



2026:AHJ:57412

## HIGH COURT OF JUDICATURE AT ALLAHABAD

GOVERNMENT APPEAL No. - 1530 of 1986

State of U.P.

.....Appellant(s)

Versus

Ram Behari

.....Respondent(s)

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|---------------------------|---|----------------------|
| Counsel for Appellant(s)  | : | A.G.A.               |
| Counsel for Respondent(s) | : | , Vijay Singh Sengar |

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**Court No. - 53**

**HON'BLE SAMIT GOPAL, J.**

1. List revised.

2. Heard Sri V.D. Ojha, learned counsel for the State/appellant, Sri Ajay Singh Sengar, Advocate holding brief of Sri Vijay Singh Sengar, learned counsel for the accused-respondent-Ram Behari and perused the record. The trial court records have also been summoned and the paper book of the matter is ready which have been perused.

3. This appeal under Section 378(3) Cr.P.C. has been preferred by the State against the judgment and order dated 31.01.1986 passed by the Special Judge (Anti Dacoity) Jalaun at Orai by which the trial court court while extending the benefit of doubt acquitted the accused Ram Behari for the charges levelled against him under Section 25 of the Arms Act read with Section 14 of the U.P. Dacoity Affected Areas Act No. 31 of 1983.

4. This appeal was admitted vide order dated 09.04.1990 and bailable warrants were issued against accused respondent and in compliance of it he was released on bail.

5. A First Information Report was lodged on 11.04.1983 at 14:05 P.M. as Case Crime No. 94-98 of 1983, under Section 25 of the Arms Act read with Section 10 of U.P. Dacoity Affected Areas Act No. 31 of 1983, P.S. Rampura, District Jalaun by Chinta Mani Singh, the SHO of the said police station against Vishnu, Lalji, Kashi Prasad, Ram Behari and Keshav on the basis of a recovery and arrest memo.

6. The prosecution story is that on 11.04.1983 the then SHO/first informant along with his police team consisting of four constables of outpost Gohan, three armed police guards of the same outpost, four armed police guards of outpost Jajepur and four constables of outpost of Umari were doing combing operation in the jungle in search of dacoits. While they were going from the side of Bhairav Mandir towards village

Hanumanan they saw five miscreants coming from the side of the village and on seeing them, the miscreants started running away towards village Hanumanan. They were chased by the police party and were finally apprehended at about 11:00 am by using necessary force. On interrogation they disclosed their names and addresses. One of the persons disclosed his name as Ram Behari. On his personal search by the SHO he was found in possession of 27 live cartridges of 315 bore, 40 cartridges of S.L.R. and 20 cartridges which were like pointed bullet of copper for which he could not produce the required license. The other persons were also found in possession of some arms and ammunitions and their recovery memos were also made. The articles recovered from each of them were separately sealed at the spot and separate bundles and fard recovery memo was prepared. They were brought at the police station on 11.04.1983 at 02:05 pm the FIR was thus registered. The recovery memo is Exb: Ka-1 to the records.

7. Sanction order of District Magistrate concerned was obtained, the same is Exb: Ka-5 to the records. The matter was investigated and a charge sheet which is Exb: Ka-6 to the records was submitted. The Special Judge (Anti Dacoity) Jalaun at Orai vide order dated 04.04.1985 framed charge against the accused Ram Behari for offence punishable under Section 25 of the Arms Act read with Section 14 of the U.P. Dacoity Affected Areas Act No. 31 of 1983. The charge was read over and explained to the accused who pleaded not guilty and claimed to be tried.

8. The trial in the matter started in which Chintamani Singh the first informant was examined as PW-1, S.L. Yadav the second Investigating Officer of the matter who submitted charge sheet against the applicant was examined as PW-2 and Shyam Singh the first Investigating Officer and witness of the fard recovery as PW-3. The accused in his statement recorded under Section 313 Cr.P.C. denied the prosecution story in full. He claimed false implication. He stated that he has been apprehended by the police from Haar and has been falsely implicated in the matter. However no defence evidence was led. The trial court after perusing the records came to the conclusion that it is a fit case where the benefit of doubt needs to be extended to the accused and thus acquitted him by given him benefit of doubt. The present appeal has thus been filed challenging the said judgment and order as aforesaid.

9. PW-1 Chintamani Singh is the police officer who was a leading team for combing operation. He states about the said incident as noted in the recovery memo. He is the first informant of the matter also. He proves the recovery memo and states of lodging of the FIR.

10. PW-2 S.L. Yadav stated that he took up the investigation after it was transferred from Chandra Bhan Dubey from 22.08.1983. He states to have sought the sanction to prosecute from the District Magistrate which was proved as Exb: Ka-5. He then prepared the site plan on 09.09.1983 on the

showing of S.I. Shyam Singh and Constable Kishori Lal etc. The same was marked as Exb: Ka 4 to the records. He then submitted a charge sheet against the accused which is Exb: Ka-6 to the records.

11. Shyam Singh PW-3 states that he was a member of combing team and had gone to the jungle. He corroborates the version given by PW-1 and testifies his signature on the fard recovery memo which is Exb: Ka-1 which was prepared by him on the dictation to Chintamani Singh PW-1.

12. The trial court while deciding the matter observed that the incident in the present matter had taken place on 11.04.1983 and the statement of Shyam Singh and other witnesses was recorded by the Investigating Officer after a period of four months. It is further observed that the site plan of the alleged place of occurrence was prepared after a period of five months. It observed that there was no explanation given by the prosecution regarding such inordinate delay and thus has suspected the veracity of the prosecution case. Further the story of the prosecution that the accused had disclosed that they were taking the weapon for repair which were then directed to be handed over to the some other person is also not considered to be truthful inasmuch as from the possession of the applicant only cartridges were recovered but no arms were recovered and thus the story of the prosecution of getting arms repaired also does not corroborate the version of the prosecution inasmuch as it is observed that since cartridges were recovered, there was no need for their repair and thus carrying cartridges was of no useful purpose. It further considered the contradictions in the statements of PW-1 and PW-2 with regards to the movement of police team wherein the said two witnesses give different directions of their movement. It thus came to the conclusion that the prosecution story is highly suspicious and not truthful and cannot be worthy of any credence and thus the extended the benefit of doubt to the accused against all the charges and levelled against him.

13. Learned counsel for the State-appellants submitted that in so far as the accused respondent is concerned, there has been recovery of cartridges from his possession for which he could not show any valid permit or license and thus they were illegal and were being possessed illegally. It is submitted that the present case relates to a place which is dacoity affected and the movement of the accused with his four other associates would go to show that they were in possession of illegal firearms and cartridges and were in dacoity affected area which also go to show that their intention to use the said recovered items as and when needed. It is submitted that thus the charges which were framed were proper and legal and the trial court should have convicted them in the charged offences falling back on the evidence collected in the trial and during investigation. It is submitted that thus the judgement and order of the trial court is illegal and perverse and deserve to be set aside.

14. Per contra, learned counsel for the accused respondent submitted that

in so far as the story of the prosecution regarding the reason for the accused moving does not get verified from the recovery as alleged from the applicant inasmuch as only some cartridges are shown to be recovered from him but there are no firearms recovered. It is submitted that there are serious contradictions in the statements of PW-1 and PW-3 with regards to the movement of the police party and the direction from which they were coming. It is further submitted that there has been inordinate delay in recording of the statements of the witnesses which is of four months and also of preparing of the site plan of the same which is about five months for which there is no plausible explanation which would go to show that the entire material was an afterthought. It is submitted that even otherwise the present appeal stands from the judgment and order of acquittal and one of the reasonable views in the present matter has been taken by the trial court concerned which as per the settled principles of law do not deserve to be set aside and reversed, since it is one of the probable views possible in the present matter on the material available on record. It is submitted that the present appeal is devoid of any merit and deserves to be dismissed.

15. After having heard learned counsels for the parties and perusing the records, it is evident that this appeal has been preferred against the judgment and order of acquittal dated 31.01.1986 recorded by the trial court. The reasons as enumerated by the trial court for extending benefit of doubt to the accused respondent and thereby acquitting him are sound reasons based on material available on record. It cannot be said that the said reasons are totally perverse and against the weight of evidence on record. The trial court has extensively given its finding and its reasons for recording an acquittal of the accused respondent which is based on records by extending benefit of doubt. There is no reason for interference in the impugned judgment and order of the trial court.

16. In view of the same, looking to the facts and circumstances of the case, the appeal lacks merit and is **dismissed**.

17. The accused respondent is on bail. The bail bond is cancelled and sureties are discharged. In so far as the material exhibits being the life cartridges Exbs: 2 to 88 are concerned they shall be subjected to confiscation of the State in compliance of the judgment and order of the trial court dated 31.01.1986.

18. Office to communicate this judgment and order along with trial court records to the trial court concerned within two weeks.

(Samit Gopal,J.)

**March 19, 2026**  
M. ARIF