



2026:AHC:163558

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 973 of 1988

Roshan Lal And Others

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	:	Seema Pandey, L.K.Pathak
Counsel for Respondent(s)	:	A.G.A.

Court No. - 90

HON'BLE ABDUL SHAHID, J.

1. Heard Ms. Seema Pandey, learned Amicus Curiae for the appellant, and the learned A.G.A. for the State.

2. The present criminal appeal has been filed against the judgment and order dated 19.04.1988 passed by the learned IVth Additional Sessions Judge/Special Judge, Hamirpur, in Sessions Trial No. 18 of 1986 (State v. Roshan Lal and others), convicting and sentencing the appellants under Section 394 of the I.P.C. to undergo three years of rigorous imprisonment.

3. The incident occurred on 25.10.1985, and the F.I.R. was lodged against three unknown persons. The charge sheet was subsequently filed after the investigation was completed.

4. Appellant No. 1 (Roshan Lal) died during the pendency of this appeal, and the proceedings of the present criminal appeal stand abated against him.

5. There are two prosecution witnesses of the incident itself, namely P.W.-1 (the bus conductor) and P.W.-2 (the bus driver). P.W.-1, who was allegedly robbed, specifically deposed during his examination-in-chief that he could not identify the person who looted his bag because it was dark. P.W.-2, the driver of the vehicle, specifically deposed in his examination-in-chief that he could not see when the incident occurred; he only came to know of it when the conductor stated that his bag had been stolen. He further deposed that it was dark inside the bus. Whereas, P.W.-1 deposed that there was no light inside the bus at all and it was completely dark. These are material contradictions between the statements of the two primary witnesses. P.W.-1 further deposed in his cross-examination that it was dark inside the bus and

he could not identify the persons who had looted and beaten him.

6. P.W.-3 and P.W.-4 did not support the prosecution story. They were declared hostile during their examination-in-chief and specifically denied making the statements recorded under Section 161 of the Cr.P.C. Furthermore, during cross-examination by the learned ADGC (Criminal), they specifically stated that they had not given any such statements under Section 161 of the Cr.P.C.

7. P.W.-5/Purshottam Prasad (Senior Sub-Inspector) is the witness who registered the check F.I.R. and prepared the General Diary (G.D.).

8. P.W.-7 (Ram Krishna Goyal, Entertainment Tax Officer), whose watch was also allegedly looted, deposed during his cross-examination that he was 48 years old and wore spectacles. He stated that he did not know the accused persons prior to the incident and he had only seen them at the time of the occurrence and subsequently when they were arrested. He stated that he identified them by their clothes and appearance. However, he admitted that when the accused persons got down from the bus, he did not see their faces. He could not recall telling the inspector that cash of Rs. 116 was recovered from the pocket of Raj Kumar, nor could he offer any explanation as to why such a statement was recorded by the inspector. Regarding the bag allegedly recovered from a well, he stated that he did not know who owned the well, despite staying near it for half an hour, during which time no villager, witness, or accused disclosed the owner's identity. He also could not recall the jewel count of his watch, admitting that there were no special identification marks on it and that it was a standard silver-colored HMT watch, a common model.

9. The key witnesses of fact, P.W.-1 and P.W.-2, failed to identify any of the accused persons. Moreover, their statements are contradictory and lack corroboration. The other victim, P.W.-7, whose watch was allegedly looted, failed to conclusively identify even his own watch after recovery. Thus, there is complete inconsistency in the prosecution's case.

10. In his statement under Section 313 of the Cr.P.C., the accused Raj Kumar, who was about 19 years old, stated that he was watching a movie at Mahoba Talkies when the Entertainment Tax Officer spat on his legs. When he objected, an altercation ensued. The accused Azam Bux stated that he was falsely implicated in the case due to village enmity.

11. The prosecution has failed to prove its case beyond a reasonable doubt. There is inconsistencies and lack of corroboration in the prosecution story, the findings recorded by the learned trial court are perverse. Consequently, the impugned judgment and order dated 19.04.1988 cannot be sustained and is hereby set aside.

12. The appellants, Appellant No. 2 (Rajkumar) and Appellant No. 3 (Azam Bux), are hereby acquitted of all charges. Their bail bonds and sureties stand discharged.

13. The appeal is accordingly allowed.

14. Ms. Seema Pandey, Advocate, was appointed as Amicus Curiae in this case. She shall be paid Rs. 15,000/- for her legal assistance rendered to this Court.

August 5, 2026
K.K. Maurya

(Abdul Shahid,J.)