



2026:AHC:28757-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL U/S 413 BNSS No. - 76 of 2026

Sundari Devi

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Rajendra Prasad Tiwari, Vinay Kumar Tiwari, Vineet Tiwari
Counsel for Respondent(s)	:	G.A.

Court No. - 43

HON'BLE SALIL KUMAR RAI, J.
HON'BLE DR. AJAY KUMAR-II, J.

1. Heard learned counsel for the appellant, learned A.G.A. for the State-respondent and perused the material available on record.
2. This is an appeal under Section 413 BNSS, filed by the first informant i.e. the mother of deceased against judgment and order of acquittal dated 26.11.2025 passed by Additional District and Session Judge/ Special Judge (SC/ST, Act) in Session Trial No.102 of 2024 (State Vs. Shiv Kumar Pal), under Section 364, 302, 201 IPC, P.S. Madhavgarh, District Jalaun.
3. The prosecution case as narrated in the First Information Report is that at 06:30 PM on 11.05.2024 the deceased was last seen talking with the accused by the mother of the deceased who is the appellant. The mother of the deceased the first informant. It has been stated in the First Information Report that the deceased went missing after that. The First Information Report has been registered at 01:53 PM on 12.05.2024. It is the case of the prosecution that when the accused was arrested he disclosed that he had pushed the deceased in the river, because of which she drowned. According to the prosecution, the dead body was recovered from the river and was sent for postmortem. The postmortem report discloses that death was by drowning. Chargesheet was filed and the case was committed for trial to Sessions Court whereupon Session Trial No.102 of 2024, under Section 364, 302, 201 IPC was registered against the accused. The accused denied the charges and claimed the trial.

4. Apart from the first informant, the prosecution also examined Man Singh and Sarnam Singh as eye-witnesses, who deposed that they had last seen the deceased with the accused going towards the river. Other witnesses who are formal witnesses were also examined and proved the documents collected and prepared during the investigation.

5. It is to be noted that the defence not only denied the charges, but also examined two witnesses DW-1 and DW-2 who deposed that the deceased and the accused belonged to the same family and there were some dispute between them regarding partition of property.

6. The Trial Court acquitted the accused after noticing that there were major inconsistencies between the evidence of different prosecution witnesses regarding the time at which the dead body was recovered from the river. The diver (Gotakhor) who recovered the body, states that the body was recovered at 11:05 PM on 11.05.2024. The other witness PW-3 states that the body was recovered at 04:00AM on the next day, and PW-2 examined by the prosecution states that the body was recovered at quarter to 08:00 in the morning of the next day. The trial Court also noticed that GD-19 disclosed that the accused was taken in custody at 06:00 AM in the morning of 12.05.2024 i.e. after the body was recovered from the river if the testimony of the diver (Gotakhor) and PW-3 is to be believed, but before the First Information Report was registered. The trial Court has also taken note of the fact that GD-19 which was prepared at 10:37 AM on 12.05.2024, showed that Case Crime No.75 of 2024 under Section 363 Indian Penal Code was initially registered before the First Information Report was registered at 01:53 PM.

7. The aforesaid facts raise a reasonable doubt on the prosecution case and the trial Court after considering the aforesaid aspects has held that that prosecution had not been able to prove beyond doubt, even the circumstances that the deceased was last seen with the accused. The inconsistencies referred above raise doubts regarding the status of PW-1, PW-2 and PW-3 as eye witness to the claim of the prosecution that deceased was last seen with the accused.

8. The narration of facts as given above do show that the prosecution

failed to prove its case beyond doubt. We do not find any perversity or any other error in the opinion of the trial Court, so as to re-examine the evidence in appeal. For the aforesaid reasons, the appeal lacks merit and is **dismissed** summarily.

9. The file be consigned to record after certifying the judgment of this Court to the trial Court.

February 10, 2026

Ashish/-

(Dr. Ajay Kumar-II,J.) (Salil Kumar Rai,J.)