



2026:AHC:42330-DB

Order Reserved On:-05.02.2026

Order Delivered On:-25.02.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 3353 of 1984

Pratap Singh And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : Amit Kumar Srivastava, Manvendra Singh, R.B. Sahai, Santosh Kumar Nigam

Counsel for Respondent(s) : D.G.A., Harish Chandra Yadav

In Chamber:-

HON'BLE SIDDHARTH, J.

HON'BLE JAI KRISHNA UPADHYAY, J.

(Delivered by Hon'ble Siddharth,J.)

1. Heard Sri Amit Kumar Srivastava and Sri Manvendra Singh, learned counsel for the appellants; Sri Pavan Kumar Srivastava, learned AGA for the State; perused the trial court record and judgment of the trial court.

2. The present criminal appeal has been filed against the judgment and order dated 03.12.1984 passed by Addl. Sessions Judge, Fatehpur, in S.T. No. 419 of 1983 convicting and sentencing the appellants under sections 302/34 IPC and appellant no.2 under section 404 IPC for life imprisonment and 3 years rigorous imprisonment. All the sentences have been directed to run concurrently.

3. The above noted appeal has been preferred by Pratap Singh son of Mahabir Singh, Tunku Singh son of Pratap Singh, Muchai Singh @ Bachau Singh son of Pratap Singh and Munna Singh son of Pratap Singh. During the pendency of above noted appeal, appellant no.1, Pratap Singh son of Mahabir Singh, has died and the appeal has been **dismissed** as **abated** against him. Now the appeal has been heard only with regard to surviving appellant nos. 2, 3 and 4, namely, Tunku Singh, Muchai Singh and Munna Singh.

4. Briefly stated the prosecution case as mentioned in the written F.I.R. Ext.Ka-1 by Smt. Munni Devi, complainant, is that on the date of occurrence at about 06:00 p.m while she was sitting in front of the door of her house with her child in her lap and her *devar*, Banga Singh alias Sheo Sharan

Singh, was preparing buffalo to extract milk, accused, Pratap Singh, Tunku Singh and Munna Singh armed with *lathies* and Muchai Singh alias Bachau Singh, armed with a pistol appeared there. The *lathies* holders started belabouring Banda Singh with their *lathies* as result, he had fallen down on the ground and then Muchai Singh fired from pistol at him. Meanwhile, witnesses Sanwale Singh, Mullu (carpenter), Deena (barber) and Mahabir (Lodh) and Bachau Singh, appeared there as they were sitting under the *Chappar* of Mullu (carpenter) and Bachan Singh, her relatives were sitting in her house. They challenged the accused upon which accused, Tunku Singh, had gone inside the house of Munni Devi and had taken the licensed gun and belt of cartridges of her *Devar* from her house and later on, all of them left the place running towards north and they could not be apprehended. Banga Singh, who was injured, died on the spot. He was murdered due to enmity with the accused.

5. After the occurrence, the complainant, got F.I.R. written through Kashi Singh and sent the same through village Chowkidar Kuber(P.W.5) to the police station and the head constable, Riazul Haque, (P.W.8) prepared chick report and G.D. report, Ext-Ka. 2 and Ka-3 on the basis of this written F.I.R. and investigation of this case was entrusted to S.I., Sri Banshilal Savita (P.W.10) who, after receiving papers from the police station, started investigation of the case immediately. He departed to the place of occurrence in the night and reached there at about 12 and he found the corpse of the deceased lying front of the house of the complainant, but due to rains and absence of light, he could not start his work immediately in the night and it was only in the morning that he could start his work. Constable, Mohd. Haroon and Ram Bahadur Singh, also met him there. On 5.8.83, he prepared inquest report, *chalan* and photo of the corpse and letters to R. I. and C.M.O. and entrusted the sealed corpse to constable, Mohammed Harun and Chowkidar Kuber along with necessary papers for onward transmission to the mortuary. Subsequently, he interrogative Smt. Munni Devi and inspected the spot. He recovered sample and blood stained earth in separate containers and prepared recovery memo Ext. Ka.13 and Ka.14 and also prepared site plan of the place of occurrence, Ext. Ka.15 after inspecting this spot. Subsequently, he interrogated the witnesses Bachan Singh, Sanwale, Mahavir and Deena. Later on S.I. also arrived on this spot, who after inspection, returned to the police station and he was given the case properties by him for transmission to the police station. The accused were not traceable. Ram Karan @ Kallu and other witnesses were also interrogated by him. On 07.08.1983 he again searched the accused, but they were not found. On 10.08.1983, he came to know about surrender of the accused in the court, hence he interrogated them on 12.08.1983 in jail and after concluding the investigation, he submitted charge sheet against the accused vide Ext-Ka.16. He has also proved the statements of the witnesses, Mullu, Sanwle, Mahbir, Deena, Bachan Singh and Ram Karan, vide Ext-Ka 17 to Ka.22.

6. Dr. B.K. Mathur, P.W-11, the then Medical Officer, District Hospital, Fatehpur, carried out post-mortem examination of the corpse of the

deceased, Banga Singh on 06.08.1983 at about 04:15 p.m., and found that the deceased was aged about 38 years and rigor mortis was passed off from both the upper and lower limbs. Abdomen was distended and there was bleeding from both the ears.

7. The doctor found the following ante mortem injuries on the person of the deceased:-

(i) *Lacerated wound 3" x 1/4" x 1-1/2" below the angle of the mouth 2" deep.*

(ii) *Lacerated wound 2-1/2" x 1/2 x 1" above the eye brow.*

(iii) *2" x 1/4" x 1-1/2" above the left eye brow.*

(iv) *Multiple lacerated wound in the area of 5" x 2" variable size 2-1/2" below from the left elbow joint.*

(v). *Contusion 3" x 1/4" on the right forearm 6" below the right elbow joint.*

(vi). *Lacerated wound 2" x 1 x bone deep on the back of the right forearm 1/2" above the right wrist joint lower end of the ulna bone fracture.*

(vii). *Contusion 2-1/2" x 1" on the top of the left shoulder.*

8. On internal examination, the doctor found that the frontal bone of the scalp and skull was fractured. Brain was liquified. 2nd, 3rd and 4th ribs of left side and 2nd and 3rd ribs of right side were fractured. Pleura was lacerated. Both the larynx and trachea were congested. Thyroid bone was fractured. Heart was empty. Pharynx was coming out and was swollen. Stomach and large and small intestines were empty. Bladder was half null.

9. He has proved his post-mortem examination report vide Ext.Ka.23. In the opinion of the doctor, the death of the deceased was possible on 4.8.1983 at about 6:00 p.m and was caused due to shock and hemorrhage as a result of the injuries sustained by him. After receipt of the charge sheet the C.J.M., Fatehpur, committed the accused persons to the court of Sessions for their trial under section 302/380 IPC on 29.09.1983. On 10.05.1984, court framed aforesaid charges against the accused and read over and explained the same to them in *Hindi* but they pleaded not guilty and claimed to be tried.

10. In their statement under section 313 Cr.P.C., accused stated that they have been falsely implicated in this case due to enmity. Accused, Muchai Singh, has further stated that the deceased was of bad character hence he

might have been killed by someone at night and due to enmity, they have been falsely implicated in this case.

11.To prove the guilt of the accused, the prosecution examined, Munnu(P.W.-1), Sanwle Singh(P.W.-2), Mahabir(P.W.-3), Deena(P.W.-4), Kuber Chowkidar(P.W.-5), Bachan Singh(P.W.-6), Smt. Munni Devi(P.W.-7), Sri Riazul Haq, Head constable(P.W.-8), Ram Karan @ Kallu(P.W.-9), Sri Banshilal Savita, S.I. (P.W.-10) and Dr. B.K. Mathur, Medical Officer (P.W.-11), whereas the accused examined no witness in their defence.

12. Learned counsel for the appellant has submitted that the appellants were implicated in this case on the basis of false motive regarding murder of the husband of P.W.-7, Smt. Munni Devi, namely, Ram Saran Singh @ Chittu. In the aforesaid trial Tunku Singh and Bachan Singh were tried and sentenced for life in S.T. No. 497/1981. He has submitted against the aforesaid judgment of conviction passed on 12.10.1982 by the Sessions Court, Criminal Appeal No. 2625 of 1982 was preferred before this Court which was allowed on 14.05.2025 by the coordinate Division Bench of this Court. He has submitted that the prosecution case regarding the murder of husband of P.W.-7 was not found to be proved beyond reasonable doubt by this Court and, therefore, the motive of crime attributed to the appellants in this case is without any substance. He has further submitted that there are allegations in the F.I.R. that appellant, Muchai Singh, caused fatal fire arm injury to the deceased while the other accused appellant assaulted him by *lathis* as a result of which he died, but no fire arm injury was found on the person of the deceased by the autopsy doctor, P.W.-11. He only suffered lacerated and contused wounds caused by *lathies* on different parts of his body. He has further submitted that when the investigating officer went at the place of incident, there was no *machiya* (stool) and *batui* (utensil) was found by him from the place of incident when it was alleged that while he was preparing to milk buffalo by sitting on *machiya*, he was assaulted by the appellants and murdered. Therefore the prosecution case is false. The deceased himself was a criminal and P.W.-7 admitted that he was *chalaned* in a case under Gangsters Act. It has been submitted that it is a case of dacoity wherein the unknown dacoits caused murder of the deceased and took away his gun and bullets from his house by way of loot. Because of earlier enmity of appellants, Tunku and Bachau, with the P.W.-7, (due to murder of husband of P.W.-7), she falsely implicated the appellants in this case.

13. Learned AGA has vehemently opposed the submissions and has submitted that the fact the appeal of the appellants, Tunku and Bachau Singh, has been allowed by another coordinate Bench of this Court cannot be a ground for acquitting the appellants in this appeal also. He has submitted that the appellants aforesaid have been granted benefit of doubt by this Court only in earlier appeal and not granted clear order of acquittal. He has further submitted that P.W.-7 proved that the deceased, Banga Singh,

who was her brother-in-law (*devar*) and real brother of her deceased husband was doing *pairvi* of the murder trial of her husband, Ram Saran Singh @ Chittoo. Therefore, the appellants harbored grudge against him and had reasons to eliminate him so that the *pairvi* of the murder trial may be abated. It has been submitted that mere absence of fire arm injury allegedly caused by Muchai Singh cannot be a ground for disbelieving the entire prosecution case. The absence of *machiya*(stool) and *batui*((utensil) on the place of incident cannot be ground for disbelieving the incident since the P.W.-10, in-charge, police outpost, reached the place of incident on the next morning. He recovered empty cartridge from the spot and prepared a recovery memo also. It rained in the night and, therefore, the place of incident was tampered in the night where number of persons might have come after the incident. The dead body of the deceased was found lying on the place of incident throughout the night. He has submitted that the prosecution has succeeded in proving the prosecution case against the appellants beyond reasonable doubt and, therefore, the judgment and order of the trial court may be confirmed.

14. After hearing the rival submissions and going through the material of trial court record, we find that it is a case of gruesome murder of a young man in front of his house and also his sister-in-law(bhabhi, P.W.7). Although, there is no overt motive assigned to the appellants of causing the murder of the deceased, but it is clear that in the murder case of husband of P.W.-7, the appellants, Tunku Singh and Muchai Singh @ Bachau Singh, were prosecuted for murder of her husband. It has come in the statements of the witnesses that the deceased, Banga, was doing *pairvi* of the murder case of his brother and, therefore, the appellants had overt motive to cause the murder of deceased, Banga Singh. It has been admitted that by the prosecution witness that Banga Singh used to live with P.W.-7 in the same house where his murder was committed. The prosecution witnesses of fact have supported the motive of crime assigned to the appellants.

15. In this case P.W.-1, Mulla, P.W.-2, Sanwle, P.W.-3, Mahabir, P.W.-4, Dina and P.W.-6, Bachan Singh, were declared hostile since they did not supported the prosecution case, but P.W.-7, Smt. Munni Devi, the complainant, proved the prosecution case to the hilt.

16. P.W.-7 stated in her statement before the court that the surviving appellants are real brothers and sons of the deceased-appellant, Pratap Singh. Three years prior to murder of Banga Singh, her husband was murdered by Bachau Singh and Tunku Singh. They were tried and convicted for life. The *pairvi* of the aforesaid case was being done by deceased Banga Singh. After the murder of her husband the accused persons developed enmity with her and Banga Singh. We do not find anything doubtful in the statement of P.W.-7 to this extent.

17. P.W.-7, further stated that the murder of Banga Singh took place in the

month of *savan* at about 06:00 p.m., she was sitting on a door and Banga Singh was preparing to milk buffalo by sitting below the buffalo. At that time beneath the *chappar* of Bhullu Badai, Mahadev Lodh, Sanvle, Dina Nai and Mahabir were sitting. Her brother-in-law, Bachan Singh(nandoi) was also sitting when the appellants, Pratap Singh, Tunku Singh and Munna Singh armed with lathis and Bachau Singh armed with country made pistol reached near Banga Singh at the place where he was preparing to milk buffalo. On reaching the place where Banga was present, appellant, Pratap Singh, exhorted Tunku to kill Banga ,who was alone, and the three accused armed with *lathies* started beating, Banga Singh, as a result of which he fell on the ground. After he fell down, he was beaten 2-4 times with *lathies* and, thereafter, Bachau Singh, fired on him with country made pistol. P.W.-7 raised alarm and then, Bachan Singh, Sanvle Singh, Bhullu Badai, Mahabir Lodh and Dina Nai ran to save Banga Singh. When she raised alarm Bachau Singh threatened her of life in case she makes noise. She further stated that after beating Banga Singh, Tunku Singh entered inside her house and took away the licensed gun of Banga along with belt of 20 cartridges. The witnesses *challaned* the accused, but did not chased them because of fear. Banga Singh had died in the meantime, blood was oozing from his clothes and there was blood on the floor also. She further stated that she got the report written by her brother-in-law, Kashi Singh, inside her house. She proved the contents of the report before the court and stated that she sent the report to the police station through chowkidar(P.W.-5). He went to the police station on his bicycle. Thereafter, a constable came from the police outpost, Chiulaha. The inspector came at 12-1:00 a.m in the night at the place of incident, but he did not recorded any statement. In the morning he got the inquest proceedings conducted and after sealing the dead body, sent it to for post mortem. The inspector collected blood stained earth and empty cartridges from the place of incident. After the incident she started residing with her sister-in-law(*nand*) in Jagatpur because of fear of the accused. She has 20-24 *bighas* of land in village, Amilihapal.

18. In cross-examination, P.W.-7 stated that the deceased was *challaned* in a case under Gangsters Act. She denied that deceased got the police encounter of Bhullu and Maharaj done by colluding with police. She denied knowledge about the deceased being witness in the aforesaid case. She denied that her husband had friendship with Rambir, who is criminal. She admitted that before the incident the deceased never had any dispute with the accused persons. Apart from enmity with the accused she had nothing against them. She had shown the scene of incident to the inspector as it was at the time of incident. Banga Singh could not even stand up or run away before he was murdered. The deceased has fallen at two hands from the *machiya*(stool). The ground was muddy and it was not raining at the time of incident. After half an hour rain started and continued throughout the night. The deceased tried to protect himself from *lathies* blows by his hands, but failed. After he fell down, firing from country made pistol was made on him. It was made from distance of 10-12 steps. It was made towards his body and whether it hit his body or not, she does not remembers. The accused had fired on the

deceased while standing. The *lathies* blows were stopped after firing. None of the witnesses at the place of incident, Bhullu Badai, etc., came to her door till the accused were present. She stated that the license of the gun taken away by appellant, Tunku Singh, was lost. She stated that buffalo was tied up on the same place when the inspector came. She admitted that no one accompanied the dead body of the deceased to the mortuary from the village and only constable and chowkidar accompanied the same.

19. We find from the aforesaid statement of P.W.-7, she has given natural and vivid account of the incident. There is nothing to doubt about her testimony given before the court. It is well settled law that it is not the quantity but the quality of the evidence which matters in criminal trial. The testimony of P.W.-7 inspired confidence of the trial court and also inspires confidence of this Court. There was no reason for P.W.-7 to falsely implicate the appellants. There is also nothing on record which may indicate that the police falsely implicated the appellants in this case for any reason apparent from the record. The medical evidence proved that the deceased was subjected to assault by *lathies*. It appears that firing was made on the deceased by country made pistol since the empty cartridge were recovered from the spot, but it did not hit the deceased. P.W.-7 clearly stated that she could see whether the bullet fired on the deceased hit his body or not.

20. The investigating officer found blood stained earth from the place of incident and found the empty cartridges too. It is a case of murder which took place at 06:00 p.m., in the month of August and, therefore, there was no issue of visibility involved in this case. The acquittal of the accused-appellants, Tunku Singh, Bachau Singh, in the murder case of her husband cannot be ground for acquittal of the appellant in this case. They have been granted only benefit of doubt by this Court and not clear acquittal. The testimony of P.W.-7 is of wholly reliable witness and her testimony is sufficient to uphold the conviction and sentence of the appellant awarded by the trial court. The appellants are real brothers and can be said to have common intention of causing murder of the deceased since two of them, namely, Tunku and Bachau, were also accused in the murder case of the husband of P.W.-7.

21. We do not find any infirmity in the findings of the trial court and hereby **confirm, the same**. The criminal appeal is devoid of merit and is hereby dismissed. The judgment and order of trial court is affirmed.

22. The appellants are on bail. Their bail bonds are cancelled and sureties are discharged.

23. They are directed to surrender forthwith and carryout the remaining sentence.

24. Criminal appeal is **dismissed**.

25. Let the trial court record be returned and this judgment be notified to the trial court.

February 25, 2026
Abhishek

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