



2026:AHC:43935-DB

Reserved On :- 09.02.2026

Delivered On :- 26.02.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 351 of 1988

Ram Pal Singh @ Ram Bahadur And Others

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	:	Dilip Kumar, Ghan Shyam Yadav, Rajrshi Gupta
Counsel for Respondent(s)	:	D.G.A.

In Chamber

HON'BLE SIDDHARTH, J.

HON'BLE JAI KRISHNA UPADHYAY, J.

(Delivered By Hon'ble Siddharth, J.)

1. Heard Sri Dilip Kumar, Senior Advocate assisted by Ms. Shambhavi Shukla, learned counsel for the appellants, Sri Prem Shankar Prasad, learned A.G.A for the State; perused the judgment of trial court and material available on record.

2. The prosecution story briefly stated is that there is an old enmity between the parties. Sri Betal Singh, cousin of P.W.-1, Atar Singh, was murdered by Somraj, accused, Mahavir and others in which the *pairavi* of that case was done by P.W.-1, Atar Singh and they were convicted. Uncle of P.W.-1, Atar Singh, was also injured by the same accused and the *pairavi* of injured was done by P.W.1, Atar Singh. Another cousin of P.W.1, Attar Singh, was killed by Somraj and others by tractor of which FIR was not lodged, but it was suspected that he was killed by Somraj and others of which confidential enquiry was being conducted by Prakash, deceased and his another son, Jai Prakash, about which Somraj and Rampal, accused had given threats to them.

3. Prosecution case is that P.W.1, Atar Singh, has got his plot at a distance of one mile from his village near Behar, in which he had grown vegetables, namely, *Kakdi*, *Lauki*, etc., P.W.1, Attar Singh, used to sleep in the night for

the protection of his crops. This plot is surrounded by Behar in three sides of North, East and South, and in the West is a vacant plot of P.W.-1, Atar Singh. In the South – West side, there is a *babool* tree and in the plot where the occurrence is alleged to have taken place, there was vegetable. It is also alleged in the west of it there was a *rasta* but in the late hours the pedestrians and other passengers did not use it. P.W.1, Atar Singh, had got five sons and Prakash, deceased was the youngest. On 21.05.1984 at about 12 noon Prakash, deceased, took his meal and went to the plot along with his father, Atar Singh, P.W.1, as for the last night Prakash was sleeping on the field with his father. At about 7:00 p.m P.W.-1, Atar Singh, came to his house to take his meal and to fetch a meal for his son, Prakash, who was staying at the plot. At about 9:00 p.m, P.W.-1, Atar Singh, along with his other son, Jai Prakash, who was carrying a three cell torch with him (Ex.1) and his nephew, Ram Prakash, P.W.2, went to the plot as P.W.2, Ram Prakash, had to collect vegetables from the plot. When they were at a distance of 10 or 15 steps from the place of occurrence, they saw by the light of torch flash by Jai Prakash that the accused Somraj, Ram Pal with two other persons, whom they could not identify, had surrounded the cot of the deceased, Prakash. Seeing the light of the torch, Rampal one of the accused put the country made pistol to the neck of the deceased, Prakash and fired. They rushed to the spot, but the accused vanished. Immediately thereafter Prakash died on the spot. P.W.1, Atar Singh, went to the police station, which was at a distance of 8 km in the South West from the place of occurrence and lodged the F.I.R (Ex-Ka.1) at 10:15 p.m against them. Its entry was made in the G.D by P.W.5, Kashmir Singh, Head Constable and a case was registered against the accused under section 302 I.P.C (Ex.Ka.8). He had also prepared Ex.Ka-1 check report.

4. P.W.-4, Om Prakash Upadhyay, Senior Sub-Inspector of Police and Shri Hakim Rai, S.H.O., P.W.7 and other Police personnel left the police station for the place of occurrence with a jeep and another vehicle from the control room of the Police force. P.W.4, Om Prakash Upadhyay, Sub-Inspector of Police started preparing the inquest report (Ex.Ka.3) at 11:45 p.m and the same was concluded in the night on 22.05.1984 at 01:30 a.m. In the opinion of the panches, the deceased Prakash died of a gunshot wound. He also paid corpse challan (Ex.ka-4) and the dead body was entrusted to constable, Harbilas and Mahendra Singh for postmortem examination. He had also prepared (Ex.Ka.8) corpse plan showing the injuries on the person of the

deceased. He had also written a letter to C.M.O (Ex.Ka.6) for postmortem examination. On the spot he had taken into custody blood stained razai, blood stained ban of cot, blood stained and simple earth from the place of occurrence and prepared recovery memo (Ex.Ka.7).

5. P.W.-6, Dr. V.K. Purang, conducted the post-mortem examination of deceased, Prakash on 22.05.1984 at 10:30 a.m. He found ante-mortem injuries on his person as below :-

"(i) Gun shot wound of entry 2cm x 1cm, cavity deep on the front and middle of the neck about 2 cm above the right bone. There was a blackening around the wound.

(i) Gun shot wound of exit 4cm x 2cm on the top of scalp which coming out of brain. Parietal bone and frontal bone were fractured."

On post-mortem examination found that the stomach was empty, small intestine had got semi digested food while large intestine had got faecal matter. Reason of death was shown as shock and hemorrhage due to the aforesaid injuries (Ex.Ka.9).

6. P.W.-7, Sri Hakim Rai, S.H.O took the torch used by Jai Prakash in that night into his custody and prepared its recovery memo (Ex.Ka.2) on 22.05.1984 and thereafter it was given into the custody of P.W.-3, Chandra Prakash. He also prepared site plan of the place of occurrence on 22.05.1984 (Ex. Ka-10). He recorded the statements of the witnesses, Sub-Inspector police, O.P. Upadhyay and Chandra Prakash on the same night at the spot. He recorded the statement of witness, Ramji Lal, on 23.05.1984. As both the accused were not traceable, orders under Section 82/83 Cr.p.C were obtained against them on 28.05.1984 and it was effected but both the accused had absconded and in their absence, the investigation was concluded and charge-sheet was submitted against them under Section 302 IPC on 04.08.1984 (Ex. Ka.11). The accused, Somraj, was arrested on 06.08.1984.

7. Accused, Somraj, was produced before Sri Yogendra Singh, Munsif Magistrate, Firozabad and a case was registered as Case no. 596 /1984. He was committed to the Court of Sessions on 19.12.1984 in S.T. No. 20 of 1986. In S.T. No. 265 of 1986 accused, Rampal Singh, was committed on 26.06.1986.

8. Accused, Somraj, was charged on 07.08.1986 under Section 302/34 IPC

that he along with 2 others on 21.05.1984 at about 09:00 p.m in the field of the deceased, Prakash, in village Gudayu, within the circle of Police Station- Firozabad (South), District- Agra, had common intention to cause the death of Prakash and in furtherance of the common intention his associate Rampal Singh fired on Prakash which caused his death, he thereby committed murder by intentionally or knowingly causing the death of Prakash.

9. On 31.10.1986 the accused, Ram Pal Singh, was charged under Section 302 IPC that he on 21.05.1984 at about 09:00 p.m in the field of deceased Prakash in village- Gudayu within the circle of Police Station- Firozabad (south) District- Agra, committed murder by intentionally or knowingly causing the death of Prakash. Both the accused pleaded not guilty. Both the cases were consolidated and evidence was recorded in S.T. No. 20 of 1986.

10. The prosecution in support of its case, examined P.W.-1, Atar Singh, an ocular witness, the father of deceased, Prakash. He also proved Ex. Ka-1, the F.I.R. P.W.-2, Ram Prakash, nephew of P.W.-1, Atar Singh, an ocular witness. P.W.-3, Chandra Prakash, witnessed the fact that one day before the occurrence, the deceased, Prakash slept with the father and on the day of occurrence his father, Atar Singh, had come to the house to take meal for Prakash. He also proved the recovery memo for the torch (Ex.Ka-2) Ex.1, torch, Ex.2, blood stained *razai*, Ex.3 Ban of cot. P.W.-4, Sri Om Prakash Upadhyay, Senior Sub-Inspector of Police who prepared inquest report (Ex. Ka-3), challan corpse (Ex. Ka-4), corpse plan (Ex. Ka-5), letter to C.M.O for postmortem examination (Ex. Ka-6), recovery memo of blood stained *razai* etc., (Ex. Ka-7) and (Ex. Ka-1) F.I.R on which he had put his initials. P.W.-5, Head Constable, Kashmir Singh, who proved (Ex. Ka-1) F.I.R (Ex. Ka-8) copy of G.D. P.W.-6, Dr. V.K. Purang, Medical Officer, who had conducted the postmortem examination of deceased on 22.05.1984 and proved (Ex. Ka-9) postmortem examination report. P.W.-7, Sri Hakim Rai, the then S.H.O. He investigated the case and proved (Ex. Ka-2) recovery memo of torch, (Ex. Ka-10) site plan and (Ex. Ka-11) charge sheet.

11. The prosecution placed reliance on (Ex. Ka-1) F.I.R., (Ex. Ka-2) recovery memo of torch, (Ex. Ka-3) inquest report, (Ex. Ka-4) challan of corpse, (Ex. Ka-5) corpse plan, (Ex. Ka-6) letter to C.M.O for post-mortem examination, (Ex. Ka-7) recovery memo of blood stained *razai* etc., (Ex. Ka-8) copy of G.D. (Ex. Ka-9) post-mortem examination report. (Ex. Ka-10) site plan and (Ex. Ka-11) charge sheet.

12. The accused were given an opportunity under Section 313 Cr.P.C to explain the circumstances and evidence led by the prosecution against them, but they claimed false implication due to old enmity and set up a plea that the deceased, Prakash, himself committed suicide.

13. After hearing the rival contentions and going through the trial court record and judgment of the trial court, we find that according to the site plan, Ex.Ka.10 and evidence on record, the place of occurrence is a plot of 3 bighas in which vegetables were grown by P.W.1, Atar Singh. It was situated at a distance of one mile from the village of P.W.1, Atar Singh. According to the statement of P.W.1, Atar Singh, a road goes towards the west of his plot, but in the night time passengers do not go on it, and on the day of a occurrence there was no passenger. It is surrounded by *behar* from three sides. On place '1' indicated in the site plan Ex. Ka.10 the cot is shown where Prakash was alleged to have been murdered by the accused. No doubt in the site plan, investigating officer has not shown as to the place where from accused came or where they vanished. He has also not shown the place from where witnesses came. These are lapse on the part of investigation agency saw the incident of.

14. We further find that the three witnesses of facts are P.W.-1, Atar Singh (first informant- father of victim deceased, Prakash); P.W.-2, Ram Prakash (nephew of first informant, Atar Singh) and P.W.-3, Chandra Prakash (son of first informant, Atar Singh and real brother of deceased, Prakash). All the aforesaid witnesses are closely related to the deceased. Another witnesses, namely, Jai Prakash, who is named in the FIR and was assigned the role of flashing the torch on the accused at the time of firing single shot on the deceased, was not examined. Jai Prakash, is son of informant, Atar Singh, brother of deceased, Prakash. The torch carried by Jai Prakash was also not produced before the trial court and the prosecution is silent in this regard. P.W.1, Atar Singh, got the FIR lodged on the basis of oral information given at the police station. He had admitted making his signature on the chik FIR prepared at the police station. In his statement before the court, he stated that he informed the inspector that he often used to stay in the night on his agriculture field, but yesterday his son Prakash stayed there. He mentioned this fact in the report also. He did not mentioned in the FIR and his statement under section 161 Cr.P.C that his son Prakash and P.W.1, both used to stay in the night in their agriculture field. Therefore, it appears that P.W.1, was not present at the scene of occurrence when it took place.

15. We further find from testimony of P.W.1 that the reason assigned for P.W.2, Ram Prakash, and his son, Jai Prakash, who was not examined to accompany him to the field on the fateful night, was that vegetables were collected over the field, which were required to be brought from there. We do not find any such explanation in the FIR and in the previous statement of P.W.1 recorded in the Police Station. The site plan prepared by P.W.7, Investigating Officer does not corroborates this fact. During his examination, P.W.1 stated that he did not saw any collection of vegetables near the place of incident and therefore, the prosecution case stand belight on this account also.

16. It was asserted by P.W.1, Atar Singh, that the deceased, Prakash took his lunch from home and went back to the field at 12 p.m. P.W.1 went to his house at about 7:00 p.m, to have dinner and also for getting the meal for his son, Prakash, who was to stay at night in the field, but it is clear from prosecution case that before P.W.1, P.W.3 and Jai Prakash could reach Prakash, his death was caused. P.W.6, Dr. V.K. Purang, opined that the deceased died two hours after consuming meals semi-digested food was found in the stomach. P.W.6 also possibility of the case being case of suicide. P.W.1 gave expressed family history of suicidal death of his family members in his testimony before this court, wherein he stated that it is wrong to allege that his father committed suicide, his third brother Ranveer Singh, committed suicide by jumping before the running train or the two wives of Satya Prakash and Chandra Prakash died at the time of cooking food by fire. He also denied that Narottam Singh committed suicide by his licensed gun and for that reason, his license was also cancelled.

17. We also find that P.W.1 has admitted that there is a dispute between the two families and accused Somraj, Mahavir and Jimmy Pal have been acquitted by High Court in appeal. He admitted that compromise has taken place between the accused appellant side and his side and, therefore, there appears no reason for the appellant to commit the murder of the deceased. P.W.-1 had admitted that about 20 - 21 years ago, his cousin, Betal Singh, was murdered, and in that case appellants, Somraj Singh, Mahavir, Maheshwar and Jimmy Pal, were accused. He admitted that they got convicted in the trial court due to the *pairavi* of this case, but they were acquitted by High Court. The dispute took place between his sons and the accused one or two times and thereafter compromise took place between them. No dispute took place between him, his brother, Gulab and his son

with the members of accused-appellant side.

18. Where, the witnesses are close relatives of deceased, the Apex Court has cautioned the courts in paragraph 28 in the case of ***Sharad Biridhichand Sarda vs. State of Maharashtra, AIR 1984 Supreme Court 1622***, is as follows :-

"Before discussing the evidence of the witnesses we might mention a few preliminary remarks against the background of which the oral statements are to be considered. All persons to whom the oral statements are said to have been made by Manju when she visited Beed for the last time, are close relatives and friends of the deceased. In view of the close relationship and affection any person in the position of the witness would naturally have a tendency to exaggerate or add facts which may not have been stated to them at all. Not that is done consciously but even unconsciously the love and affection for the deceased would create a psychological hatred against the supposed murderer and, therefore, the court has to examine such evidence with very great care and caution. Even if the witnesses were speaking a part of the truth or perhaps the whole of it, they would be guided by a spirit of revenge or nemesis against the accused person and in this process certain facts which may not or could not have been stated may be imagined to have been stated unconsciously by the witnesses in order to see that the offender is punished. This is human psychology and no one can help it."

19. Therefore, we find that the argument of learned counsel for the appellants regarding absence of motive on the part of the appellants to kill Prakash sounds credible. It further appears that the appellants were implicated in this case only due to suspicion by P.W.1. P.W.5, the Head Clerk, Kashmir Singh, has admitted that first information report was received by Magistrate four days after the incident on 21.05.1984 and 25.05.1984. Therefore, there appears to be failure of Section 157 Cr.P.C in this case.

20. P.W.-4, Sub-Inspector, Om Prakash Upadhyay, admitted that there is no description of case crime number, etc., in the challan laash (Ex. 4-A) and the list of documents required to be mentioned in the inquest memo. Therefore, the possibility of F.I.R being ante-timed cannot be ruled out.

21. Under the totality of facts and circumstances of this case, it appears appellants have been implicated in this case on the basis of suspicion emanating from old enmity between the parties. The prosecution has failed

to prove its case beyond reasonable doubt. The appellants deserve to be extended benefit of doubt.

22. The judgment of the trial court is set aside.

23. They are on bail. Their bail bonds are cancelled and sureties are discharged.

24. The Criminal Appeal is ***allowed***.

25. Let the order be communicated to the trial court and record of trial court be returned within two weeks.

February 26, 2026

Rohit

(Jai Krishna Upadhyay,J.) (Siddharth,J.)