



2026:AHC:6921-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL U/S 413 BNSS No. - 719 of 2025

Pradeep Kumar

.....Appellant(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Rajeev Kumar Singh Parmar
Counsel for Respondent(s)	:	G.A.

Court No. - 43

HON'BLE SALIL KUMAR RAI, J.

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

1. Present criminal appeal has been filed against the judgment and order dated 30.10.2025 passed by Additional Sessions Judge, Court no. 8, Farrukhabad in Sessions Trial No. 949 of 2023 (State vs. Sher Singh and another) arising out of Case Crime No. 212 of 2023, under Sections 302/34, 506, 342, 420/34 IPC, P.S. Jahanganj, District Farrukhabad whereby opposite party nos. 2 and 3 have been acquitted of all charges by the trial court.

2. Heard the learned counsel for the appellant and learned AGA for the State.

3. The appellant is first informant in the aforesaid case and the son of the deceased. The case of the prosecution, in short, is that the deceased Kamta Prasad was smothered to death by the opposite parties by covering his mouth with a cloth while the deceased was sleeping. The opposite party no. 2 is also the son of deceased. Opposite party no. 3 is the wife of opposite party no. 2 and daughter-in-law of the deceased. The case of the prosecution as narrated in the first information report was that the accused had got a gift deed executed by the deceased in their favour by practicing fraud upon the deceased. The first informant filed an application before Collector, District Farrukhabad and when accused came to know about the said application, they smothered to death the deceased.

4. After completing necessary formalities and investigation, charge-sheet was submitted and the case was committed for trial to the Sessions Court.

Consequently, Session Trial No. 949 of 2023 was registered under Sections 302/34, 506, 342, 420/34 IPC.

5. Prosecution case has been rejected by the trial court on the ground that the informant, who was examined as PW-1, had not been able to prove that any fraud or cheating was practiced by opposite parties on the deceased Kamta for getting the gift deed executed, therefore, no offence under Section 420 IPC was made out. While rejecting the prosecution case, trial court has taken note of the fact that Kali Charan, son-in-law of the accused, who was examined as PW-10 in the trial court, had proved voluntary execution of gift deed by the deceased. The said fact has also been admitted by the deceased before the Sub Registrar at the time of registration of the gift deed. A reading of judgment of trial court shows that the fact regarding voluntarily execution of gift deed, was also admitted by the informant, who was examined as PW-1 in the trial court.

6. Similarly, case of prosecution regarding offence under Section 342 IPC i.e. wrongful confinement of the deceased was also rejected by the trial court. It comes out from the judgment of trial court that a writ of Habeas Corpus was filed by first informant in this Court in which the matter was examined and a video was prepared by the concerned police containing the statement of the deceased that he was voluntarily residing with the accused. It transpires from the judgment of the trial court that said video was produced before this Court in the aforesaid petition for habeas corpus. Consequently, the petition for habeas corpus was dismissed.

7. So far as the case of the prosecution regarding murder is concerned, the trial court has rejected the prosecution case after finding the testimony of PW-1 and PW-2 unreliable. Post mortem report of the deceased was not proved before the trial court by the concerned surgeon. It also comes out from the order of trial court that post mortem on the dead body was conducted at the instance of the accused i.e. opposite party no. 2 and not at the instance of the appellant. It also comes out from the judgment of trial court that claim of appellant i.e. the deceased was smothered to death by covering his mouth, was rejected by the trial court after taking note of the inconsistency between the statements of PW-1 and PW-2 regarding position of the dead body in the morning. In his evidence, PW-1 stated

that the nose and mouth of the deceased were covered with cloth when the witness saw the dead body of his father between 6-7 AM while PW-2, who is the wife of PW-1, denied the aforesaid fact. It is also stated by PW-2 that she and her husband i.e. PW-1, had seen the dead body of deceased at 7:00 AM in the morning for the first time. Claim of PW-1 that mouth of deceased was tied by cloth has also been denied by PW-5, who is a witness of the inquest. Inquest report also does not substantiate the aforesaid claim. It also comes out from the evidence of PW-1 as noted by trial court that two unknown persons had been named as accused in the first information report at the instance of the Investigating Officer, which indicates that first information report was registered after deliberation between informant and the concerned investigating officer.

8. After rejecting the evidence of PW-1 and PW-2, who are main witnesses of the case and also after noting that any motive to commit murder had not been proved, the trial court rejected the prosecution case and consequently acquitted the accused. There is no eye witness of the incident. No circumstantial evidence also exists in the present case.

9. We do not find any perversity, illegality or any error of law or facts in the assessment of evidence by the trial court. The appellant has also not been able to convince the Court that any error exists in the assessment of evidence of trial court.

10. It is not a case to admit the appeal or summon the record of the trial court.

11. The appeal is **dismissed**.

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

January 12, 2026

Dhirendra/