



2026:AHC:32734-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2071 of 1989

Sarbhan Singh And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Rakesh Kumar Rathore, Sanjeev Kumar
Counsel for Respondent(s)	:	A.G.A.

Court No. - 42

**HON'BLE SIDDHARTHA VARMA, J.
HON'BLE CHAWAN PRAKASH, J.**

1. This appeal has been filed against the judgment and order dated 17.10.1989, passed by the Additional Sessions Judge, Etah, in Sessions Trial No. 370 of 1987, convicting and sentencing the appellant no. 1, Sarbhan Singh, under Section 302 of the Indian Penal Code to life imprisonment, and appellant no. 2, Vijai Singh, under Section 211 IPC for executing a personal bond of Rs. 2,000/-, in default of which he would serve a term of three years' rigorous imprisonment.

2. Following an incident that took place on 14.10.1986, a First Information Report was lodged by Vijai Singh, stating that the widow of one Baburam, a carpenter, was being harassed by the person named in the FIR, namely Mataroo. When Ram Chandra Singh, the brother of the first informant, warned Mataroo not to harass Baburam's widow, Mataroo, along with his brother Rajveer, came to his house armed with a licensed gun and killed Ram Chandra Singh. The first informant stated in the FIR that he and his sons, Anangpal Singh and Sarban Singh, were present at the place of the incident. Upon their raising a hue and cry, many villagers assembled at the scene. The FIR also mentioned that the house of Mataroo and Rajveer was in the neighborhood of the first informant's jhopadi (hut). Additionally, the informant stated that, by the light of a lantern, they recognized Mataroo and Rajveer as the individuals who came to their house and killed Ram Chandra Singh.

3. Upon investigation following the lodging of the FIR, the police

collected a spent 12-bore cartridge from the spot. They also collected plain soil and soil stained with blood. The Investigating Officer recovered a piece of wood with blood on it. The cot on which the deceased was sitting was also recovered, and recovery memos for these articles were prepared. Subsequently, a panchayatnama was conducted on the following day, i.e., 15.10.1986. This was followed by a post-mortem examination. The police obtained evidence from numerous individuals and ultimately filed a charge sheet against Vijai Singh, Anangpal Singh, and Sarbhan Singh as accused in this case. Vijai Singh was the first informant, and Anangpal Singh and Sarbhan Singh were his sons. Upon the charge sheet reaching the Court on 3.6.1988, the three accused were charged by the Court under sections 302 and 211 of the Indian Penal Code.

4. Since the police essentially altered the case by naming the first informant, Vijai Singh, as an accused along with his sons Anangpal Singh and Sarbhan Singh, the prosecution witnesses presented were Mataroo as PW-1 (the accused in the FIR lodged by Vijai Singh), Atar Singh as PW-2, Raj Pal as PW-3, and Guleshar as PW-4. These individuals were alleged eyewitnesses to the incident and witnesses of fact.

5. In his examination-in-chief, PW-1 stated that he knew Ram Chandra Singh, who had a brother—the first informant Vijai Singh (now an accused), who appeared in court along with his two sons (also accused). He further stated that Vijai Singh had three sons: Balram Singh, Anangpal Singh, and Sarbhan Singh. PW-1 mentioned that Ram Chandra Singh owned some agricultural fields, which he intended to give to Balram Singh, excluding the other two sons, Anangpal Singh and Sarbhan Singh. Due to this intention, verbal altercations frequently occurred among the deceased Ram Chandra Singh, Anangpal Singh, and Sarbhan Singh. The two sons, Anangpal Singh and Sarbhan Singh, were consistently supported by their father, Vijai Singh. He stated that on the night in question, at approximately 11:00 to 11:30 PM, he was sleeping in the house and the adjacent house were separated only by a wall. He stated that Ram Chandra Singh, Balram Singh (one of Vijai Singh's sons), and Vijai Singh along with his other two sons, Anangpal Singh and Sarbhan Singh, were living in the same house but separately. On the fateful night,

he reported hearing the accused shouting and abusing. He also heard Vijai Singh asking Ram Chandra Singh to give equal shares of his property to all three of his sons. Upon hearing this shouting, he, Rajveer, and his wife Rama Devi went onto the roof. From there, they observed a verbal altercation, during which Vijai Singh asked Sarbhan Singh to bring his gun. Following Vijai Singh's direction, Sarbhan Singh ran to get the gun and then killed Ram Chandra Singh using it. He further stated that at that time, Babu Singh, Atar Pal Singh, and Chhotey Lal witnessed the incident. He later stated that he came to know that Vijai Singh had falsely implicated Mataroo and Rajveer in the case. The motive he gave was that there was enmity between Mataroo and his brother with Vijai Singh due to the wall separating the two houses. During cross-examination, he stated that he and Rajveer were real brothers. Their grandfather was Judai Singh, who was the son of Narayan Singh. Narayan Singh's brother was Kallu Singh. Kallu Singh had two sons: Khushal Singh and Sarnam Singh. Khushal Singh's sons were Babu Singh and Lakhan Singh. He stated that it was this Babu Singh who was present at the scene and named him as an eyewitness. However, Babu Singh died after the incident. He then stated that Atar Pal was the other eyewitness he had mentioned, and Atar Pal was the son of Lakhan. He further stated that Sarnam Singh's son was Soham Singh, whose son was Raj Pal, and Raj Pal was also an eyewitness. In cross-examination, he stated that the widow of Ram Babu, the carpenter, was Ram Beti, and it was incorrect to say that, on that night, he had harassed Ram Beti in any manner. He also stated that it was incorrect to say that Ram Chandra Singh and Vijai Singh scolded him regarding the harassment of Ram Beti. He further stated that the report incorrectly stated that he had harassed Ram Beti. He stated that, to his knowledge, the statement of Ram Beti was never recorded by the police. Thereafter, upon a specific question being asked as to whether there was any case, any paperwork, or any evidence regarding a dispute concerning the wall between the houses of the accused and the informant, he stated that no case was pending concerning the wall; however, there had been two panchayat meetings regarding it. He then stated that there had been a report, etc., at the police station, but he had no papers related to the dispute over the wall. He further stated that he had seen Ram Chandra Singh sitting on the cot at the time of the incident. From the roof, where

he had witnessed the incident, he noted that at that time, he himself, Rajveer Singh, and Rajveer's wife were present and that no other persons were there. In his cross-examination, he stated that he had never read the FIR lodged by Vijai Singh. He confirmed that what he had stated was also corroborated by Babu Singh, Atarpal, Rajveer Singh, Rajpal Singh, Ant Ram, Guleshar, and others. Subsequently, he said that he learned for the first time about a report against him when the police informed him. He stated that, although he did not have a licensed gun, his brother Rajveer possessed one.

6. PW-2 is Atar Singh. He stated that his father's name is Ram Singh. He further mentioned that on the date of the incident, at around 11:00 PM, he was at his house. Upon hearing a verbal altercation at the house of Ram Chandra Singh, he went there and found Vijai Singh telling Ram Chandra Singh that all three sons should be considered equal and questioned why Balram Singh was being given more property. Ram Chandra Singh replied that he would distribute his property as he saw fit. At that point, Atar Singh stated that he saw Vijai Singh ask his sons to bring his gun. Sarbhan Singh, following this direction, ran to get the gun and fired at Ram Chandra Singh, which caused his death. He then stated that he returned to his house. At the time the incident occurred, he also stated that Gulsher, Rampal Singh, and Babu Singh were present. During cross-examination, he stated that the chowkidar was present on the date of the incident but that he had not informed the chowkidar about The incident involved Rajpal Singh, Gulsher, and Babu Singh, who were standing alongside him. He stated that in his house lived his mother, his younger brother Satyapal Singh, his wife, and the wife of Satyapal Singh. He further stated that to the south of his house was the residence of Rajveer Singh, where Mataroo also lived. He mentioned that during the verbal altercation, neither Gulsher nor he himself intervened to prevent further escalation. He stated that when Ram Chandra Singh was shot, he did not attempt to apprehend the accused persons nor did he file any report. He acknowledged that he was aware that Vijai Singh had filed a report against Rajveer and Mataroo; he learned this on the third day following the incident. Despite this knowledge, he did not report it to the police.

7. PW-3, named Rajpal, testified that his father's name was Pope Singh.

He stated that he knew Vijai Singh, Anang Pal Singh, and Sarbhan Singh, and was also acquainted with Ram Chandra Singh. He further stated that Vijai Singh and Ram Chandra Singh were among four brothers: Sonpal Singh, Phool Singh, Ram Chandra Singh, and Vijai Singh. He testified that he had gone to Mataroo's house on the day in question for farming-related matters. Upon arrival, Ram Chandra Singh, Vijai Singh, Anang Pal Singh, and Sarbhan Singh were conversing. Around 11:00 PM, Sarbhan Singh asked Ram Chandra Singh why he had not distributed his property equally among the three brothers. Ram Chandra Singh responded that it was his choice and that he would distribute his property as he saw fit. At this, Sarbhan Singh reportedly stated, according to PW-3, that if the property was not distributed equally among the three brothers, he would kill Ram Chandra Singh. Subsequently, Vijai Singh asked Anang Pal Singh to fetch the gun. Anang Pal Singh then went to the house, retrieved the licensed gun, handed it over to Sarbhan Singh, who then shot Ram Chandra Singh dead. PW-3 also stated that he heard the accused say, "Let him die, and a report will be lodged against Mataroo." He identified Mataroo, Rajveer Singh, Atar Pal Singh, and Gulsher Singh as eyewitnesses. Upon cross-examination, he He had stated that his grandfather's name was Sarnam Singh. Sarnam Singh's real brother was Khushal Singh, who was the son of Kallu. Khushal Singh's son was Babu Singh, who was an eyewitness in the case. Atar Pal, who was also an eyewitness, was the nephew of Babu Singh. He stated that Kallu Singh's brother was Narayan Singh. He further stated that Thakuri Singh was the grandson of Narayan Singh and that Thakuri Singh's sons, Mataroo and Rajveer, are the eyewitnesses in the case. He mentioned that he was not aware of the report lodged by Vijai Singh against Mataroo and Rajveer. He had stated that until his statement was recorded, he had not known of any FIR being lodged, and that he had given his statement to the police that he had gone to Mataroo's house for personal work. He again stated that, while giving his statement to the police, he mentioned that Sarbhan Singh was seen by him saying to Ram Chandra Singh that if he did not divide the property equally among the three brothers, he would be shot dead. He had nominated Babu Singh, Atar Pal, Chhotey, and Gulsher as eyewitnesses at the relevant time. He stated that he had seen the entire incident from Mataroo's courtyard, and that the wall separating the houses

of Vijai Singh and Mataroo was approximately 1.15 yards high, allowing him to see what was happening on the other side.

8. PW-4 Gulsher, who had been nominated as an eyewitness by PW-2 Atar Singh and PW-3 Rajpal Singh, however, turned hostile in court. In his cross-examination, he stood by what he had stated in his examination-in-chief.

9. PW-5 is Dr. S.R. Gupta, who conducted and proved the post-mortem examination. He described the injuries on the deceased's body as follows:

"1. One firearm entry wound measuring 2.5 cm x 2.5 cm, through and through, corresponding to injury no. 2 on the left side of the abdomen. Blackening present.

2. Seven firearm exit wounds in an area of 11 cm x 9 cm on the right side of the abdomen in the lumbar region. The direction was from left to right, slightly downward.

3. Abrasion measuring 3 cm x 1 cm on the front of the right inguinal region."

10. PW-6, the Investigating Officer Surendra Singh Daigari, after proving the chik report, stated the manner in which he had conducted the investigation. He also proved all the exhibits.

11. PW-7 was Ram Beti, the widow of Ram Babu, who was alleged to have been harassed by Mataroo in the FIR lodged by Vijai Singh. She gave her statement before the Court and stated that nothing as mentioned in the FIR lodged by Vijai Singh had occurred on the day preceding the fateful night.

12. Thereafter, a defense witness, namely the lawyer Rajendra Kumar Sharma, was produced. He stated that, in fact, the affidavit given by Ram Beti before the Court was sworn in his presence.

13. Subsequently, the statements of the accused were recorded under Section 313 Cr.P.C. Upon completion of the trial, the Ist Additional Sessions Judge, Etah, on 17.10.1989, sentenced Sarbhan Singh to rigorous imprisonment for life under Section 302 of the Indian Penal Code and convicted Vijai Singh under Section 211 IPC. The instant appeal was

thereafter filed. It may be noted that Anang Pal Singh was acquitted.

14. Learned counsel for the appellants failed to appear on various occasions; therefore, we appointed Ms. Gunjan Sharma as Amicus Curiae to argue the appeal. She presented the case before us and made the following submissions:

(i) PW-1, Mataroo, in his statement-in-chief as well as in cross-examination, categorically stated that on the date of the incident, from the roof of his house, he witnessed the incident. Along with him, his brother Rajveer and his wife Rama Devi were also present. He stated that Rajveer and Rama Devi were not examined. He then nominated Babu Singh, Atar Pal Singh, and Chhotey Lal as eyewitnesses. Babu Singh died during the trial. One Atar Pal Singh, whom PW-1 identified as the son of Lakhan, appeared and stated that he was Atar Singh and that his father's name was Ram Singh.

(ii) Learned counsel for the appellant further submitted that PW-1 had meant that Atar Pal Singh, the son of Lakhan, had witnessed the incident. Incidentally, PW-2, who appeared in the witness box, was Atar Singh, who, according to him, was the son of Ram Singh. Learned counsel for the appellant therefore states that PW-2 was a figment of the imagination of PW-1 and that, in fact, no witness by the name of Atar Pal Singh was present at the time of the incident. Therefore, learned counsel argues that since the presence of Atar Pal Singh was falsified, and when the wife Rama Devi and Rajveer, the brother, had not appeared in the witness box, it is, in all probability, that PW-1 himself was also not present and that only to falsely implicate the appellants, PW-1 appeared as an eyewitness.

(iii) Further, learned counsel for the appellants submitted that PW-1 had presented a pedigree wherein he stated that his grandfather's name was Judai, and Judai's father was Narayan Singh. Narayan Singh's brother was Kallu, and Kallu had two sons, namely Khushal Singh and Sarnam Singh. Khushal Singh had two sons, namely Babu Singh and Lakhan Singh. PW-1 then stated during cross-examination, while explaining his family pedigree, that Lakhan had a son named Atar Pal Singh. Further, while giving the pedigree, he stated that Sarnam had a son named Soham Singh, and Soham Singh had a son named Rajpal. Learned counsel for the

appellant stated that Rajpal appeared in the witness box and testified that he was the son of one Pope Singh, which differs significantly from the pedigree PW-1 presented. Learned counsel further stated that when a false case is brought by introducing a person not connected with the pedigree—i.e., when Rajpal, who according to PW-1 was the son of Soham Singh, was not produced, but instead a Rajpal, son of Pope Singh, was presented—the case as brought by PW-1 becomes falsified. As previously stated, when PW-1 states a falsity, it can be concluded that PW-1—Mataroo—was, in fact, not present and was thus stating falsehoods.

(iv) Furthermore, learned counsel for the appellant submitted that PW-1—Mataroo—stated that, in his presence, the bullet was fired by Sarbhan Singh, and that this occurred in the presence of Atar Pal Singh; whereas PW-2, in his statement-in-chief (page 27 of the paper book), stated that PW-2—Atar Singh—had reached the spot upon hearing the gunshot, meaning thereby that he was not at the spot as PW-1 had stated.

(v) Furthermore, learned counsel for the appellant states that PW-2 had categorically stated that he saw the first informant, Vijai Singh, asking Ram Chandra Singh to distribute his property equally among the three sons. However, PW-3, in his examination-in-chief as well as in cross-examination, stated that it was Sarbhan Singh whom he saw asking Ram Chandra Singh to distribute his property equally among the three sons.

(vi) Learned counsel for the appellant submitted that Gulsher, who has been commonly nominated as an eye-witness by all three prosecution witnesses—namely, Mataroo, Atar Singh, and Rajpal, who were witnesses of fact and eye-witnesses—had turned hostile.

(vii) Learned counsel for the appellant, in view of the submissions made above, therefore stated that the prosecution's case becomes doubtful. She further submitted that, in fact, neither Mataroo nor PW-2 Atar Singh nor Rajpal Singh was present.

15. Learned AGA Sri Muni Raj Mehrotra opposed the appeal and argued vehemently that, since there were four eye-witness accounts, it was unreasonable to disbelieve and lightly dismiss these accounts. He

submitted that minor contradictions in the evidence would not be significant, and therefore, need not be given much importance.

16. Having heard Ms. Gunjan Sharma, learned Amicus Curiae, and learned AGA Sri Muni Raj Mehrotra, we find that PW-1 Mataroo initially nominated Babu Singh, Atar Pal Singh, and Chhotey Lal as eye-witnesses. Babu Singh had died during the trial. Chhotey Lal did not appear in the witness box. Atar Pal Singh, according to cross-examination, was named as the son of Lakhan; however, in the witness box, he stated that he was in fact the son of Ram Singh. We also find that PW-2 specifically nominated Rajpal Singh as an eye-witness and stated that Rajpal Singh was the son of Soham Singh. This fact was also stated by PW-1 in his cross-examination, but we find from the statement recorded from Rajpal (PW-3) indicates that he had not given his name as Rajpal Singh but had identified himself simply as Rajpal and had provided his father's name as Pope Singh. We, therefore, find that the prosecution witnesses who claimed to be eyewitnesses and witnesses of fact were, in fact, not present and were merely attempting to fabricate evidence. Furthermore, we note a significant contradiction in the statements. PW-1, Mataroo, stated that he heard Vijai Singh engaged in an altercation with Ram Chandra Singh regarding the distribution of property. In contrast, PW-3 stated that he heard from a very short distance that Sarbhan Singh was fighting with Ram Chandra Singh over the distribution of property among the three children of Vijai Singh. This contradiction is not minor; it goes to the root of the matter. Whether PW-1, Mataroo, actually witnessed the incident, and whether the facts he narrated in his examination-in-chief and cross-examination were corroborated by PW-3, remains to be determined. Given that PW-1's statements were not supported by other prosecution witnesses, particularly PW-3, we conclude there is a major contradiction that cannot be overlooked. We also find that there was only one entry wound from the firearm discharge committed by Sarbhan Singh. None of the witnesses stated that the accused fired twice. PW-2 testified that he arrived at the scene after hearing a gunshot, but according to him, the accused fired another shot thereafter. This claim of a second shot remains unexplained.

17. In view of the foregoing, we are of the opinion that the case presented

by the prosecution is thoroughly doubtful. Therefore, we hold that the appellant, Sarbhan Singh, who is presently alive, deserves to be acquitted of the charges.

18. Accordingly, the appeal is allowed vis-à-vis the appellant Sarbhan Singh, the only surviving appellant. He is acquitted of all charges. With respect to appellant Vijai Singh, who is reported to be deceased, the appeal against him has already been abated.

19. We acknowledge the diligent efforts of the Amicus Curiae and assess her fee at Rs. 25,000/-, payable to her by the Legal Services Authority. The Registrar General of this Court may oversee the payment.

(Chawan Prakash,J.) (Siddhartha Varma,J.)

February 13, 2026

PK