



2026:AHC:16176-DB

Reserved On :- 07.01.2026

Delivered On :- 22.01.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 4330 of 2007

Yunus

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Diwan Saifullah Khan, M.A. Khan, Prabhat Pandey, Saurabh Yadav, Shamsher Singh
Counsel for Respondent(s)	: Govt. Advocate

In Chamber

HON'BLE SIDDHARTH, J.

HON'BLE JAI KRISHNA UPADHYAY, J.

(Delivered by Hon'ble Siddharth, J.)

1. Heard Sri Saurabh Yadav, learned counsel for the appellant; Sri Sushil Pandey, learned AGA-Ist for State-respondents and perused the trial court record.
2. This criminal appeal has been preferred against the judgment and order dated 29.10.2005 passed by Special Judge / Additional Sessions Judge, Bijnor, in Session Trial No. 497 of 2001, under Section- 302 IPC, Police Station- Kotwali City, Bijnor, District- Bijnor, for convicting and sentencing the appellant to undergo life imprisonment and fine of Rs. 10,000/- under Section 302 IPC in default of fine 3 months rigorous imprisonment.
3. The prosecution case is that on 06.06.2021 at about 02:20 a.m., Mohd. Hanif was sleeping in his house along with his family when shrieks were heard from his sister-in-law, who resides in the neighbourhood, crying that Zahid had been killed. On hearing the cries, Hanif, armed with his licensed gun, came on his terrace and noticed that Yakoob, Islamuddin and Khursheed were present on the terrace of Zahid. He fired in the air and then stepped down into Zahid's house, where he found Zahid, his niece, Sahana and his mother, Tameezan lying unconscious in a pool of blood.

4. On hearing the sound of firing, the Head Constable and two constables from the nearby police outpost arrived at the spot. All three injured persons were taken to the Government Hospital, where they were declared dead. One of the miscreants was seen fleeing by Yakoob, Islamuddin, Khursheed, the Head Constable Gyanendra Singh and two constables in torchlight, and they stated that they could identify him, if he is produced before them.
5. The F.I.R. was lodged after a delay of one hour and twenty minutes. After completing the necessary formalities of investigation and conducting the test identification parade, charge-sheet was submitted against the appellant. The trial court framed charges against the appellant under Section 302 IPC, which he denied and sought trial.
6. To prove its case, the prosecution examined P.W.-1, Hanif; P.W.-2, Khursheed; P.W.-3, Yakoob; P.W.-4, Constable Dharampal Singh; P.W.-5, Dr. Virendra Kumar Mishra; P.W.-6, Gyanendra Singh, Assistant Sub-Inspector; P.W.-7, Sub-Inspector D.L. Rajauri; P.W.-8, Munesh Kumar Mishra, Additional City Magistrate; P.W.-9, Rajendra Prasad Sharma, Deputy Superintendent of Police; and P.W.-10, Constable Mahesh Chandra Sharma.
7. Smt. Sayra Begum was examined as a Court Witness, and Mariyam, mother of the accused, was examined as D.W.-1. The statement of the accused was recorded under Section 313 Cr.P.C., wherein he denied the prosecution allegations and claimed false implication due to enmity. He stated that P.W.-1, Hanif and P.W.-3, Yakoob, are his maternal uncles (mama) and P.W.-2, Khursheed, is his relative. All of whom knew him well as he frequently visited their house. Due to domestic disputes with them, he was falsely implicated in this case.
8. P.W.-1, Hanif, supported the prosecution case as stated in the F.I.R. In cross-examination, he admitted that the firing was made by him from his terrace. He stated that Yakoob is his brother, though they live separately. He denied having informed the Investigating Officer that Zahid's wife was living at her parental home. He further admitted that the accused, Yunus, is not his nephew (*bhanja*).
9. P.W.-2 and P.W.-3 stated that on the night of the incident they heard Tameezan screaming to save Zahid and he reached the terrace along with Islamuddin and Yakoob. They stated that Hanif fired from his

roof, upon which the police personnels arrived. They saw one person fleeing in torchlight, who was later identified as the accused, Yunus. He was holding a knife while fleeing. They stated that they had not known him earlier and identified him for the first time in jail during the test identification parade.

10. P.W.-4, Constable Dharampal Singh, stated that on 06.06.2021 he was posted at Police Station Kotwali Shahar and received information that three dead bodies were lying in Sadar Hospital. Inquest proceedings were conducted and the bodies were sent for post-mortem.
11. P.W.-5, Dr. Virendra Kumar Mishra, who conducted the post-mortem examination, found multiple punctured and incised wounds on the bodies of Tameezan, Zahid and minor, Sahana, all caused by sharp-edged weapons, sufficient in the ordinary course of nature to cause death.
12. P.W.-6, Gyanendra Singh, Assistant Sub-Inspector, stated that he reached the spot at about 02:20 hours upon hearing gunshots. He saw a dark skinned and short height person running and saw him in torchlight. He later identified the accused Yunus in court.
13. P.W.-7 proved the inquest proceedings.
14. P.W.-8, the Additional City Magistrate, proved the test identification parade conducted on 17.06.2021, wherein the accused was correctly identified by multiple witnesses.
15. P.W.-9, the Investigating Officer, proved recovery of blood-stained soil, preparation of site plan, arrest of the accused, and recovery of the knife on the basis of disclosure statement of the appellant.
16. P.W.-10 proved the lodging of the F.I.R. and its entry in the General Diary.
17. Court Witness, Smt. Sayra Begum, stated that the accused, Yunus, is her cousin and that the deceased Zahid was her real brother, Tameezan is her mother, and Sahana is her daughter. She deposed that prior to the incident, the family lived in Delhi and Yunus frequently visited their house. She stated that Yunus had misbehaved with her sister, Shabana, which led to dispute between Yunus and Zahid. Zahid had forbade Yunus to enter his house. This, according to her, was the motive for the

crime.

18. D.W.-1, Mariyam, stated that deceased, Tameezan, was her sister-in-law (*bhabhi*). She claimed that Hanif has falsely implicated the accused in this case due to family dispute.
19. After hearing the rival submissions, going through the evidence on record and also the judgment and order of trial court, we find that in this case, there is clear motive of the crime assigned by C.W.-1, Smt. Sayra Begum, that Yunus, the appellant, has misbehaved with her sister, Shabana, which led to dispute between the appellant, Yunus and deceased, Zahid. Zahid had forbade Yunus not to enter in his house. According to her, this was the reason for Yunus to commit the alleged offence. Yunus was making pressure on sister of C.W.-1, Shabana, to marry him but the deceased, Zahid, did not agreed to the aforesaid marriage.
20. This motive coupled with the fact that the appellant was identified by the witnesses during the test identification parade proved the prosecution case.
21. The argument of the learned counsel for the appellant that Shabnam was required to be produced as witness in this case to prove the prosecution case which has not been done and therefore, the prosecution case is doubtful, is without substance. The trial court considered this argument also and has recorded the finding that during the trial, Shabnam got married and therefore, she was not produced as witness before the trial court. It is not such a finding recorded by the trial court which, keeping in view the social environment, can be said to be perverse. It is difficult to produce a married woman as witness in court since the family of her in-laws does not views, in it proper perspective.
22. The witnesses, Yakoob, Khursheed and three constables, have clearly identified the appellant during test identification parade and P.W.-8, the Magistrate, proved that he conducted the test identification parade in accordance with the procedure. The incident took place on 06.06.2021 and test identification parade was conducted on 17.06.2021 which proves that test identification parade was got conducted within 11 days of the incident.

23. Learned counsel for the appellant has not able to point out any infirmity in the procedure of test identification parade conducted by the Magistrate.
24. Learned counsel for the appellant has next submitted that statement of D.W.-1 has not been considered by the trial court.
25. We have considered the statement of D.W.-1, who has stated that Hanif and Yakoob, P.W.-1 and P.W.-3 respectively, were sons of her cousins and she knew them well. They used to visit her matrimonial home as well. The deceased were her sister-in-law (*bhabhi*) and the wife of her real brother. She also knew her son, Yunus, the appellant. According to her, her son has been falsely implicated by these persons.
26. We have considered the statement of D.W.-1, Mariyam, the mother of the appellant. We find that the appellant is closely related to the deceased, and that P.W.-1 and P.W.-3 are their nephews (*bhanja*). D.W.-1 has not stated anything in her statement as to why her son has been falsely implicated in the present case. The burden was on D.W.-1 to explain the reason as to why her son was falsely implicated in this case by P.W.-1 and P.W.-3.
27. Learned counsel for the appellant has laid much emphasis on the fact that, in the post-mortem examination, the urinary bladders of all the three deceased were found to be empty. P.W.-5, Dr. Virendra Kumar Mishra, admitted that if a person sleeps between 9:00 - 10:00 p.m. and does not urinate during the night, then at about 2:00 - 2:30 a.m. the urinary bladder should ordinarily be full. On this basis, learned counsel sought to convince us that the incident, as alleged, did not took place at about 2:00 a.m., but in the morning at about 5:00 -6:00 a.m., and that their deaths were not caused by the appellant but by some other person.
28. The argument raised appears to be hyper-technical, as the time at which the deceased went to sleep was not proved by the defence. Had they slept late in the night, their urinary bladders could have been found to be empty even at about 2:00 a.m. Moreover, fluids start collecting in the urinary bladder after filtration from the kidneys only after the food consumed at night is digested and assimilated. Therefore, the argument advanced before us by learned counsel for the appellant lacks force and is hereby turned down.

29. We find that the trial court has rightly convicted and sentenced the appellant for committing the offence of triple murder.
30. The judgment and order passed by the trial court deserves to be confirmed and is hereby confirmed.
31. The criminal appeal is dismissed.
32. Let the trial court record, along with a certified copy of this judgment, be returned to the trial court forthwith for necessary compliance.

January 22, 2026
Rohit

(Jai Krishna Upadhyay,J.) (Siddharth,J.)