit of doubt.”

24. Further, considering the age of the accused persons as mentioned in their statements recorded under Section 313 Cr.P.C., both the accused-appellants would now be more than 60 years old, and the mental agony which they seems to have suffered over the last three decades, also makes them entitled for sympathetic consideration by this Court.

25. On the basis of considered discussions made herein above, it is clear that the benefit of doubt exist, which goes to the accused-appellants. Thus, the present criminal appeal deserves

to be allowed on the ground of benefit of doubt as raised by the learned counsel for the appellants.

26. Accordingly, the present criminal appeal is **allowed**.

27. The order of conviction and sentence of the accused appellants, namely, Sadhu Singh and Amit Singh, dated 07.03.1987 passed by the learned 7th Additional Sessions Judge, Etah is hereby set aside. The appellants are said to be released on bail and the sureties are discharged.

28. Copy of this judgement along with original records of learned court below be transmitted to the court concerned for necessary compliance. Compliance report be submitted to this Court at the earliest. Office is directed to keep the compliance report on record.

(Tej Pratap Tiwari,J.)

February 23, 2026
Manoj