



2026:AHC:167768

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1629 of 1982

Smt. Phulmati

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	:	D.P.Singh, S.D.Singh
Counsel for Respondent(s)	:	A.G.A.

Court No. - 92

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. List has been revised.
2. None appears on behalf of the appellant to press this appeal.
3. Record shows that this appeal is of the year 1982 and the appellant namely Srimati Phulmati, who was granted bail by this court vide order dated 6.7.1982, while admitting this appeal is ever since then, enjoying the liberty of bail.
4. Vide order dated 26.4.2007 coordinate Bench of this Court issued bailable warrant for securing the presence of the appellant. Thereafter, again vide order dated 5.4.2013 bailable warrant was issued against the appellant. Office reports dated 9.7.2007 and 16.5.2013 the office has reported that vide letters dated 26.4.2007 and 16.5.2013 learned Chief Judicial Magistrate, Kanpur Nagar has reported that the appellant is not residing on the given address. Thereafter, vide order dated 21.5.2013 process under Section 82 and 83 was issued against the appellant. The office vide it's report dated 12.3.2014 reported that a letter dated 21.5.2013 the learned Chief Judicial Magistrate, Kanpur Nagar has reported that the appellant was not found residing on the given address and landlord namely Raj Kumar Sahu @ Khanna has informed that he has no information regarding the appellant Srimati Phulmati. Thereafter, vide order dated 16.10.2014 proceedings under Section 446 Cr.P.C. was issued against the sureties of the appellant. The office vide it's report dated 26.10.2024 has reported that in compliance of the Court's order dated 30.9.2024 learned Chief Metropolitan Magistrate, Kanpur Nagar has reported that despite severe efforts, relevant bail bonds could not be traced out, hence notice could not be issued to the sureties.
5. To cut a long story short, I do not find any prospect of the accused-appellant- Srimati Phulmati, who is absconding, being traced out and produced before this Court. It is apparent that she is not interested in the

disposal of this appeal and has abused the liberty of bail by failing to appear before this Court despite non-bailable warrants and process under Section 82 Cr.P.C. issued against her. The question which arises before us is that whether this Court is bound to wait perennially for the accused-appellant till the accused-appellant are searched, if at all, and produced before us and keep on adjourning the hearing of this appeal.

6. Faced with the aforesaid contingency and looking to the huge pendency of cases before this Court, I am not inclined to pass over this appeal. Under identical circumstances, the Apex Court, after a comprehensive analysis of previous decisions on the issue, has distilled the legal position into six propositions in paragraph 19 of its judgment delivered in the case of **K.S. Panduranga v. State of Karnataka (2013) 3 SCC 721** :

"19.1 That the High Court cannot dismiss an appeal for non-prosecution simpliciter without examining the merits;

19.2 That the Court is not bound to adjourn the matter if both the appellant or his counsel/lawyer are absent;

19.3 That the court may, as a matter of prudence or indulgence, adjourn the matter but it is not bound to do so;"

19.4 That it can dispose of the appeal after perusing the record and judgement of the trial court;

19.5 That if the accused is in jail and cannot, on his own, come to court, it would be advisable to adjourn the case and fix another date to facilitate the appearance of the appellant-accused if his lawyer is not present, and if the lawyer is absent and the court deems it appropriate to appoint a lawyer at the State expense to assist it, nothing in law would preclude the court from doing so; and

19.6 That if the case is decided on merits in the absence of the appellant, the higher court can remedy the situation."

7. Thus, in view of the legal position propounded by the Apex Court in the case of **K.S. Panduranga (supra)**, I proceed to examine this appeal on merits qua appellant- Srimati Phulmati with the assistance of Sri Rahul Asthana, learned A.G.A. for the State. I have perused the trial court record and heard learned A.G.A. on behalf of the State.

8. By way of instant criminal appeal, challenge has been made to the validity and sustainability of the Judgment and order dated 02.07.1982 passed by learned XII Additional District and Sessions Judge, Kanpur, in Sessions Trial No.537/M/1980 convicting the appellant under Section 307 I.P.C and sentencing her to undergo Rigorous Imprisonment of four years.

9. The prosecution story in a nutshell is that the complainant Govindi Devi had mortgaged her jewellery through her neighbor, the accused Srimati Pholmati, at the shop of a jeweller of Lal Bangla for Rs.500/-. Govindi gave Rs.500/- to Srimati Phoolmati to redeem her jewellery. On May 7, 1980,

both women went to Lal Bangla, redeemed the jewellery and began walking back home. While returning around dusk, near the well of Leprosy hospital, Srimati Phoolmati asked Govindi Devi to sit down near the well to rest. Moments later, with the intention of robbing the money/jewellery and killing her, Srimati Phoolmati pushed Govindi Devi into the well. Govindi Devi sustained injuries after falling into the well and holding onto the wall of the well, she raised alarm. Bystanders (namely Lakshmi, Ramnath and Phool Singh) gathered at the scene and came to her rescue using rope and danda.

13. The Prosecution in order to substantiate its version examined the following witnesses:-

P.W.1 Dr. T. N Mehrotra conducted the medical examination of the injured Govindi Devi at 3:30 AM and confirmed serious injuries (radiology confirmed wrist fracture) consistent with falling into a well around the dusk on May 7, 1980 and left radius bone was broken. Swelling on the left wrist in dimensions 6 cm x 4 cm was present and the complain of pain was stated by the witness. He proved the injury report as Ext. ka-1 and supplementary report of the X-ray done is exhibited as Ext. ka-2.

P.W.2- Vishwanath Prasad was a Pharmacist at the Ursala hospital and he arrived at the scene after hearing the commotion, witnessed the victim in the well, and helped her out with a rope.

P.W.3- Devdutt was the jeweller who testified about the mortgage and redemption of the jewellery for Rs. 500/- by Govindi Devi and Phoolmati. He proved the gulshan Patti as material Ext.1 and Kardhani as Ext.2.

P.W.4 Chottey Lal was the eye-witness who corroborated the incident and the victim being pulled out of the well.

P.W.5- Govindi Devi Tripathi is the complainant who detailed the entire narrative from redeeming her jewellery to being pushed into the well by Phoolmati and she fully supported the prosecution version and she proved the written report as Ext. ka-3.

P.W.6 Phool Singh, the eye witness, also supported the prosecution story who aided in pulling the victim out of the well.

P.W.7 Babulal was also the eye witness who fully corroborated the prosecution version.

P.W.8 Constable Ramdutt Rathore in his examination proved the Chik FIR, Rojnamcha photocopy. In his cross examination, he stated that in the GD entries, the presence of injuries on the body of the victim is mentioned.

P.W.9 Santosh kumar Srivastava stated that he saw Govindi Devi along with another woman at around 7:30 pm near the well around leprosy hospital

and after half an hour later, heard the news that the victim was pushed into the well.

P.W.10 SHO Rakesh Chandra Sharma, the Investigating Officer conducted the investigation of the case and prepared the recovery memo of Gulshan patti and Kardhani. He further prepared the site plan after inspection. After completion of the investigation, he submitted charge sheet against the accused Phoolmati.

14. The Documentary evidences includes - Injury report as Ext. ka-1, X-ray report confirming the fracture of the bone on left wrist as Ext. ka-2, Written complaint as Ext. ka-3, recovery memo of the stolen articles as Ext. ka-4, chik FIR as Ext. ka-5, True copy of the GD as Ext. ka-6, GD entry No.17 of registration of recovery as Ext. ka-7, site plan as Ext.ka-8 and charge sheet Ext. ka-9 are available which were duly proved by the prosecution.

15. The accused Srimati Phoolmati in her statement recorded under Section 313 Cr.P.C. denied the allegations and stated that she had been falsely implicated and that she never went to the Jeweller along with Govindi Devi and completely negated the fact that she pushed the injured complainant into the well.

16. As per the defence counsel, the incident took place around 7 to 8 pm in the evening and written report was lodged by the complainant at 1:30 am in the night. Although the delay could have been avoided but this does not discredit the testimony of the witnesses and creates no suspicion on the prosecution version of the case.

17. The learned trial court after considering the oral as well as the documentary evidences produced by the prosecution held that the guilt of the accused-appellant under Section 307 I.P.C had been proved by the prosecution beyond reasonable doubt and convicted and sentenced her to four years of Rigorous Imprisonment.

18. Feeling aggrieved by the order of the learned trial court, the appellants have preferred the instant criminal appeal.

19. Bare perusal of the record itself is indicative of fact, that the prosecution witnesses namely P.W.2 Vishwanath Prasad, P.W.3- Devdutt, P.W.4- Chotey Lal and P.W.7 Babulal were independent and reliable witnesses as they had no connection with the complainant and bore no enmity with the accused-appellant and have fully supported the prosecution story. Moreover, P.W.5- Govindi Devi Tripathi is the complainant who detailed the entire narrative from redeeming her jewellery to being pushed into the well by Phoolmati and she fully supported the prosecution version and she proved the written report as Ext. ka-3.

20. Learned A.G.A. has also supported the impugned judgement of conviction and order sentence and submits that the impugned judgement and order do not suffers from any illegality or infirmity and has been passed after proper appreciation of oral, documentary and medical evidence, which calls for no interference by this Court.

21. Under the facts and circumstances, it cannot be said that there was any deliberate attempt to falsely rope in the accused-appellants in this case, while allowing the real culprit to go scot-free.

22. It is established principle of criminal jurisprudence that testimony of eye-witnesses cannot be thrown away.

23. There is no case or circumstance either existing or emerging after contemplating various aspects of this case qua evidence on record against the appellant.

24. The learned trial judge while considering the various aspects of the case and various specific facets regarding the commission of the crime and the incident itself has elaborated a well-reasoned and detailed judgment, scrutinizing and analyzing each and every vital aspect of the case and judgment of conviction has been recorded after proper scrutiny of the evidence and facts on record.

25. In view of above, it may be conveniently summed up that the trial Judge has taken into consideration various aspects of the case and has appraised facts and testimony of prosecution witnesses in right prospective and has rightly recorded finding of conviction and sentenced the appellant for offence under Section 307 I.P.C and sentencing her to four years rigorous imprisonment, which is just punishment and would meet the ends of justice.

26. In view of aforesaid discussion, it is obvious that this appeal lacks merit and is dismissed accordingly.

27. The appellant is at large. The trial court is expected to leave no stone unturned for ensuring arrest of the appellant to enable her to serve out the sentence imposed by the judgment of the trial Court.

28. Let a copy of this order/judgment be certified to the court below forthwith for necessary information and follow up action.

August 11, 2026

Dev

(Mrs. Vani Ranjan Agrawal,J.)