



2026:000:107583

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2115 of 2009

Ram Moorat And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Sanjai Kumar, Upendra Rai
Counsel for Respondent(s)	:	Govt. Advocate

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

The present Criminal Appeal has been preferred against the judgment and order dated 24.03.2009 passed by the Additional Sessions Judge, F.T.C. Court No. 2, District Mau in S.T. No. 349 of 2006 (State vs. Ram Murat and Others), under Sections 323/34 I.P.C., Police Station Doharighat, District Mau, whereby the appellants were convicted and sentenced to one month's imprisonment along with a fine of Rs. 1,000/- each, and in default of payment of fine, to undergo an additional imprisonment of fifteen days.

As per the office report dated 07.05.2026, it has been submitted that vide report dated 10.03.2026, the Chief Judicial Magistrate, Mau reported that appellant no. 2 Kailash and appellant no. 3 Vikram are alive, whereas appellant no. 1 Ram Murat has died. Thus, the appeal stands abated qua appellant no. 1 and survives only with respect to appellant nos. 2 and 3.

According to the prosecution, the first information report regarding the incident dated 20.08.2006 was lodged by the informant, Bhim Yadav. It was alleged that a calf of a Jersey cow had died near the house of the informant, and a quarrel had taken place between the informant's father and the accused persons, namely Ram Murat, Kailash and Vikram, regarding the removal and disposal of the dead calf.

Due to the said enmity, on 21.08.2006 at about 5:30 P.M., when the informant was returning after grazing the buffaloes and reached near the field of accused Ram Murat, the accused persons Ram Murat, Kailash and Vikram, who were weeding the field, surrounded him, started abusing him, and assaulted him with sticks, fists and kicks. Upon hearing his cries, his

father Ram Surat, who was weeding paddy in a nearby field, rushed to the spot, whereupon the accused persons also assaulted him with sticks, fists and kicks, causing injuries to him. On hearing the alarm, other villagers namely Palakdhari and Vishwanath arrived at the place of occurrence and intervened. Thereafter, the accused persons fled away while extending threats to life and property. The informant, with the help of villagers, took his father to the Government Hospital at Doharighat, where the doctors declared him dead.

On the basis of the written complaint submitted by the informant, the first information report was registered and G.D. entries were made. The inquest and post-mortem examination of the deceased were conducted. During the investigation, the Investigating Officer prepared the site plan of the place of occurrence, recorded the statements of witnesses, and on the basis of the evidence collected during investigation, submitted a charge-sheet under Sections 323, 304, 504 and 506 I.P.C. against the accused persons.

Charges under the aforesaid sections were framed against the accused persons, who denied the allegations and claimed trial.

In support of its case, the prosecution examined P.W.-1 Bheem Yadav, P.W.-2 Dr. A.K. Srivastava, P.W.-3 S.I. Lalta Prasad Mishra, P.W.-4 Dr. Dinesh Kumar Yadav and P.W.-5 Constable Jeet Narayan.

In their statements recorded under Section 313 Cr.P.C., the accused persons alleged that the prosecution witnesses had deposed falsely due to previous enmity. They stated that the father of the informant was suffering from epilepsy and heart disease and that no assault had taken place. It was further stated that the informant had administered medicine to his father without medical advice, due to which his condition deteriorated and he died while being taken to the hospital. According to the accused persons, the deceased died due to illness and wrong medication, and they had no role in his death.

In defence, the accused persons did not produce any documentary evidence and examined only D.W.-1, namely Dr. Anil Kumar Gupta, who stated that the shop of accused Kailash and Vikram was situated adjacent to his dispensary located at his private residence. He further stated that since the year 1981, Kailash and Vikram had been running a grocery shop adjoining his dispensary and used to sell goods to customers from their shop. According to him, they used to open the shop daily at about 8:30 A.M. and

close it at about 7:00 P.M. He further stated that on the date of the incident also, both Kailash and Vikram were present at their shop at around 5:30 P.M., and he had seen them selling goods to customers at that time.

P.W.-1 Bheem Yadav, the complainant and injured witness, supported the prosecution case in his deposition and corroborated the prosecution story regarding the dispute arising out of the disposal of the dead calf. He further stated that the accused persons assaulted him and his father with sticks, fists and kicks, causing injuries to them, and that his father subsequently died due to the injuries sustained in the incident.

P.W.-2 Dr. A.K. Srivastava stated that during the post-mortem examination, some simple injuries were found on the body of the deceased. However, death due to those injuries was not found probable. He further stated that since the exact cause of death could not be ascertained, the viscera was preserved and sent for chemical examination to the Forensic Science Laboratory.

P.W.-3 S.I. Lalta Prasad Mishra proved the medical report, the letter addressed to the C.M.O., the chik report, the charge-sheet, the site plan and other relevant documents on record.

P.W.-4 Dr. Dinesh Kumar Yadav deposed regarding the medical examination of injured Bheem Yadav and proved the injury report as Ext. Ka-10.

P.W.-5 Constable Jeet Narayan proved the chik F.I.R. and the carbon copy of the G.D. entry.

After considering the entire oral and documentary evidence on record, the learned trial court came to the conclusion that during the medical examination, only three visible injuries were found on the body of the deceased, all of which were simple in nature. Dr. A.K. Srivastava, P.W.-2, had also clearly stated in his deposition that the injuries found on the body of the deceased were simple in nature. Since the injuries were extremely simple in nature, death due to such injuries was not found probable and, therefore, it could not be established that the accused persons had caused grievous injuries resulting in the death of the deceased.

The prosecution also failed to produce any independent witness despite the fact that the presence of independent witnesses at the place of occurrence

was mentioned in the first information report.

However, upon consideration of the injuries found on the body of the deceased and the injuries sustained by the complainant P.W.-1 Bheem Yadav, which were also proved through medical evidence, the trial court held that the injuries had in fact been caused by the accused persons. Consequently, accused Ram Murat, Kailash and Vikram were acquitted of the charges under Section 304 I.P.C. They were also acquitted of the charges under Sections 504 and 506 I.P.C., as the said offences could not be proved beyond reasonable doubt. However, the accused persons were convicted only under Section 323 I.P.C. read with Section 34 I.P.C. and were sentenced to one month's simple imprisonment along with a fine of Rs. 1,000/- each.

Aggrieved by the judgment and order dated 24.03.2009, the present appeal was preferred and has remained pending since the year 2009. At the time of hearing of the appeal, it was submitted on behalf of the accused-appellants that they were extremely poor persons and their livelihood depended upon agricultural and manual labour work. It was further submitted that they had been facing the agony of criminal litigation for nearly 17 years. It was also pointed out that after conviction, they had remained in jail from 24.03.2009 to 17.04.2009 and were released on bail pursuant to the bail order dated 17.04.2009. Therefore, a prayer was made that the appeal be disposed of by sentencing them to the period already undergone.

A perusal of the entire oral and documentary evidence on record reveals that the injuries caused by the accused persons were simple in nature. The accused persons remained in judicial custody for more than 22 days during the course of trial and appeal. There is no criminal history against the accused persons, nor is there any evidence on record regarding any previous conviction. The accused persons have faced the ordeal of criminal prosecution and prolonged litigation for a considerable period of time.

Having considered the submissions advanced by learned counsel for the appellants and upon perusal of the entire material available on record, this Court finds it appropriate, in the facts and circumstances of the case, to maintain the conviction of the accused-appellants while modifying the sentence awarded by the trial court.

Accordingly, the conviction of accused-appellant nos. 2 and 3 under Section

323 I.P.C. read with Section 34 I.P.C. is hereby affirmed. However, the sentence awarded by the learned trial court is modified, and the accused-appellant nos. 2 and 3 are sentenced to the period already undergone by them in custody, i.e., from 24.03.2009 to 17.04.2009, under Section 323/34 I.P.C.

In the result, the appeal is **partly allowed**.

Since the appellants no.2 & 3 are on bail, their bail bonds are cancelled and sureties are discharged.

Let a copy of this order along with trial court record, if called for, be transmitted to the court concerned forthwith for necessary compliance.

May 8, 2026
Pravesh Mishra

(Mrs. Vani Ranjan Agrawal,J.)