



2026:AHC:1852-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 3200 of 2013

Braj Gopal

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : Naresh Kumar, Rajesh Yadav, Sant Lal,
Surendra Singh
Counsel for Respondent(s) : Govt. Advocate

Along with :

1. Jail Appeal No. 1051 of 2013:
Indrajeet

Versus

State of U.P.

Court No. - 42

**HON'BLE SIDDHARTHA VARMA, J.
HON'BLE PRASHANT MISHRA-I, J.**

1. Custody certificate filed by appellant, Indrajeet, is taken on record.
2. Heard Sri Agni Pal Singh, learned Advocate, holding brief of Sri Surendra Singh, learned counsel for the appellant in Criminal Appeal No. 3200 of 2013. He also appeared as *amicus curiae* in Jail Appeal No. 1051 of 2013. Learned A.G.A. for the State was also heard. We also perused the record.
3. Criminal Appeal No. 3200 of 2013 has been filed by Braj Gopal, convicted person and the jail appeal has been filed by Indrajeet, another convicted person against the judgment and order dated 11.12.2012 passed by the Additional Sessions Judge-Court No. 8, District Etawah in Case Crime No. 75 of 2010 (Sessions Trial No. 183 of 2010), under Sections 308, 304, 376, 452, 352, 324, 323 I.P.C., by which the appellants have been convicted under Section 452 I.P.C. for 7 years' rigorous imprisonment with fine of Rs. 1,000/- each and in default of payment of fine, six months additional imprisonment; under Section 323/34 I.P.C. for

1 year rigorous imprisonment each; under Section 324/34 I.P.C. for 3 years' rigorous imprisonment each; under Section 308/34 I.P.C. for 7 years' rigorous imprisonment each; under Section 304/34 part-1 I.P.C. for life imprisonment with fine of Rs. 2,000/- each and in default of payment of fine, six months additional imprisonment; under Section 376(2)(g) I.P.C. for 10 years' rigorous imprisonment with fine of Rs. 5,000/- each and in default of payment of fine, one year additional imprisonment. All the punishments were directed to run concurrently.

4. Briefly stated the prosecution story was, as per the F.I.R. which was lodged on 16.03.2010, was that on 15.03.2010, certain unknown persons had assailed Brij Kishore, victim-Pinki, Puja, Sudama, Sarbati and Ram Kumar with *Ratha*, *Sarsa* and *Thakora* (such objects which could definitely not be called firearms and were improvised for the purposes of making the attack) and it has further been stated that the victim, Pinki was taken by the two assailants into the neighboring fields. The first informant had reached the victim, Pinki on listening to her screams etc. However the first informant informed that no wrong had been done viz-a-viz her. Upon lodging of the F.I.R., investigation commenced and thereafter, the police had submitted its charge-sheet before the Court. The court framed charges against Indrajeet, Kunwar Bahadur, Shyam Lal and Brij Gopal on 11.02.2011 and, thereafter upon recording of the evidence of around 14 prosecution witnesses and upon recording of the statement of Indrajeet and Braj Gopal under Section 313 Cr.P.C., the Court convicted the appellants, Indrajeet and Braj Gopal under Section 452 I.P.C. for 7 years' rigorous imprisonment with fine of Rs. 1,000/- each and in default of payment of fine, six months additional imprisonment; under Section 323/34 I.P.C. for 1 year rigorous imprisonment each; under Section 324/34 I.P.C. for 3 years' rigorous imprisonment each; under Section 308/34 I.P.C. for 7 years' rigorous imprisonment each; under Section 304/34 part-1 I.P.C. for life imprisonment with fine of Rs. 2,000/- each and in default of payment of fine, six months additional imprisonment; under Section 376(2)(g) I.P.C. 10 years' rigorous imprisonment with fine of Rs. 5,000/- each was awarded. In default of payment of fine, it was provided that the would undergo one year additional imprisonment. All the punishments were directed to run

concurrently.

5. Aggrieved by the judgement and order dated 11.12.2012, the instant Criminal Appeal was filed.

6. Today when the appeal was being argued, learned counsel for the appellants stated that the appellants had already undergone the punishments viz-a-viz Sections 452, 323 I.P.C. along with Section 34 I.P.C., Section 324 read with Section 34 I.P.C., Section 308 I.P.C. read with Section 34 I.P.C. and viz-a-viz Section 376(2)(g) I.P.C. With regard to the offence under Section 304 part I I.P.C., learned counsel for the appellants stated that no offence under Section 304 Part I of IPC was made out as there was no material evidence led by the prosecution which would conclusively prove that any offence under Section 304 Part I of IPC was made out. He, therefore, submitted that vis-a-vis Section 304 Part I of IPC, the appellants be acquitted.

7. Learned counsel for the appellants and learned A.G.A. have informed that appellants have already undergone punishment of almost 15 years, 8 months and 14 days as on 23.12.2025.

8. Learned AGA has opposed the appeal and has submitted that a bare perusal of the evidence on record would show that definitely an offence under Section 304 Part I of IPC was made out and there was an ocular evidence available on record, where statement would go to establish that the appellants were involved in the incident in question.

9. Having heard the learned counsel for the appellants and the learned AGA, we are of the view that offence under Section 304 Part I of IPC was definitely made out and that there was no scope of interference in the judgement with regard to the offence under Section 304 Part I of IPC. However, the Court considers that since the appellants have almost undergone 15 year, 8 month and 14 days of incarceration as on 23.12.2025, the sentence can be reduced to the incarceration which had already been undergone by the appellants.

10. Thus in view of the above, the Court is of the view that even though the conviction stands, the sentence is being reduced to the period for

which the appellants have already undergone the imprisonment.

11. Thus, the appellants **Braj Gopal** and **Indrajeet** may now be released if they are not required in any other case. The appeal thus stands **partly allowed** to the extent stated above.

12. Learned Amicus Curiae Sri Surendra Singh be paid Rs. 25,000/- as professional fees for the assistance which has been rendered. The Registrar General to oversee the payment.

(Prashant Mishra-I,J.) (Siddhartha Varma,J.)

January 6, 2026
A. Mandhani