



2026:AHC:19776-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL APPEAL U/S 413 BNSS No. - 50 of 2026**

Jay Prakash Lal Srivastav

.....Appellant(s)

Versus

State Of U.P. And 8 Others

.....Respondent(s)

Counsel for Appellant(s)	: Ranjana Singh, Shesh Nath Singh Yadav
Counsel for Respondent(s)	: G.A.

Court No. - 43

**HON'BLE SALIL KUMAR RAI, J.
HON'BLE SANJIV KUMAR, J.**

This appeal has been filed by the father of the victim, i.e., the person allegedly kidnapped and murdered, under Section 413 of BNSS, 2023, against the judgment and order of acquittal dated 06.11.2025 passed by the Additional and District Sessions Judge, Mau in Session Trial No. 1200156 of 2007 (State vs. Arvind Singh and others) and Session Trial No. 1200011 of 2012 (State vs. Pradeep Yadav and others), registered as Case Crime No. 0892 of 2007 under Sections 147, 148, 149, 307, 363, 392, 411, 120B, 302, 201 of IPC and Section 7 of Criminal Law Amendment Act, Police Station Ranipur, District Mau and also convicted the respondents/ opposite party nos. 2 to 9.

The facts of the case are that at 12:00 p.m. on 08.08.2007, a first information report registering Case Crime No. 0892 of 2007 under Sections 147, 148, 149, 364, 307, 379 IPC and Section 7 of Criminal Law Amendment Act was registered at the instance of one Bharat Singh. It was stated in the first information report that at 7:30 p.m. on 08.08.2007, the first informant along with Vishwa Prakash Srivastava @ Alok (hereinafter referred to as 'deceased') was returning from Mau to Kajha on their motorcycle Hero Honda No. U.P. 54 F 1767 when five to six persons riding in a black coloured Bolero car started firing at them. The first informant jumped and ran away and was able to save himself, but saw

that the deceased had fallen with the motorcycle and was put in the bolero car by the assailants who fled from the place. Two persons who were part of the group of assailants also took away the motorcycle. It has been stated in the first information report that the incident happened at 10:30 a.m. The first informant also identified two assailants as Arvind Singh and Mintu Singh and also stated that he can identify the other assailants.

Subsequently, after investigation, a charge sheet was initially filed under Sections 147, 148, 149, 307, 364, 392, 411 and 120-B IPC and Section 7 of the Criminal Law Amendment Act, but subsequently a supplementary charge-sheet was filed including Sections 302 and 201 IPC. During investigation, the motorcycle was also allegedly recovered and a recovery memo was prepared which was also signed by one Rajesh Chandra Srivastava, allegedly an independent witness. Motorcycle referred in the FIR was recovered at the instance of Pramod Yadav, i.e., opposite party no. 6 and one of the accused in the case. The Magistrate took cognizance on the charge-sheet and committed the case for trial to Session Court and consequently, Session Trial Nos. 1200156 of 2008 and 1200011 of 2012 under Sections 147, 148, 149, 307, 363, 392, 411, 120B, 302, 201 of IPC and Section 7 of Criminal Law Amendment Act were registered against the accused. Session Trial No. 1200156 of 2008 was registered against the opposite party nos. 2 to 8 and Brij Mohan Rajbhar who died during the pendency of the trial, therefore, the trial was declared to have abated against him. Session Trial No. 1200011 of 2012 was registered against Pradeep Yadav, opposite party no. 9 and against Dilip Yadav, Sandeep Kumar Singh and Mintu Mishra. Dilip Yadav and Mintu Mishra had absconded, therefore, trial proceeded in their absence and the case of Sandeep Kumar Singh was separated from Session Trial No. 1200011 of 2012 and was continued as a separate case registered as Session Trial No. 0099 of 2025. The accused/ opposite parties pleaded not guilty to the charges and claimed trial. The trial court vide its judgment and order dated 06.11.2025 acquitted the accused/ opposite parties and directed that

proceedings under Section 299 Cr.P.C. be continued against Dilip Yadav and Mintu Mishra. As noted earlier, the present appeal has been filed against the order dated 06.11.2025.

In order to prove its case, the prosecution examined 14 witness, the first informant was examined as PW-1. The brother of the deceased was examined as PW-5 and the father of the deceased was examined as PW-6. PW-2, PW-3, PW-4 and PW-7 to PW 10 were independent witnesses. The writer of the FIR was examined as PW-12 and the three investigating officers of the case were examined as PW-11, PW-13 and PW-14. PW-10 was also alleged to be witness of the recovery memo of the motorcycle recovered at the instance of one of the accused and marked as Ex.Ka 6 in the trial court. During trial, PW-2 to PW-4, PW-7 to PW-10 did not support the case of the prosecution and some of the aforesaid witnesses also denied having given any statement as noted in the case diary of the investigating officer and as claimed by the prosecution. PW-10 also denied his signatures on the recovery memo referred above.

So far as the evidence of PW-1 is concerned, in his evidence, the witness stated that he could not recognize the assailants as he was far off from the place of incident after he managed to escape. The testimony of PW-1 as noted in the judgment of the trial court and the correctness of which has not been denied by the appellant, shows many inconsistencies and contradictions in his evidence. At one place, the witness states that Arvind Singh was seen at the place of the incident before the incident took place, but also states that he did not see Mintu Singh at the place of incident. Subsequently, the witness also stated that he did not see Arvind Singh and Mintu Singh at the place of incident. The witness admitted that he recognized Mintu Singh, i.e., opposite party no. 2 and identified him in the Court while at the same time also denied that he had seen Mintu Singh at the place of incident. The witness also denied that he had given any statement to the investigating officer informing that he had seen Mintu Singh and Arvind Singh at the place of incident. The witness also denied

that he had informed PW-5 that Mintu Singh and Arvind Singh were seen at the place of incident and also stated that he had not disclosed their names while getting the first information report registered. In his evidence, the witness also stated that he did not recognize the accused who took the motorcycle of the witness and also could not guess the number of assailants involved in the incident. In his evidence, the witness also states that the first information report was registered and prepared after deliberations between PW-5 and the police personnel.

PW-5 and PW-6 who are the brother and father of the deceased stated different facts proving the motive in the accused for committing the crime. The witness have stated that there were some political rivalry and also land disputes between the deceased and the accused.

At this stage, it would also be relevant to note that the defence, apart from denying the prosecution case in their explanation under Section 313 Cr.P.C., also led evidence. DW-1 Sabhajeet Singh was examined as a witness by the defence to prove that Chandra Bhan Yadav, one of the accused in the case and impleaded as opposite party no. 7 in the present appeal was, at the time of incident, on duty in the office of the Inspector General of Police, Varanasi Zone.

The above narration, shows that the prosecution evidently failed to produce any witness whose testimony could be sufficient to implicate any of the accused. Even the recovery of the vehicle could not be proved by the prosecution. PW-1 who was the most important witness examined by the prosecution also could not stand his cross-examination by the accused and did not support the FIR version naming Arvind Singh and Mintu Singh as accused. The case, apparently, rested on circumstantial evidence. There is no eye-witness to the incident. The motive for crime has been proved by PW-5 and PW-6. In case of circumstantial evidence, motive is a relevant factor to support the evidence produced by the prosecution. However, motive itself and taking alone is not sufficient to accept the

prosecution case. No circumstance implicating the accused could be proved by the prosecution.

Evidently, the prosecution miserably failed to prove beyond doubt its case. The appellant has not been able to show any error in assessment of evidence by the trial court.

For all the aforesaid reasons, 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 re-examine evidence and 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.

January 29, 2026
Vipasha

(Sanjiv Kumar,J.) (Salil Kumar Rai,J.)