



2026:AHC:20791-DB

RESERVED ON 12.1.2026

DELIVERED ON 30.1.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 683 of 1995

Raj Kishore Alias Chaukidar And Another

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Shyam Krishna Gupta, V.C. Tiwary
Counsel for Respondent(s)	: .../Govt. Advocate, G.A.

Court No. - 46

HON'BLE SIDDHARTH, J.

HON'BLE JAI KRISHNA UPADHYAY, J.

(Delivered by Hon'ble Siddharth J.)

1.Heard Sri R.C. Yadav and Shri Shyam Krishna Gupta, learned counsel for the appellants , Shri G.N. Kanaujiya, learned A.G.A. Ist for the State and perused the record.

2.Order on Criminal Misc. Recall Application No. 2 of 2025

and Order on Criminal Misc. Application No. 3 of 2025

Order on Criminal Misc. Application No. 4 of 2025 (Bail)

and Order on Criminal Misc. Application No. 5 of 2025

3.Since the above noted appeal has been finally

argued, the above noted applications are dismissed as infructuous.

Order on Appeal

4.This criminal appeal has been filed against the judgement and order dated 25.4.1995 passed by District & Sessions Judge, Ballia in S.T. No.10 of 1992 convicting and sentencing both the appellants under section 302/34 I.P.C. to life imprisonment.

5.The prosecution case is that the informant is Paras Singh son of Chhakaurim Singh, resident of Madhubani. Police Station, Bariya, District Ballia.Hare Ram Singh(deceased) was brother-in-law(Behnoi) of his nephew(Sanjay Singh), who used to work in forest department and used to reside near Suremanpur railway station.Hare Ram Singh(deceased) used to take food at the house of the informant. On 12.11.1991, Hare Ram Singh, after taking food at the house of informant started for his room in the forest department and the informant, co-villager, Barmeshwar Singh and Sanjay Singh accompanied Hare Ram Singh. After reaching the residence of Hare Ram Singh all of them sat together and were talking.A lantern was lighting the room, when son of Daroga Dushad, whose name the informant did not knew (Ram Kishor) and Santosh, who grazes pigs came, armed with "Daon"(sharp edged weapon) and started assaulting Hare Ram Singh.The informant and other persons with him intervened but by that time both the accused, after assaulting Hare Ram Singh, ran away.The

incident took place at 8.30. P.M. and Hare Ram Singh suffered grievous injuries on his face. The informant gave an application, scribed by Jitendra Kumar, at police station, Bariya and took the injured, Hare Ram Singh, to the police station where First Information Report was lodged under section 307 I.P.C. and case crime no. 275 of 1991 was registered,

6. The injured was taken to the Primary Health Centre, Suremanpur on the basis of *Chithi Majrubhi* of police station where from he was referred to District Hospital Ballia and he died on the way to the aforesaid hospital. Inquest report of his body was prepared and thereafter postmortem of the dead body of the deceased was conducted by P.W.4.

7. The investigating officer conducted the investigation of this case and submitted charge sheet under section 302 read with section 34 I.P.C. and trial court framed charges accordingly against the accused. The accused denied the charges and sought trial.

8. To prove the prosecution case the prosecution examined P.W.1, Paras Singh; P.W.2, Swami Nath Singh; P.W.3, Dr, C.P. Singh; P.W.4, Dr. Mangla Singh; P.W.5, Constable, Swarath Yadav and proved the documentary evidence.

9. The statements of the accused were recorded under section 313 Cr.P.C. wherein they claimed innocence and

their false implication in this case. The defence did not produced any evidence.

10.P.W.1 in his statement, recorded before the trial court, stated that on the date of incident deceased, Hare Ram Singh, had taken dinner at his house and they went with him to his house alongwith Sanjay and Parmeshwar Singh. They reached the room of deceased at 7 P.M. The deceased lighted the earthen lamp. They were sitting on the bed in the room of Hare Ram Singh, who asked him to go back to his house since he has reached his place of residence. Both, Santosh and Raj Kishore, the appellants reached there empty handed. They demanded match sticks for igniting *Bidi* from Hare Ram Singh, who provided the same to them and went outside the room and saw that weapons were kept outside his house. He asked the accused why they have brought the weapons and they replied that they have brought the same for harvesting the wheat crops. Hare Ram Singh went on eastern side to urinate and the accused started assaulting him. On hearing the noise, the informant and others also raised alarm. Hare Ram Singh, was lying and the accused ran away towards the south- west direction. On hearing the cries Chatur Dhan Singh, Sadhu and Ram Chander Das had come and thereafter putting the body of Hare Ram Singh on cot they took it to Police Outpost Suremanpur. Barmeshwar, Sanjay ,Chaturdhan and informant took the body on the cot. At the police outpost only one constable was there and after putting

the body in tempo they came to police station Bairiya and got the First Information Report lodged after getting the application written by Jitendra.

11. P.W.1 further stated that at the time when Hare Ram Singh was brought to the police station, he was only injured, alive and was speaking. His statement was recorded by the inspector of police station. Doctor (P.W.3) referred Hare Ram Singh to District Hospital, Ballia at 9.10 P.M. and after reaching the hospital he died at about 1 A.M. in the night. The inquest proceedings were conducted on the dead body at the hospital. Paras Singh was one of the panch witness.

12. During cross examination P.W.1 stated that his age is 75 years. The deceased used to come to his house for taking food at about 6-630 P.M. He used to come on bicycle and go back on bicycle. On the day of incident he left his bicycle at his house and went with him to his house walking. It was moon lit night and day was "*Chhat*". He stated to Barmeswar and Sanjay that they should accompany him as he has to take milk from the house of Lakshmi Ahir. The distance between the house of P.W.1 to Asharam of Ram Balak Das was one mile towards north. The house of the deceased was near the Ashram of Ram Balak Das. Hare Ram Singh was killed at a distance of two Bighas from the Ashram of Ram Balak Das. At the place of incident there is quite dense grove and ditch of forest department. The deceased fell on the eastern side of the ditch. He stated that he cannot tell the reason why he has not mentioned the fact of lantern lighting the room of the deceased nor why the inspector did not take his signature on the chik F.I.R. He stated that

he did not mentioned the fact of lighting of lantern in the report because no one asked him nor he mentioned that demand of match stick was made from the deceased by accused for igniting "Bidi". He also cannot state the reason why he did mentioned in the F.I.R. that deceased saw the weapons kept outside his room by the accused. He further stated that accused informed the deceased that they had brought the weapons for harvesting of wheat crops. After Hare Ram Singh left for urinating, the accused assaulted him but he cannot say why this fact was not mentioned in the First Information Report. He informed the police that after the incident accused vanished towards south -west. Blood was present on the cot whereon deceased was taken to the police station. The blood was also present where the deceased went to urinate and was assaulted. He had not mentioned the name of accused, Raj Kishor, in the First Information Report and after his statement his name was added by the inspector.

13.P.W.2, Swami Nath Singh, is not the eyewitness of the incident and he came after coming to know of the incident of murder of his nephew. He was witness of the inquest and proved the same.

14. P.W.3, Dr. C.P. Singh, stated that Hare Ram Singh was brought to him when he was posted as doctor at Suremanpur Primary Health Centre after giving him first aid he referred him to Sadar Hospital Ballia. He proved his medical examination report, Exhibit Ka-3.

15.P.W.4, Dr. Mangal Singh, stated in his evidence that he found the following antemortem injuries on the body of the deceased:-

1. Incised wound 10 Cm. X 1.5 Cm. bone deep upto angle

of right mandible .Right side face starting from nasal bridge to right mandible. Nose also incised;

2. Incised wound 5cm x 1.5 cm.x bone deep situated on right face (horizontal) starting from middle towards right cheek and ended in dorsal border of injury no.1.

3. Incised wound 2.5 cm x 1.5 cm x bone deep situated on sub-mental region of the face, in the middle..

4. Incised wound 3 cm. X 1.5 cm. x bone deep situated on medial 1/3rd of right clavicle..

5. Incised wound 5 cm x 3 cm. x bone deep situated on post triangle of right side neck, just above clavicle. .

6. Incised wound 3 cm.x 2 cm..x bone deep situated in posterio lateral aspect of right side neck 2 c.m. above injury no.5.

7. Incised wound 4 cmx1.5 cm x bone deep situated on right side of wrist joint.

8. Incised wound 3 cm. X 1.5 cm.x situated on anterior aspect of left forearm 4 c.m proximal to wrist joint.

16.He further stated that he had provided the clothes of the deceased after ceiling them, to the constable. The semi- digested food was found in the stomach of the deceased.

17.P.W.5, constable Swarth Yadav, proved that he took Hare Ram Singh from Police Station to Primary Health Centre. The doctor gave him injection and after finding his condition critical referred him to Sadar Hospital, Ballia. Hare Ram Singh, was taken to Sadar hospital Ballia in a Jeep and after reaching there doctor declared him dead. After getting the dead body kept in mortuary

he went back.

18 No other witness was examined on behalf of the prosecution including the investigating officer of this case.

19.Learned counsel for the appellants has submitted that there was no motive assigned to the appellants for committing the murder of the deceased, Hare Ram Singh; they were falsely implicated in this case because of enmity; the prosecution case is that deceased used to go to house of P.W.1 for only taking meals, is not credible since the deceased was distant relative of P.W.1; P.W.1 is not a reliable witness and was not present on the scene of the incident; the incident took place at 8.30 P.M. and the report was lodged at 8.50 P.M.on 12.11.1991,which was not possible. The chik report did not bore signature of P.W.1; case crime number was not mentioned on the inquest report and there is no corroborative evidence of the statement of P.W.1.

20.Learned A.G.A. has opposed the submissions made by the learned counsel for the appellants and has submitted that in this case P.W.1 is although the only witness of fact but he is wholly reliable witness. The conviction can be based on single reliable testimony of the witness of the prosecution and its corroboration is not required. Timings and sequence of events show that P.W.1 was present on the spot and he was able to give vivid account of the incident. The minor omissions made by the P.W.1 in his statement are because of his advanced age of 75 years and being rustic. Prosecution has proved its case beyond reasonable doubt and hence judgement and order passed by the trial court may not be interfered with by the court.

21.After hearing the rival submissions, going through

material on trial court record and finding recorded by the trial court, we find that it is a case of gruesome murder of young man aged about 25 years by causing him multiple blows from the sharp edged weapons assigned to the appellants..The prosecution case is that the deceased took dinner at the house of P.W.1, his relative, at about 6-6.30 P.M. on the fateful day and thereafter P.W.1 alongwith co-villagers, Sanjay and Barmeshwar Singh, accompanied the deceased to his quarter and reached there at about 7 P.M..The distance from the house of P.W.1, to quarter of deceased, Hare Ram Singh, was one mile and covering the distance of one mile in half an hour by P.W.1 his companion and the deceased was not improbable. The argument of the appellants' side that P.W.1, did not stated that deceased lit lantern in the First Information Report is not correct In the F.I.R. It has been mentioned that lantern was lighting the room where deceased, P.W.1, Sanjay and Barmeshwar Singh were sitting. More over the incident took place in open place where deceased had gone to urinate. P.W.1 stated that it was moon lit night of "*Chhat*". and the appellants assaulted the deceased there when deceased had gone to urinate outside his room towards the eastern side. P.W.1 saw the appellants when they came to the room of the deceased. They demanded match stick for igniting *Bidi* and when Hare Ram Singh went outside to provide them match sticks then he saw weapons kept outside the room by the appellants. When he questioned them about the weapons they informed that they have brought the same for the purpose of harvesting wheat crops. Therefore identity of the appellants was not in doubt as they were seen by the P.W.1 prior to the incident and at the time of causing the incident, after deceased raised alarm and cried for help. P.W.1 in his cross examination has stated that blood had fallen on the place of incident and also in

the tempo, whereon deceased was taken to the Primary Health Centre, but it appears that investigating officer of this case did not performed his duties properly during investigation and also did not appeared in the witness box. The benefit of omission made by the investigating officer cannot be extended to the accused since there are other corroborative evidence of the case.

22. The trial court has relied upon the Full Bench decision of this court in case of **Sadik and another Vs State of U.P.. reported in 1981 Criminal Law, Journal 372** and has held that the documents of police investigation brought on record were admitted by the defence and therefore the argument that documents were not admissible in evidence in the absence of formal proof is not available to the prosecution, since the documents would be read as substantive evidence as per section 294 (3) Cr.P.C. Therefore the arguments that chik F.I.R. did not bore signatures of P.W.1 will not hold good. Even otherwise F.I.R is not considered as substantial evidence. Its purpose is akin to statements recorded under section 161 Cr.P.C.

23. The argument that the First Information Report was not in existence at the time of the inquest proceedings since the incident took place at about 8 P.M. and First Information Report was lodged on 8.50 cannot be belived. In the inquest report there is no mention of details of case crime number. The distance of police station was about 3 miles from the place of incident. The distance of three miles could be covered in one hour and therefore arguments that First information report could not have been lodged at 8.50 p.m.; when the incident took place at about 8:00 p.m. cannot be accepted.

24. The above fact is further corroborated from the timing

of the medical examination of the deceased at Primary Health Centre at 9.10 p.m..In case First Information Report was not registered at 20.50 , how deceased , who was alive at that time, was examined by the doctor at the Primary Health Centre at 9.10. p.m..Trial court has considered the G.D. entry no. 20 recorded 20.50 on 12.11.1991, wherein it has been recorded that P.W.1 brought injured, Hare Ram Singh to the police station alongwith Bharmeshwar Singh, Mahagi, Kohari ,Sanjay Singh on Tempo number BPI 2451 driven by Raj Narayan Verma and they gave an application at the police station for lodging the First Information Report.

25.The trial court has considered site plan prepared by the investigating officer of the police , which was exhibit Ka-6 and was accepted by the defence.Therefore manner and place of incident cannot be disputed by the defence at this stage.

26.We further find that presence of semi digested food in the stomach of the deceased proved the prosecution case that he took the dinner at the house of P.W.1 and left for his house at about 6.30 p.m., the deceased died some time after 9-10 p.m., therefore about 2 1/2 hours had only passed between taking dinner at the house of P.W.1.and the death of the deceased and semi digested food was rightly found in the stomach of the deceased. After he was brutally assaulted at about 8 p.m. and started bleeding , process of digestion in his stomach was bound to be affected and therefore food remained semi digested in his stomach. The non naming the appellant, Raj Kishore, in the F.I.R. cannot be fatal for the prosecution case since his father's name was mentioned in the First Information Report by P.W.1The recovery of bloodstained weapon "Daon" was made on the pointing out of the appellant, Ranjeet and therefore his

involvement in this case and conviction cannot be faulted with.

27.We have also gone through the statement of the appellants recorded under section 313 Cr,P,C, wherein they have not stated as to why they are innocent and have been falsely implicated in this case.They have stated that they have been implicated in this case because of enmity but the nature and cause of enmity has not been explained.

28.We have not found any infirmity in the findings recorded by the trial court in its judgement and order challenged before us, except that trial court has not imposed any fine on the appellants, which is mandatory, where conviction under section 302 I.P.C. is directed.

29.Consequently we have no option but to confirm the conviction and sentence of the appellants as directed by the trial court and direct payment of fine of Rs.10,000/- each by the appellants to the informant by modifying the judgment of the trial court to this extent.

30.The appeal lacks merit and is hereby dismissed.

31.The appellants are on bail, their bail bonds are cancelled and sureties are discharged. They are directed to surrender forthwith and carry out the remaining sentence.

32.Office is directed to return the trial court record alongwith copy of this judgement to the trial court.

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

January 30, 2026

Atul kr. sri.