

Reserved on : 13.10.2025
Delivered on : 13.01.2026



2026:AHC:7719-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL APPEAL No. - 284 of 1984

Ram ChandraAppellant(s)
Versus
State of U.P.Respondents(s)

Counsel for Petitioners(s) :Anuj Bajpai, Kalpana Sagar, Radhey
Shyam Shukla, Ram Krishna
Mishra, S.A.Shah, Santosh Kukmar
Tiwari
Counsel for Respondent(s) Dga

with
CRIMINAL APPEAL No. - 432 of 1984
SonpalAppellant(s)
Versus
State of U.P.Respondents(s)

Counsel for Petitioners(s) Kalpana Sagar, R.L. Verma, Ram
Krishna Mishra, Santosh Kukmar
Tiwari
Counsel for Respondent(s) A.G.A.

Court No. - 43

HON'BLE SALIL KUMAR RAI, J.
HON'BLE DIVESH CHANDRA SAMANT, J.
(Delivered by Hon'ble Divesh Chandra Samant, J.)

Introduction: The Genesis of the Appeal

1. The present Criminal Appeals has been filed under Section 374 (2) of the Code of Criminal Procedure, 1973 challenging the judgment and order dated 25.01.1984, passed by the learned Vth Additional Judge, Shahjahanpur, in Sessions Trial No. 91 of 1983, arising out of Case Crime No. 430 of 1982, under Sections 302,302/34,394 IPC, Police Station- Tilhar, District- Shahjahanpur.

2. By the impugned judgment, the Appellants were convicted and sentenced as follows:

Name of accused : Ram Chandra		
Act	Section	Sentence Imposed
IPC	302/34	Life Imprisonment
IPC	394	Three years rigorous imprisonment.

Name of accused : Sonpal		
Act	Section	Sentence Imposed
IPC	302/34	Life Imprisonment
IPC	394	Three years rigorous imprisonment.

Name of accused : Maiku		
Act	Section	Sentence Imposed
IPC	302	Life Imprisonment
IPC	394	Three years rigorous imprisonment.

All sentences were directed to run concurrently.

3. The accused Maiku had challenged his conviction by filing **Criminal Appeal No. 641 of 1984** and accused Maiku has expired during pendency of appeal, consequently, **Criminal Appeal No. 641 of 1984** was declared to have **abated** vide order dated 21.10.2022.

Prosecution Case: The Allegations

4. Briefly, the prosecution alleges that on the night of **December 16/17, 1982**, around 2:00 a.m., complainant **Jaswant** of village Dhinguriya Talib (P.S. Tilhar) heard cries of 'chore-chore' (thief-thief) coming from the nearby hut of **Rampa**. Jaswant, his son **Hariram**, and witnesses **Bhimsen, Umrav Singh, and Shrikrishna** rushed to the scene. Near the hut, they saw the three accused—**Ram Chandra, Maiku, and Senpal**—emerging, armed with a country-made pistol and a gun, and identified them by torchlight. When the witnesses tried to apprehend them, the accused challenged them. Accused **Maiku fired a shot**, hitting and injuring Hariram, who fell to the ground. The accused then fled, having stolen a silver 'khagoria' and golden earrings from Rampa's daughter, **Buddho**. Jaswant transported his injured son, Hariram, and injured Buddho to the Police Station in a bullock cart, where the **FIR (Ex. Ka-1)** was lodged on December 17, 1982, at 6:30 a.m. under Sections **394/307 IPC** (Robbery/Attempt to Murder). The victims were sent to the Hospital. The doctor subsequently declared Hariram **dead**. Consequently, the case was converted to one under Sections **394/302 IPC** (Robbery/Murder) at 7:40 a.m.

Proceedings Before the Trial Court

Investigation and Medical Findings:

5. The investigation was assigned to S.I. Babu Singh (PW-7). He recorded the complainant's statement at the police station. He then visited the place of occurrence with the complainant and Smt. Buddho, recording their statements and conducting a local inspection.

Actions and recoveries made by the S.I.:

- **Site Plan**: Prepared the site plan (Ex. Ka-8).
- **Recovery**: Recovered blood-stained and plain brickbats from the scene (Memo Ex. Ka-9).

- Seizure: Seized the torches belonging to the complainant and witnesses Umrao, Bhim Singh, and Shrikrishna (Memo Ex. Ka-10).
- Statements: Recorded statements of Shrikrishna, Smt. Rampa, and Umrao Singh.
- Medical Referral: Sent the victims to the hospital for examination.

Medical Examination of Smt. Buddho

Dr. A.K. Bapna (PW-5) examined Smt. Buddho on December 17, 1982, at 10:30 a.m. (Injury Report Ex. Ka-7).

- Injury Found: A lacerated wound (1.00 cm x 0.5 cm x skin deep) on the upper end of the left ear.
- Nature: The injury was declared simple and caused by a blunt object, estimated to be 1/3 day old.

Postmortem Examination of Hariram (Autopsy Findings and Cause of Death)

Hariram was declared dead. Inquest proceedings were conducted, resulting in the preparation of the Inquest Report (Ex. Ka-2), Diagram (Ex. Ka-3), and documents for postmortem examination (Ex. Ka-4 to Ex. Ka-6). The body was sealed and sent for autopsy.

Dr. D. K. Shrivastava (PW-8) performed the autopsy on December 17, 1982, at 3:45 p.m. (Postmortem Report Ex. Ka-11). Rigour mortis was present.

The following twelve ante-mortem gunshot wounds were found on the deceased's person, primarily concentrated on the head and upper torso, all described as small (0.2 cm x 0.2 cm) and lacking tattooing:

Injury No.	Location and Depth
1	Small-gunshot wound 0.2 cms x 0.2 cms x muscle deep over right side of fore-head 4 c.ms. above right eye brow. No tattooing,

Injury No.	Location and Depth
	circular.
2	Small-gunshot wound 0.2 cms x 0.2 cms x muscle deep over right side of fore-head 3 cms above outer part of right eye brow. 1 cms below and lateral to injury No.1, no tattooing, circular
3	Five small-gunshot wounds in area of 5 cms. x 3 c.ms. over the right side of the head each of size 0.2 cms x 0.2 cms x brain deep. 8 c.m. above right ear.
4	Small-gunshot wound 0.2 cms x 0.2 o.m. x muscle deep over the right side of the forehead just above medial angle of right the eye brow, rounded, no tattooing.
5	Small-gunshot wound 0.2 cms x0.2 cms x muscle deep 2 cms above the bridge of the nose, rounded, no tattooing.
6	Two small-gunshot wounds over the middle of the right upper eyelid size 0.2 cms x 0.2 cms x cornea lacerated, rounded, no tattooing
7	Two small-gunshot wounds 0.2 cms x 0.2 cms x muscle deep over the right cheek just above the right angle of the mouth, rounded, no tattooing.
8	Small-gunshot wound 0.2 cms x 0.2 cms x muscle deep over the left cheek just above left ala of the nose, rounded, no tattooing.
9	Small-gunshot wound over the left upper eyelid 0.2 cms x 0.2 cms x skin deep just above the medial angle of eye, rounded, no tattooing.
10	Small-gunshot wound 0.2 cms x 0.2 cms x muscle deep over the top of the right shoulder, rounded, no tattooing.
11	Small-gunshot wound 0.2 cms x 0.2 cms x muscle deep over the right side of the chest (8 cms above the right nipple), rounded, no tattooing.
12	Small-gunshot wound 0.2 cms x 0.2 cms x skin deep over the medial end of the left collar bone, rounded, no tattooing.

Internal Examination of Hariram:

During the internal examination of Hariram's body, the surgeon found significant injuries corresponding to the external gunshot wounds:

- Head Injuries: The muscles of the scalp under injuries 1-3 were congested. The right parietal bone under injury No. 3 was fractured. The membranes beneath injury No. 3 were congested and lacerated, with two small pellets found over the right base of the membranes. The brain under injury No. 3 was lacerated and congested, and sixteen metallic pellets were recovered from the brain matter.
- Other Findings: The cornea was lacerated, and there was vitreous haemorrhage under injury No. 6. Both lungs were congested.
- Viscera: The stomach contained 25 grams of undigested food. The liver, spleen, and kidneys were congested.
- Recovered Evidence: The surgeon sealed a total of 18 pellets in an envelope and sealed the deceased's underwear and vest, handing them over to the constable.
- Cause of Death: In the surgeon's opinion, death was caused by coma resulting from the ante-mortem injuries.

Charges and Trial Commencement:

6. Following the completion of the investigation, the Investigating Officer submitted the charge-sheet against the accused.

- Charges Framed (23-3-83):
 - Ram Chandra and Sonpal: A *prima facie* case was found under Sections 394,302/34 IPC (Robbery, Murder in furtherance of Common Intention).
 - Maiku: A *prima facie* case was found under Sections 394/302 IPC (Robbery, Murder).
- Plea: The accused pleaded not guilty to the charges and elected to stand trial.

Evidence Adduced by the Prosecution:

Documentary Evidence:

The prosecution presented the following key documents (Exs):

- **Ex. Ka-1:** First Information Report (FIR)
- **Ex. Ka-2 to Ka-6:** Inquest Report and associated documents (Diagram Photo-nash, Challan-nash, Sample Seal, Letter for Postmortem)
- **Ex. Ka-7:** Injury Report of Buddho
- **Ex. Ka-8:** Site Plan
- **Ex. Ka-9 & Ka-10:** Memorandum of the recovery of brickbats and the seizure of torches
- **Ex. Ka-11:** Autopsy (Post-mortem) Report of Hariram
- **Ex. C-1 & C-2:** General Diary (G.D.) Extracts

Witness Testimony:

The prosecution produced the following key witnesses:

Witness Type	Name/Designation	PW-No.
Complainant/ Informant	Jaswant	PW-1
Eye Witness	Umrao	PW-2
Injured Witness	Buddho	PW-3
Police Officer	S.I. (Anand) Prakash	PW-4
Medical Examiner	Dr. A.K. (Bapna) (Buddho's exam)	PW-5
	(Kripal)	PW-6
Investigating Officer	I.O. Babu Singh	PW-7
Autopsy Doctor	Dr. K. K. Shrivastava	PW-8
Court Witness	C.O. P.N. Shukla	C.W. 1

The Appellant(s), in their statements under Section 313 Cr.P.C., denied the allegations and pleaded false implication. No evidence was led in defence.

Submissions of the Counsel for the Appellant(s)

7. The learned counsel for the appellants assails the judgment of conviction primarily on the following grounds:

- **Procedural Infirmary and Delayed FIR:** It is contended that the First Information Report (FIR), being predicated solely on oral information and subsequently altered from Section 307 to Section 302 IPC via a mere memorandum, lacks the requisite legal sanctity. Furthermore, there exists an inordinate and unexplained delay in the registration of the FIR, which suggests a colored version of the event and an opportunity for deliberation and concoction.

- **Evidentiary Contradictions:** The appellants submit that the prosecution's case is built upon unsustainable evidence, riddled with material contradictions. The ocular testimonies of **PW-1, PW-2, and PW-3** are purportedly inconsistent, failing to inspire the confidence of the Court or meet the rigorous standard of proof beyond a reasonable doubt.

- **Failure to Establish Motive and Suspicious Recoveries:** It is argued that the prosecution has failed to establish any credible motive for the crime. Moreover, the recovery of blood-stained brickbats and the alleged seizure and *supurdagi* (temporary custody) of torches are shrouded in suspicion, appearing to be an evidentiary after-thought rather than a genuine investigative discovery.

- **Perversity in Appreciation of Evidence:** The learned Trial Court is said to have erred significantly in its appreciation of the evidence, failing to observe that the prosecution's narrative is untrustworthy and internally contradictory. By ignoring these

patent defects, the Trial Court deprived the accused of the 'benefit of doubt'—a fundamental tenet of criminal jurisprudence.

- **Disregard for defence Version and Section 313 CrPC Statements:** The appellants contend that the Trial Court acted illegally by disregarding the statements recorded under **Section 313 CrPC**. These statements highlight deep-seated enmity and provide a plausible alternative narrative: that the deceased was murdered by the brothers of the injured witness, Buddho, due to an illicit relationship, and that the appellants have been victimized by false implication.

- **Misapplication of Legal Principles:** In summation, it is submitted that the findings of the Trial Court are contrary to the weight of the evidence on record and represent a manifest error of law. The conclusion of guilt is unsustainable, and the impugned judgment, being plagued by illegality and perversity, warrants the intervention of this Court to be set aside in the interest of justice.

Submissions of the Counsel for the State/Respondent

8. Per contra, the learned Additional Government Advocate (AGA), appearing for the State, has vehemently countered the appellants' contentions, asserting that the judgment of conviction is anchored in the steadfast and credible testimonies of the ocular witnesses. It is submitted that the prosecution's case rests upon the formidable evidence of **PW-1, PW-2, and PW-3**, whose reliability remains unimpeached. Particular emphasis is placed on the status of **PW-3 as an injured witness**; under the settled principles of criminal jurisprudence, the testimony of an injured witness carries a unique cachet of veracity, as their presence at the scene is indelibly etched by their own wounds.

9. The learned AGA further contends that the presence of the eyewitnesses at the *locus in quo* was entirely natural, as they were the immediate neighbors and residents of the vicinity. These witnesses consistently identified all three appellants emerging from Rampa's

hutment, thereby establishing a direct and unbroken link to the crime. In light of such compelling direct evidence, the State argues that the establishment of motive is secondary; nevertheless, a clear motive 'the shared intent to commit robbery has been unequivocally proven. The transition from the violent dispossession of Smt. Buddho's ornaments to the fatal shooting of Hariram demonstrates a continuous criminal transaction executed in furtherance of their common intention. Consequently, the State maintains that every essential ingredient of the offenses has been proven beyond a reasonable doubt. The Trial Court's findings are categorized as meticulously reasoned and legally sound, warranting no interference by this Court in the exercise of its appellate jurisdiction.

Findings of Trial Court

10. The learned trial court held that the defence did not challenge the opinion of P.W.8, Dr. K.K. Srivastava, regarding the timing of death as recorded in the post-mortem report, and therefore such opinion stood admitted. Relying upon the judgment of *State of Himachal Pradesh v. Thakur Das and others*, reported in 1982 Cr.L.J. 1694, the court observed that when a statement of fact made by a witness is not challenged in cross-examination, it must be deemed to have been accepted by the defence. The medical evidence, including the presence of rigor mortis and internal findings, was found to be consistent with the prosecution version regarding the time of occurrence.

11. The learned trial court further found that the deceased was declared dead by the doctor and that a death memo was deposited at the police station by Constable Ram Prakash at 07:40 A.M., which was duly entered in the General Diary at Serial No.14 vide Exhibit-C2. The testimony of P.W.7, Investigating Officer Babu Singh Yadav, was accepted to the effect that on receipt of the death memo the case was converted from Sections 394/307 IPC to Section 302 IPC. The court rejected the defence objection regarding absence of the Investigating Officer's signature on the G.D. entry, holding that no statutory provision

requiring such signature was pointed out and that the defence failed to cross-examine the witness regarding other G.D. entries before or after the conversion of the offence.

12. The learned trial court also repelled the defence suggestion that the FIR was ante-timed or prepared after spot inspection and consultation. It was noted that P.W.7 had specifically denied these suggestions in his cross-examination and that the defence failed to produce any objective material to substantiate its claim. The injury report of P.W.3 Smt. Buddho (Exhibit-Ka-7), prepared on the reverse of the police report sent to the P.H.C, Tilhar, was found to be duly proved and remained undisputed, thereby demolishing the defence theory that the FIR was not reduced into writing until the evening of 17.12.1982.

13. The court further held that there was no inordinate delay in lodging the FIR and that the prompt lodging thereof lent assurance to its authenticity and truthfulness. The lacerated injury on the ear of Smt. Buddho, as found by P.W.5, Dr. A.K. Bapna, was held to be a corroborative circumstance supporting the prosecution allegation of forcible snatching of her earrings during the same transaction. The medical evidence was found to be consistent with the time and manner of occurrence as alleged by the prosecution and remained unshaken in cross-examination.

14. With regard to the ocular evidence, the learned trial court found P.W.1 Jaswant to be a natural and reliable witness. The defence plea of false implication on account of alleged property dispute, relationship or political rivalry was rejected as being bald and unsupported by any documentary or oral evidence. The testimony of P.W.1 was found to be graphic, cogent and trustworthy, and nothing material was elicited in his cross-examination to discredit him.

15. The evidence of P.W.2 Umrao Lal and P.W.3 Buddho was held to be consistent with that of P.W.1 on material particulars, particularly regarding the place of occurrence and the manner of assault. No material contradiction or inconsistency was found among the prosecution

witnesses. The learned trial court further held that there was sufficient torch light at the place of occurrence for identification of the accused, who were known to the witnesses, and that non-concealment of identity by the accused did not create any doubt regarding their participation in the crime.

16. On cumulative assessment of ocular, medical and documentary evidence, the learned trial court concluded that the prosecution had proved its case beyond reasonable doubt and that the defence had failed to create any dent in the prosecution version.

Analysis and Findings of the Court

17. Having heard the rival submissions advanced by the learned counsel for the appellants and the learned Additional Government Advocate (AGA) for the State, and having meticulously scrutinized the evidentiary record, we now proceed to the adjudication of this appeal. As an Appellate Court, our mandate is to independently re-evaluate the factual matrix and the evidence upon which the learned Trial Court premised the conviction of the appellants under **Section 302 read with Section 34 and Section 394 of the IPC**. This exercise is essential to determine whether the prosecution has discharged its burden of establishing the guilt of the accused with such certainty as to exclude every reasonable doubt.

18. For a comprehensive determination of the merits of this case, we shall test the prosecution's narrative against the following foundational pillars:

- **The Temporal and Procedural Integrity of the FIR:** Whether the First Information Report was registered with requisite promptitude, thereby ensuring its spontaneity and excluding the possibility of colored versions or embellishments.
- **The *Locus in Quo* and Chronology:** Whether the prosecution has conclusively established the specific date, time, and precise location of the occurrence as alleged.

- **The *Modus Operandi*:** Whether the evidence accurately reflects the manner in which the offense was executed, aligning with the ocular and medical findings.
- **Identification and Culpability:** Whether the individual involvement of each appellant is established through credible identification and consistent testimony.
- **Individual and Shared Liability:** An appraisal of the specific overt acts attributed to each appellant, and the determination of their collective liability under the doctrine of common intention.
- **Final Adjudication of Liability:** Whether the statutory elements of the charged offenses are fully satisfied to sustain the sentence imposed by the Trial Court.

19. Regarding the registration of the First Information Report (FIR) and the established timeline of the occurrence, the record reflects that Case Crime No. 430 was registered as **Ex-1** at Police Station Tilhar on 17.12.1982 at 06:30 AM. Initially lodged under **Sections 394 and 307 of the IPC**, the FIR explicitly named the three appellants Ramchandra, Maiku, and Sonpal as accused. The FIR was predicated upon the oral deposition of the informant, Jaswant, and was contemporaneously recorded into the *Chik* FIR by Constable Brij Bhushan Singh. The proximity of the appellants' residence to that of the complainant further reinforces the reliability of the identification made at the earliest available opportunity.

20. The defence's challenge regarding a delay in lodging the FIR is unsubstantiated when viewed through the lens of practical realities. The incident transpired at approximately 02:00 AM, and the FIR was set in motion by 06:30 AM, a mere four-and-a-half-hour interval. PW-1 (Jaswant) provided a cogent and plausible explanation for this duration: following the violent assault, he secured a bullock cart by 04:00 AM to transport the critically injured victims to the police station, situated four

miles away, arriving at 06:15 AM. Such a timeline is not only reasonable but demonstrates a diligent effort to seek legal redress despite the logistical hurdles of a rural setting. Consequently, the FIR stands as a **prompt and spontaneous document**, effectively ruling out the possibility of colored version or deliberation, and firmly establishing the date and time of the occurrence.

21. Furthermore, the appellants' contention regarding the subsequent invocation of **Section 302 IPC** is legally meritless. The evidence clarifies that the FIR was initially registered under Section 307 IPC based on the subsisting life of the victim, Hariram. It was only upon the victim being declared dead by medical authorities that the Investigating Agency, following due process, recorded **Rapat No. 14 at 07:40 AM** in the General Diary (GD). This procedural conversion of the charge to murder was a direct consequence of the intervening fatality and was executed with transparency and speed. Therefore, the defence's argument that the FIR was improperly registered or manipulated is entirely baseless and finds no support in the procedural history of the case.

22. Regarding the *locus in quo* (place of occurrence), the prosecution has established a consistent and verifiable account that aligns perfectly with the initial version set out in the First Information Report (FIR). The Site Plan (**Ex-Ka-8**), meticulously prepared by the Investigating Officer (PW-7), provides a precise spatial reconstruction of the criminal transaction. Point 'A' demarcates the interior of Rampa's hutment, where the initial act of robbery occurred; Point 'B' represents the lane where the appellants retreated upon the victim's outcry; Point 'C' identifies the position of the informant and his son as they intercepted the accused; and Point 'D' marks the vantage point of the other independent witnesses. The geographical proximity of these locations, as depicted in the Site Plan, confirms a seamless transition of events from the robbery to the fatal assault.

23. This topographical evidence is further solidified by the consistent testimonies of the informant (**PW-1**), the eyewitness (**PW-2**), and the injured victim (**PW-3**), all of whom corroborated the locations cited in **Ex-Ka-8**. Despite rigorous cross-examination, the defence failed to elicit any discrepancy regarding the site of the incident. Furthermore, the recovery of blood-stained and plain brickbats from the spot, as documented in the memorandum (**Ex-Ka-9**), provides material evidence that anchors the occurrence to the specified location. The defence has failed to provide any alternative narrative or evidence to dispute the integrity of the crime scene.

24. The fundamental question of whether the occurrence took place is answered by the existence of a **promptly registered FIR**, which serves as a spontaneous and contemporaneous record of the crime, leaving no room for deliberation or concoction. The immediacy of the medical intervention resulting in the declaration of Hariram's death and the examination of Smt. Buddho further validates the prosecution's timeline. The medical findings detailed in the Injury Report (**Ex-Ka-7**) and the Post-Mortem Report (**Ex-Ka-11**) are not isolated documents; they are part of a robust evidentiary chain that includes the **Photo-Nash (Ex-Ka-3)**, **Challan-Nash (Ex-Ka-4)**, and the formal **Letter to the Chief Medical Officer (Ex-Ka-6)**. Collectively, these documents form an incontrovertible record of the violence perpetrated, substantiating the charges against the appellants.

25. Following the declaration of Hariram's death, the inquest proceedings were conducted at P.H.C. Tilhar on 17.12.1982, culminating in the preparation of the Inquest Report (**Ex-Ka-2**). The physical injuries documented during this process serve as a vital precursor to, and are entirely consistent with, the ante-mortem injuries subsequently recorded by the Autopsy Surgeon, **PW-8**. The seamless integration of these documents, duly proved by the prosecution witnesses, establishes beyond a shadow of doubt that during the intervening night of December 16-17, 1982, a violent transaction occurred at and around the hutment of

Rampa. This incident resulted in the injury of Smt. Buddho and the untimely demise of Hariram, the informant's son.

26. To determine the precise contours of the occurrence, this Court has undertaken a holistic evaluation of the ocular testimony of the eyewitnesses, the procedural evidence of the Investigating Officer, and the expert findings of the medical officers. The prosecution's case is primarily anchored in the testimony of eight witnesses, whose accounts provide a coherent narrative of the crime.

27. The cornerstone of the ocular evidence is the testimony of **PW-1**, whose deposition on 06.07.1983 remains unshaken. He testified that at approximately 02:00 hours, he was alerted by his son to the distress calls of 'Chor-Chor' emanating from Rampa's hut. Demonstrating the natural conduct of a vigilant neighbor, he and his son rushed to the scene, armed with torches and a lathi. His account of the arrival of other villagers—Umrao Lal, Shrikrishna, and Bhimsen—from the west provides a consistent geographical framework of the encounter. In the beam of their torches, the witnesses identified the appellants: Maiku armed with a gun, and Sonpal and Ramchandra with country-made pistols. PW-1 vividly described the escalation of violence; when Hariram challenged the intruders, Ramchandra and Sonpal exhorted Maiku to fire. The resulting gunshot, fired by Maiku, caused Hariram to collapse immediately. The witness further corroborated the robbery by noting the immediate outcry of Buddho, who emerged from the hut reporting the theft of her *hasli* and earring. Throughout an exhaustive cross-examination, PW-1 remained consistent, reaffirming his presence at the scene and the specific roles played by each appellant in the commission of this capital offense.

28. The ocular account is further reinforced by the testimony of **PW-2 (Umrao Lal)**, whose evidence provides a vivid reconstruction of the retreat of the appellants. PW-2 testified to seeing Maiku, Ramchandra, and Sonpal emerging from Rampa's hutment under the illumination of torches—a detail that establishes certain identification. He specifically attributed a gun to Maiku and country-made pistols

(*tamanchas*) to Ramchandra and Sonpal. Crucially, he corroborated the sequence of instigation, stating that upon their challenge, Ramchandra exhorted Maiku to fire, resulting in the fatal injury to Hariram. His observation of Smt. Buddho emerging with a bleeding ear, coupled with her immediate disclosure of the robbery, constitutes a *res gestae* statement that tethers the robbery. Despite a searching cross-examination, PW-2 remained steadfast, reaffirming both the *locus in quo* and the gruesome manner of the occurrence.

29. The testimony of the victim, **PW-3 (Smt. Buddho)**, serves as the cornerstone of the prosecution's case. As a natural witness present within the hutment, she provided a firsthand account of the intrusion and the violent dispossession of her ornaments. Her narrative regarding the arrival of the villagers—Jaswant, Hariram, Umrao, and others—matches the geographical and chronological specifics provided by the other witnesses. She remained unshaken during cross-examination, with no material contradictions or improvements surfacing to undermine her examination-in-chief. Her account of the fatal shot fired by Maiku, upon the provocation of Sonpal, mirrors the testimony of the other ocular witnesses with remarkable precision.

30. Upon a holistic evaluation of the testimonies of **PW-1, PW-2, and PW-3**, it is evident that their statements are remarkably consistent and free from the taint of concoction. These are 'natural witnesses' whose presence at the scene is logically explained and whose reliability is beyond reproach. In the absence of any material improvements or significant contradictions, their trustworthiness is absolute. Their combined evidence weaves a seamless web of culpability, leaving no doubt as to the identity of the assailants or the roles played by each in this coordinated criminal act.

31. The defence's attempt to mount a challenge on the grounds of prior enmity and false implication is fundamentally devoid of substance. During the cross-examination of **PW-1**, the witness clarified the familial ties, noting that Ramkishan is his nephew and is married to Rampa's

daughter—a fact that does not, in itself, suggest a motive for false implication. Furthermore, the narrative introduced by the appellant, Ramchandra, in his statement under **Section 313 CrPC**, regarding the alleged disappearance of Dhanpata and an illicit relationship between Hariram and Buddho, remains a mere bald assertion. The defence failed to produce a shred of evidence to substantiate these claims, nor did they identify the brothers of Buddho who they allege were the actual perpetrators. Consequently, the plea of false implication, being unsupported by the record, must fail.

32. Similarly, the motives for malice suggested by appellants Maiku and Sonpal are legally tenuous. Maiku's contention that he was framed over a trivial dispute regarding his livestock passing by the door of **PW-2 (Umrao)** was effectively neutralized during the cross-examination of the witness, which yielded no evidence of such deep-seated animosity. Likewise, Sonpal's allegations of enmity with Umrao remain entirely unsubstantiated by any documentary or oral proof. In the absence of cogent evidence to the contrary, these desperate pleas of enmity are insufficient to displace the consistent and credible ocular testimony led by the prosecution. The defence has failed to prove that the witnesses had any reason to shield the 'real' culprits and falsely swear against the appellants.

33. The evidentiary record is further solidified by the injury report of Smt. Buddho (**Ex-Ka-7**) and the post-mortem report of Hariram (**Ex-Ka-11**), both of which provide a clinical verification of the violence described by the eyewitnesses. **PW-5 (Dr. A.K. Bapna)**, who conducted the medical examination of Buddho, formally proved the injuries sustained during the transaction. Although the defence sought to highlight the doctor's opinion that such injuries could potentially be caused by a sharp object like a nail, such hypothetical conjectures do not diminish the prosecution's case. In matters where ocular testimony is direct and compelling, the mere possibility of an alternative instrument of injury cannot supersede the credible evidence of the victims. When

the medical findings are read in conjunction with the consistent testimonies of **PW-1**, **PW-2**, and the injured victim herself, it is unequivocally established that the lacerations were a direct result of the forceful snatching of earrings by the appellants. Thus, the medical evidence serves as a corroborative pillar to the direct oral accounts, confirming the commission of robbery with hurt.

34. The medical evidence, anchored by the testimony of **PW-8 (Dr. K.K. Srivastava)** and the post-mortem report (**Ex-Ka-11**), provides a formidable corroboration of the prosecution's narrative. PW-8 unequivocally testified that Hariram's death resulted from gunshot wounds, a conclusion bolstered by the surgical recovery of eighteen (18) pellets from the internal cavities of the deceased. The clinical findings indicate that the cause of death was a coma induced by these fatal ante-mortem injuries. Notably, the defence chose not to contest the cause or timing of death, focusing their cross-examination solely on the trajectory and distance of the fire. In this regard, the expert opinion of PW-8 estimating the firing distance at approximately twelve feet and suggesting a downward trajectory aligns seamlessly with the ocular accounts of **PW-1**, **PW-2**, and **PW-3**. Specifically, the medical observation that the injuries are consistent with a victim who has fallen or is in a lower physical plane matches the sequence of the assault described by the witnesses. Consequently, the synthesis of the post-mortem findings and the consistent oral testimonies leaves no room for doubt that Hariram was shot and killed by Maiku, acting in concert with and in furtherance of the common intention shared by all the appellants.

35. The procedural foundation of the prosecution's case is fortified by the testimony of the Investigating Officer, PW-7 (Babu Singh), who formally proved the Site Plan (**Ex-Ka-8**), the recovery memo for blood-stained and plain brickbats (**Ex-Ka-9**), and the seizure memo for the torches (**Ex-Ka-10**). In his examination-in-chief, PW-7 detailed a comprehensive investigative process, including the recording of statements from the complainant Jaswant, the injured victim Buddho,

and eyewitnesses Umrao Singh, Bhimsen, Shrikrishna, and Smt. Rampa. Despite a rigorous cross-examination, the defence failed to impeach his credibility; PW-7 categorically refuted allegations that the First Information Report (FIR) was post-dated or that the victim's injuries were ante-timed. Furthermore, the administrative transition of the case from **Section 307 to Section 302 IPC** was substantiated through the recall of PW-8, who proved the relevant General Diary (GD) entries (**Ex-C-1 and Ex-C-2**). This was bolstered by the testimony of PW-6 (Kripal), who confirmed the secure transit of the deceased to the mortuary and the formal identification of the body, and PW-4 (Ajay Prakash), who clarified that the inquest proceedings were conducted at the hospital in accordance with established protocol. Collectively, the defence failed to elicit any material contradictions or demonstrate any perversity in the investigative trail, leaving the prosecution's documentary and oral evidence entirely intact.

36. Therefore, all the eight witnesses have proved the prosecution story which establishes the involvement of convict-appellants in the alleged occurrence. There are some minor contradictions between the statement of witnesses PW-1, PW-2 and PW-3 which are ignorable.

37. It has been contended by the learned counsel for the appellants that the prosecution evidence suffers from material contradictions and the testimonies of the eye witnesses are not trust worthy and the prosecution story becomes doubtful.

38. Recently, in the case of **Govardhan & Anr. v. State of Chhattisgarh: 2025 INSC 47**, the Hon'ble Supreme Court has discussed about the importance of standard of proof in a criminal case to prove the case beyond reasonable doubt and observed that:

“21. It will be relevant to discuss, at this juncture, what is meant by “reasonable doubt”. It means that such doubt must be free from suppositional speculation. It must not be the result of minute emotional detailing, and the doubt must be actual and substantial and not merely vague apprehension. A reasonable doubt is not an imaginary, trivial or a merely

*possible doubt, but a fair doubt based upon reason and common sense as observed in **Ramakant Rai v. Madan Rai, (2003) 12 SCC 395** wherein it was observed as under :*

“24. Doubts would be called reasonable if they are free from a zest for abstract speculation. Law cannot afford any favourite other than the truth. To constitute reasonable doubt, it must be free from an overly emotional response. Doubts must be actual and substantial doubts as to the guilt of the accused persons arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions. A reasonable doubt is not an imaginary, trivial or a merely possible doubt; but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case.””

39. In the above case law the Hon'ble Supreme Court has discussed about the trustworthiness of all the eye witnesses and referred the case law **Leela Ram (D) Through Duli Chand vs State Of Haryana And Anr reported in (1999) 9 SCC 525** in which it has been observed by the Hon'ble Supreme Court that:

"9. Be it noted that the High Court is within its jurisdiction being the first appellate court to re-appraise the evidence, but the discrepancies found in the ocular account of two witnesses unless they are so vital, cannot affect the credibility of the evidence of the witnesses. There is bound to be some discrepancies between the narrations of different witnesses when they speak on details, and unless the contradictions are of a material dimension, the same should not be used to jettison the evidence in its entirety. Incidentally, corroboration of evidence with mathematical niceties cannot be expected in criminal cases. Minor embellishment, there may be, but variations by reason therefor should not render the evidence of eye witnesses unbelievable. Trivial discrepancies ought not to obliterate an otherwise acceptable evidence."

40. In the light of the above case laws the evaluation of evidences led by the prosecution shows that the testimony of the eyewitnesses was consistent in all material particulars, providing a solid basis for conviction, medical evidence provides strong corroboration to the oral testimony provided by the injured and eye-witnesses Therefore, the arguments on this point submitted by the learned counsel for the appellants are not tenable.

41. The contention raised by the learned counsel for the appellants suggesting a lack of motive and assailing the recovery of blood-stained brickbats and torches as suspicious is fundamentally misplaced. A rigorous examination of the record, particularly the testimony of the Investigating Officer, confirms that the recovery memos for both the blood-stained and plain brickbats were duly proved and established to be from the scene of the crime. Furthermore, the challenge to the 'supurdagi' and the recovery of the torches does not hold water when viewed against the consistent statements of the witnesses. Regarding the question of motive, the prosecution has successfully demonstrated a clear criminal design: the appellants trespassed into the dwelling of Rampa with the shared objective of committing robbery. Their subsequent act of forcibly snatching ornaments from Smt. Buddho provides an incontrovertible motive rooted in illicit gain. Thus, the motive is not merely an inference but is a fact firmly established by the ocular and documentary evidence led before the Court.

42. So far as the common intention is concerned, in the case law **Gulab vs. The State of U.P.** reported in **2022 (12) SCC 677**, the Hon'ble Supreme Court has referred another Case **Pandurang, Tukia And Bhillia vs The State Of Hyderabad** reported in **1955 SCR (1) 1083**, wherein it has held by the Hon'ble Court that "*the plan need not be elaborate, nor is a long interval of time required. It could arise and be formed suddenly, as for example when one man calls on bystanders to help him kill a given individual and they either by their words or their acts, indicate their assent to him and join him in the assault. There is then the necessary meeting of the minds. There is a pre-arranged plan, however, hastily formed and rudely conceived.*"

43. It has also been held by the Hon'ble Supreme Court that "*there need not be a long interval between the act and the pre-meditation, and the plan may be formed suddenly. For Section 34 IPC to apply, it is not necessary for the prosecution to prove that the act was done by any particular person.*"

44. In the present case, the ocular testimony of PW-1, PW-2, and PW-3 provides a vivid and consistent account of the criminal enterprise. The evidence establishes that the three convict-appellants, armed with firearms, trespassed into Rampa's hut with the singular, shared objective of committing robbery. Upon being detected and challenged by the witnesses as they retreated, the unfolding events demonstrate a critical shift in their criminal design. The record indicates that appellants Ramchandra and Sonpal instigated the co-accused Maiku to open fire. Acting upon this exhortation and in furtherance of their burgeoning common intention to facilitate their escape or silence opposition, Maiku discharged his weapon at Hariram. The resulting fatal injuries, to which Hariram succumbed, are a direct consequence of this concerted action. Even if a specific intent to kill was not premeditated, the law is clear that common intention can form *in situ* and suddenly without a prior, long-standing plan or conspiracy and during the heat of the transaction rendering all participants equally liable for the resulting homicide

45. Another point has been raised by way of arguments that no evidence of the gun, alleged to have been used in the occurrence, was recovered and produced before the Court which corrodes the prosecution story. In this regard there are ample case-laws wherein it has been held by the Hon'ble Supreme Court that in the presence of credible and direct evidence, the lack of other evidence cannot cause any doubt on the prosecution evidence. In the case law **Gulab** (supra), it has been held by the Hon'ble Supreme Court that *failure to produce a report by a ballistic expert who can testify that fatal injuries were caused by a particular weapon is not sufficient to impeach the credible evidence of direct eyewitnesses.*

46. Thus, the prosecution has proved all the essential facts beyond reasonable doubt. The occurrence as has been established by the prosecution clearly proves that all the three offenders were involved in committing the alleged offence. A direct role of the accused Maiku has been established by the prosecution in causing death of Hariram by fire

arm, therefore, he was liable for committing culpable homicide which amounts to murder and which is punishable under Section 302 IPC, whereas, other two convict-appellants had acted in furtherance of their common intention in causing the murder of Hariram, therefore, they are also liable for causing culpable homicide amounting to murder under Section 302/34 IPC

47. In summation, the prosecution has successfully discharged its burden of proof, establishing the foundational facts of the case beyond a reasonable doubt. The evidence underscores a concerted criminal design involving all three offenders. By proving that the accused, Maiku, inflicted the fatal firearm injury upon Hariram, the prosecution has established his direct liability for culpable homicide amounting to murder under **Section 302 of the IPC**. Simultaneously, the evidence confirms that the remaining two appellants acted in concert, sharing a common intention to facilitate the killing. Consequently, they are held vicariously liable under the interplay of **Sections 302 and 34 of the IPC**, as their collective actions were instrumental in the commission of the capital offense.

48. Premised on the foregoing discussions, it is irrefutable that the prosecution has brought home the guilt of all three convict-appellants. The evidence conclusively establishes that the appellants acted in concert to commit robbery by trespassing into Rampa's dwelling and forcibly dispossessing Buddho of her *hasli* and earrings. Since the commission of this robbery was accompanied by the use of force or the causing of hurt, the appellants' conduct squarely falls within the ambit of **Section 394 of the IPC**, rendering them liable for the heightened penalties prescribed therein.

49. A meticulous examination of the impugned judgment and order dated **25.01.1984** reveals that the Trial Court exercised due diligence in scrutinizing the multifaceted evidence placed before it. By adopting a holistic approach, the learned Trial Judge skillfully synthesized the medical jurisprudence with the ocular testimony of the eyewitnesses and

the investigative findings of the Police. This rigorous evidentiary appraisal led to the inescapable and legally sound conclusion that the appellants are guilty as charged. Specifically, the court correctly found all three appellants liable for robbery under **Section 394 IPC**, while rightly invoking **Section 302 read with Section 34 IPC** to hold Ramchandra and Sonpal accountable for their concerted role in the murder. Furthermore, the direct liability attributed to Maiku under **Section 302 IPC** is firmly rooted in the record.

50. The findings of the Trial Court are not only amply supported by credible evidence but also represent a legally plausible view of the testimony. The appellants have failed to discharge the burden of demonstrating any perversity or manifest error that would warrant appellate intervention. Given the gravity of the offenses and the strength of the evidence, the sentences imposed remain well-reasoned and proportionate. Since a rational trier of fact could easily conclude that the prosecution has proven its case beyond a reasonable doubt, we find this appeal to be devoid of merit. Consequently, the appeal is **dismissed**.

(Divesh Chandra Samant, J.) (Salil Kumar Rai, J.)

January 13, 2026

Karan