



2026:AHC:18464-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL U/S 413 BNSS No. - 35 of 2026

Gyanprakash @ Dashrath

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s) : Neelabh Srivastava, Vijai Kumar Singh
Counsel for Respondent(s) : G.A.

Court No. - 43

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

This is a victim's appeal under Section 413 BNSS filed against the judgment of acquittal dated 17.10.2025 passed by the Additional Sessions Judge, Court No.1, Varanasi in Session Trial No. 145 of 2014 (State vs. Jai Prakash Pasi) arising out of Case Crime No. 06 of 2014 under Section 302 IPC, in Police Station Cholapur, District Varanasi and Sessions Trial No. 171 of 2014 (State vs. Jai Prakash Pasi) arising out of Case Crime No. 07 of 2014 under Section 4/25 Arms Act in Police Station Cholapur, District Varanasi.

At 7:10 a.m., on 08.01.2014, a first Information Report was lodged by Jai Prakash @ Dashrath registering Case Crime No. 6 of 2014 against the accused under Section 302 IPC stating that at 6 a.m., on 08.01.2014, when the informant went to his agricultural field, he saw the blood stained body of his father Vansh Raj Patel, aged about 70 years. The informant stated in the first information report that he believed that his father was murdered by Jai Prakash Pasi and Chunnu Pasi with whom they had prior enmity, and four to five years back, there was some dispute between the parties regarding loss caused to the crops of the informant.

It is the case of the prosecution that subsequently on the confession of the accused, Jai Prakash Pasi and Chunnu Pasi, a cleaver (*gufti*) was recovered on the confession and at the instance of the accused on 10.01.2014. Case Crime No. 7 of 2014 under Section 4/25 Arms Act was registered against the accused.

Panchayatnama of the body was prepared and the post-mortem report notes seven injuries on the body of the deceased out of which six were incised wounds of different dimensions. A charge-sheet was filed in Case Crime No. 6 of 2014 and Case Crime No. 7 of 2014. The matter was committed for trial to the Sessions Court and Sessions Trial No. 145 of 2014 under Section 302 IPC was registered against the accused Jai Prakash Pasi and Chunnu Pasi and Sessions Trial No. 171 of 2014 under Sections 4/25 Arms Act was registered against Jai Praksh Pasi. The accused pleaded not guilty and claimed trial. During the trial, Chunnu Pasi died and Sessions Trial No. 145 of 2014 was declared to have abated against Chunnu Pasi. During trial, the prosecution examined 12 witnesses. PW-1, PW-2 and PW-3 examined by the prosecution, were witness of facts. PW-2, PW-3 and PW-4 were also witnesses to the *panchayatnama*. PW-8 was the doctor who conducted the post-mortem on the dead body of the deceased. PW-9 and PW-10 as well as PW-12 were the investigating officers in the case.

In his testimony, PW-1 reiterated the FIR version and also stated the facts relating to prior enmity between the parties which showed that the parties were in litigation against each other.

PW-2 is the nephew of the deceased. PW-2 was examined by the prosecution to prove that the accused were last seen with the deceased. In his evidence, PW-2 stated that the deceased used to sleep at the tubewell and used to guard the agricultural field. On 07.01.2014, when between 11 p.m. to 12.p.m., PW-2 along with his brother Uma Shankar Patel, was going to guard the field, they saw the accused hurriedly going to their house and when they woke up in the morning, they came to know that Vansh Raj Patel, i.e., the deceased had been murdered. The witness stated that he believed that the accused were fleeing from the spot after murdering his father. It is noticeable that the first information report does not contain the aforesaid fact. In his testimony, the witness explained the aforesaid by stating that he had not met the first informant in the morning and had not told him about the aforesaid incident. As noted earlier, PW-2 is the nephew of the deceased. In its judgment, the trial court has noted that according to the prosecution evidence, family of the witness and the deceased was a joint family, therefore, the conduct of the witness in not

telling the first informant about the incident raised doubts on the credibility of the witness. When the witness was confronted with the aforesaid in his cross-examination, the witness stated that he was scared because the accused had also committed another murder. Apparently, the explanation of the accused regarding his failure to inform the first informant about the incident are contradictory. PW-2 is also a witness of the *pachayatnama*. It is unbelievable that the witness would not have told anybody about what he saw in the night of 07.01.2014.

Uma Shankar, who is the brother of PW-2 was examined by the prosecution as PW-5. In his testimony, PW-5 stated that at 11 p.m., on 07.01.2014, he was sleeping at his home and he could not say as to whether his father was murdered in the night of 07.01.2024 or 08.01.2014. The aforesaid evidence of PW-5 contradicts the testimony of PW-2. PW-5 was declared hostile by the prosecution and the prosecution was permitted to cross-examine PW-5. However, the prosecution failed to extract any credible information from the witness in his cross-examination.

So far as recovery of cleaver is concerned, recovery memo was prepared but the said recovery has not been accepted by the trial court on the ground that no disclosure statement was recorded by the investigating officer and no disclosure statement was brought on record. Only a recovery memo was prepared. In view of the aforesaid, the recovery of the weapon allegedly used in the crime was not admissible in evidence. Further, the trial court has taken note of the fact that there was no independent witness of the recovery even though the site plan prepared by the investigating officer showed that there was *abadi* near the place from where the weapon was allegedly recovered.

In his cross-examination, PW-7 who was the investigating officer of Case Crime No. 6 of 2014 stated that the weapon was not produced before him. The cleaver, i.e., weapon which was allegedly used in the crime was also not shown to the doctor who conducted the autopsy on the dead body and was examined as PW-8 by the prosecution to prove that the injuries on the body of the deceased could have been caused by the weapon allegedly recovered by the prosecution. Further, no human blood was found on the weapon by the forensic laboratory where the weapon was sent for

chemical examination.

The case of the prosecution rested on circumstantial evidence. In case of circumstantial evidence, motive is an important factor which is to be proved by the prosecution. It comes out from the judgment of the trial court that the prosecution was not able to prove any motive in the accused to murder the deceased and the motive put forward by the prosecution was not sufficient to draw any conclusion regarding the culpability of the accused.

It is apparent that the prosecution failed to prove beyond doubt its case against the accused. The trial court noted the aforesaid shortcomings in the case of the prosecution and consequently acquitted the accused.

We do not find any perversity or illegality in the findings of the trial court. The grounds raised in the appeal does not persuade us to substitute our opinion in place of findings by the trial court.

The appeal lacks merit and is ***dismissed*** summarily without issuing notice to the opposite parties.

Let the file be consigned to records after certifying a copy of the present judgment to the trial court.

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

January 27, 2026

Vipasha