



2026:AHC:17890-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1823 of 1987

Chhatar Singh And 3 Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : Mayank Yadav, S.S. Sharma, Vivek Kumar Singh
Counsel for Respondent(s) : A.G.A.

AND

1. Criminal Appeal No. 1866 of 1987:

Naresh Kumar

Versus

State of U.P.

Counsel for Appellant(s) : Pradeep Kumar Rai, Siddharth Shukla,

Yudhishtira Yadav

Counsel for Respondent(s) : A.G.A.

Court No. - 46

HON'BLE SIDDHARTH, J.

HON'BLE JAI KRISHNA UPADHYAY, J.

(Per se : Hon'ble Jai Krishna Upadhyay, J)

1. Heard Sri Kamal Krishna, learned senior counsel assisted by Sri Pradeep Kumar Rai, learned counsel for the appellants; Sri Sushil Kumar Pandey, learned AGA-I for the State; perused the trial court record and the judgment and order of the trial Court.

2. These appeals have been preferred against the impugned judgment and order dated 10.07.1987 passed by Special Judge, Mathura in Sessions Trial No. 47 of 1987 (State Vs. Naresh Kumar and others) under Sections 498-A, 302/120-B IPC, arising out of Case Crime No. 372 of 1986, Police Station – Vrindaban, District – Mathura convicting and sentencing the appellants, Chittar Singh, Nanak

Chand, Dinesh Chand and Smt. Kastori Devi for two years rigorous imprisonment under Section 498A IPC with fine of Rs. 1000/- each and in default of payment of fine, they shall undergo three months rigorous imprisonment and sentencing Naresh Kumar to undergo imprisonment for life for committing offence under Section 302 IPC and further to undergo two years rigorous imprisonment under Section 498-A IPC, and fine of Rs. 1000/-. In default of payment of fine, he shall undergo three months rigorous imprisonment. All the sentences shall run concurrently.

3. During pendency of these appeals, in Criminal Appeal No. 1823 of 1987, the appellants no. 2, 3 and 4 namely Nanak Chand, Dinesh Kumar and Smt. Kasturi Devi died. Hence the appeal filed on their behalf was dismissed as abated and appeal is pending only for appellant no. 1 - Chhatar Singh and in Criminal Appeal No. 1866 of 1987, is pending for sole appellant, Naresh Kumar. Both the appeals have been clubbed together and are being decided by a common judgment.

4. Prosecution case in nut shell is as under:-

(i) Smt Vimlesh, sister of Ram Babu (Informant-PW-1) was married to accused Naresh Kumar within one year to the incident. At the time of marriage, Naresh Kumar made a demand for a scooter as dowry, which the parents of the deceased (Vimlesh) could not fulfill. For the last three months before the incident i.e., 10.11.1986, Smt. Vimlesh was residing in her in-laws house.

(ii) On 08.11.1986, Ram Prakash went to meet the deceased when Naresh Kumar repeated his demand of scooter and even did not permit Ram Prakash to talk individually and separately with Vimlesh.

(iii) On 09.11.1986, the deceased told Ram Prakash to arrange for a scooter as early as possible otherwise her life would be in danger. Ram Prakash after giving assurance to her returned back saying that he will consult with her father in this regard.

(iv) On 10.11.1986, Satya Prakash alongwith Bhagwan Singh,

Keshav Dev and Ghanshyam has gone to talk for marriage of Dinesh (accused). When he reached at the house of her sister, there were cries coming from inside the house and he saw that Naresh Kumar was having match stick in his hand and Chhatar Singh, Nanak Chand and Dinesh Kumar were having container and glass in their hands. Seeing this, Satya Prakasah raised alarm which draw the attention of the neighbours. Naresh Kumar and the remaining accused sprinkled kerosene oil on the deceased Vimlesh and set her ablaze. Thereafter, on 11.11.1986 Satya Prakash returned back to his village and narrated the whole incident to Ram Babu and his family members.

(v) Thereafter on the same day, Rambabu went to lodge the FIR at police station but his report was not lodged and again on 13.11.1986, Rambabu gave written complaint to Superintendent of Police, Mathura. On this complaint, the Superintendent of Police, Mathura made an endorsement on 16.11.1986 and thereafter the FIR was registered on his direction at the police station – Sadar Bazar on 16.11.1986 under Section 498-A, 302/120-B IPC against Naresh @ Munna (husband), Vimlesh (mother-in-law), Chhatar Singh (Jeth) and Nanak Chand (Jeth).

(vi) After Smt. Vimlesh (the deceased) received burn injuries, she was admitted to District Hospital at 10:15 pm by Nanak Chand (Jeth of the deceased).

5. Dr. M.K. Gupta (PW-4) examined Smt. Vimlesh on 10.11.1986 and sent information about admission of Smt. Vimlesh in the hospital to the police authorities, later on she died. The hospital authorities informed the Kotwali police about the death of Smt. Vimlesh.

6. Inquest report (Ex-Ka-4) of the dead body was conducted by the Sub Inspector Sri Ajay Singh on 10.11.1986 at 12:30 am and the body was sent for postmortem which was done on 10.11.1986 at 4:00 pm by Dr. P.P. Pathak (PW-3). According to the postmortem report (Ex-Ka-2), the cause of death was due to shock on account of burn injuries.

7. The investigation of the case was conducted by Bhaggan Singh

(PW-6) and after investigation, the Investigating Officer submitted the charge sheet which is Ex-Ka-17.

8. After taking cognizance, the matter was committed to the Court of Session. The charge was framed under Section 302/120B IPC and 498-A IPC. All the accused denied the charges and claimed for trial.

9. The defence plea is that it was a case of suicide and not murder and Smt. Vimlesh herself was responsible for the death.

10. During the course of trial, as many as eight prosecution witnesses and one court witness were examined. The incriminating circumstances appearing in the prosecution evidence were put to the appellants while recording their statement under Section 313 Cr.P.C. The appellants denied the incriminating circumstances that appeared in the prosecution evidence and claimed that they have been falsely implicated and the defence has examined 5 witnesses. The defence plea is that it was a case of suicide and not murder. Accused Naresh Kumar was not present at the place of occurrence on the date of incident i.e. 10.11.1986 and he was in district Mirzapur.

11. By the impugned judgment, learned trial Court has convicted and sentenced the appellants, hence these appeals.

12. Sri Kamal Krishna, senior counsel assisted by Sri Pradeep Kumar, learned counsel for the appellants submits as follows:-

(i) The alleged incident is of dated 10.11.1986 which occurred at about 6-6:30 am and the FIR was lodged on 16.11.1986 at about 9:45 pm. He has further submitted that despite information of the incident having been conveyed to the first informant on the date of incident itself for the reasons best known to the prosecution, the application regarding incident was allegedly given at the police station only on 13.11.1986 resulting in unexplained delay in lodging the FIR.

(ii) The delay in lodging the FIR is fatal to the prosecution case. As per prosecution story, Satyaprakash (PW-2) and Bhagwan Singh (PW-4) had gone to negotiate the marriage of the daughter of Basdev with Dinesh Kumar (brother of appellant, Naresh Kumar). The name

of Basdev is not mentioned in the FIR. It is also not mentioned in the FIR that he allegedly stayed at the house. These omissions in the FIR cast serious doubt on the prosecution case.

(iii) The Ex-Kha-13 and Ex-Kha-14 i.e., the letters dated 03.08.1986 and 28.8.1986 respectively were written prior to the alleged incident by Satyaprakash (CW-1), real brother of the deceased Smt. Vimlesh and he admitted that there were no dowry demand by Naresh Kumar and his family members. In view of these letters, learned counsel for the appellants submits that the prosecution story regarding demand of a scooter by the appellant as dowry becomes doubtful.

(iv) The appellant Naresh Kumar was not present at Mathura at the time of the incident and he was present at Mirzapur/Sonbhadra district.

(v) After the deceased committed suicide, she was taken to the district hospital, Mathura by Nanak Chand, brother of the appellant Naresh Kumar.

(v) Presence of prosecution witness is doubtful. Satya Prakash (PW-2) and Bhagwan Singh (PW-4) had attempted to establish their presence in village Chaumuha, the place of occurrence, by stating that they had gone there to negotiate the marriage of the daughter of Basdev (DW-5) with Dinesh Kumar, brother of appellant, Naresh Kumar. It is not believable that if the witnesses were aware of demand of a scooter as dowry by Naresh Kumar and his family members and Smt. Vimlesh was being harassed on account of non-fulfillment of the said demand, they still went to go to negotiate the marriage of the daughter of Basdev (DW-5), who happens to be niece of Bhagwan Singh (PW-4) with Dinesh Kumar, brother of Naresh Kumar. This feature of the prosecution case makes presence of the witness at the time of the incident as highly doubtful.

(vi) The site plan was prepared at the instance of Satish Chandra, but he was not examined by the prosecution which is highly improper for proving the prosecution case.

(vii) There are inconsistencies, omissions, contradictions and conflict between ocular and medical evidence.

(viii) The prosecution has failed to prove its case beyond reasonable doubt. Therefore, the appeal is liable to be allowed.

13. On the other hand, supporting the impugned judgment, Sri Sushil Kumar Pandey, learned AGA Ist appearing for the State has submitted as under:-

(i) The accused-appellants were named in the First Information Report.

(ii) From the evidence of Satya Prakash (PW-2) and Bhagwan Singh (PW-4), it is proved beyond reasonable doubt that Naresh Kumar (the appellant) was guilty and responsible for committing murder of Smt. Vimlesh by sprinkling kerosene oil on her body and his plea of alibi is false.

(iii) Medical evidence on record corroborates the prosecution story as spelled out in the FIR and also the letters testified by the prosecution witnesses.

(iv) The prosecution has proved this case beyond reasonable doubt. This appeal lacks merit and is liable to be dismissed.

14. Having considered the rival submissions of the learned counsel for the parties, it would be appropriate to first notice the testimony of both sides of the witnesses.

15. Ram Babu (PW-1) is the informant of the case and brother of the deceased, Smt. Vimlesh. He stated that marriage of Vimlesh and Naresh Kumar was solemnized as per Hindu marriage rites and rituals. Right from the marriage, the in-laws of Smt. Vimlesh were demanding a scooter. He stated that his younger brother Satya Prakash (PW-2) went to meet her sister, Vimlesh and stayed at her matrimonial home. The in-laws of Vimlesh demanded a scooter. Vimlesh had also told him to arrange the scooter at the earliest otherwise her life would be in danger. After pacifying over her, his

brother came back.

On 10.11.1986 at late night, Satya Prakash (PW-2) came and told Rambabu that Vimlesh was burnt to death by her in-laws. On the next day, Rambabu (PW-1) went to his sister's in-laws house alongwith Satya Prakash and some other persons. When the in-laws of her sister saw them, they ran away from the house. By inquiring from the villagers, he tried to register the FIR of this incident, but it was not lodged.

On 13.11.1986, Rambabu (PW-1) had given an application to the Superintendent of Police, Mathura informing about the incidents and for lodging the FIR. On this application, the Superintendent of Police, Mathura directed to register the FIR. The FIR was registered on 16.11.1986. This report was written and signed by him which is Ex-Ka-1.

Ram Babu (PW-1) in his cross examination has stated that Naresh Kumar is a salesman at the V.S.A Factory. He stated that he knew the job of the salesman and his duty is to bring order from all over the country. He further stated that he had given articles to his sister at the time of her marriage as per his own wish. He deposed that he does not recollects what items he had given to his sister at the time of her marriage, but he stated that a scooter was demanded by her in-laws. He has mentioned in his complaint that scooter was demanded by her in-laws, but the same was not written in the report made to the police for the reasons best known to them. He further deposed that he can not give any reason why the FIR was not lodged within three days by him.

16. Satya Prakash (PW-2) is an eyewitness of the occurrence. In his examination-in-chief, he stated that on 09.11.1986, he and Bhagwan Singh stayed at the house of his uncle (Fufa) Keshav Dev as it was late night. At 6-6:30 am, he and Bhagwan Singh reached at the Keshav Dev and Ghanshaym Dulari's house to see their son Dinesh Singh and they heard that there was sound of shouting coming from the house and saw from window that Naresh Kumar was having

match box in his hand and Chittar, Nanak Chand and Dinesh and his mother were having box (dabba) and glass in their hands. Opening the door, they saw that they were threatening Vimlesh. On seeing them, they threatened and chased them and did made them to run away from their house and after he came to his village he told this incident to Ram Babu and his family members. He has stated that incident was visible from the window and not from the door. The door was locked from inside. No one was there when they arrived. He saw the incident from the window. He stated that he is describing it for the first time. The in-laws of her sister did not take her to hospital and also did not inform the police.

17. Dr. P.P. Pathak (PW-3), who conducted the postmortem proved the following ante mortem injuries were found on the body of the deceased Vimlesh:-

Ante Mortem Injuries:-

Superficial burn present on scalp, hair burnt on face, eye brow, neck, chest, back and abdomen upper and lower extraneous, genital; except both foot leg;

Deep burn present on left side lateral aspect of abdomen on the upper part and middle part of left legs. Black sorty skin at places present.

18. Bhagwan Singh (PW-4) is also an eye witness of the incident. He corroborated the statement of Satya Prakash (PW-2).

19. Rakshpal Singh, Head Constable (PW-5) has stated that he received paper of the FIR through constable Nemichand and sent the same to Chaowki through GD (Ex-Ka-13). He also proved the GD (Ex-Ka-11 and 12).

20. Bhaggan Singh (PW-6), Circle Officer, Sadar is the Investigating Officer of the case. He has recorded the statements of the eye witnesses under Section 161 Cr.P.C and prepared the site plan which is Ex-Ka-16), he also collected the evidence and submitted the charge sheet which is Ex-Ka-17.

21. Dr. M.K. Gupta (PW-7), is a Medical Officer of the District Hospital, Mathura. He proved the injury report of deceased Vimlesh i.e. Ex-Ka-18. He examined Vimlesh on 10.11.1986 and found following injuries on her body, which is mentioned below:-

Injuries

Superficial to deep burn face, head, both arm, neck, chest and abdomen both side, both thighs, buttocks, both legs except kerosene oil smelling is coming out from whole body. Hair of scalp burn and K. oil is coming out. Pt is admitted. Dying declaration sent, pulse not palpable. BP not reasonable. Pt is very irritable. Skin is peeled off at places., Duration is fresh.

22. Ram Das (PW-8), Head Constable at Police Station – Sadar Bazar, district Mathura, who prepared the FIR (Ex-ka-14) and GD (Ex-Ka-19) and sent the papers to the police station, Vrindaban through GD (Ex-ka-20).

23. Ram Prakash Verma (CW-1) stated about the demand of dowry by Naresh Kumar, but in his cross examination, he admitted that Ex-Kha-13 and 14, the letters dated 03.08.1986 and 28.08.1986 were written by him stating that there is no demand of dowry from Naresh Kumar and his family.

24. S.N. Sahgal (DW-1), Sales Manager of V.S. Agricultural Industries, Nawalganj, Agra has stated that he know the accused Naresh Kumar. He was a sale representative-cum-Sales Officer in our company. Naresh Kumar was given tour programme from 01.11.1986 to 13.11.1986. He has brought the original copy of the this programme. It bears signature of partner Sardar Baldeo Singh, whom he recognized and has seen reading and writing. He is filing copy of the same which is marked as Ex-kha-1.

25. On 08.11.1986, the accused Naresh Kumar collected Rs. 500/- from Vaishali Transport Company, Robertsgang, Mirzapur/Sonebhadra. The letter received at the company is on record. It has been signed by K.C. Srivastava on behalf of Vaishali Transport Company and accused, Naresh Kumar. He recognized the

signature of K.C. Srivastava and accused, Naresh Kumar. He stated that he has seen them while writing. He is filing copy of the same, which is marked as Ex-Kha-2.

26. R.K. Gupta (DW-2), Instructor Survey, ITI, Blakeshwar, Agra has proved alibi of accused, Dinesh Kumar, he stated that on 10.11.1098 at 6-6:30 to 2:00 pm, the accused was present in ITI School.

27. Sovran Singh (DW-3), the Village Panchayat Officer, proved family register, which is EX-Kha-7, which shows that Ramji Lal and Rambabu were head of the family.

28. Dr. B.D. Pathak (DW-4), Medical Officer/Inchnarge PHC, Chaowa, district Mathura has stated that Naresh Kumar was having some stomach problem and was taking medicine for the same.

29. Basdev (DW-5) has stated that he had never sent Satya Prakash (PW-2) and Bhagwan Singh (PW-4) regarding negotiation of marriage of his daughter, with accused, Dinesh Kumar.

30. Close scrutiny of the evidence makes it clear that the incident is of dated 10.11.1986, but the FIR was lodged on 16.11.1986. The application regarding incident was given on 13.11.1986. So it cannot be said that there is no delay in lodging of the FIR.

31. Ram Babu (PW-1), the informant, has attempted to explain the delay in lodging of the FIR and stated that on 10.11.1986 in late night Satya Prakash (PW-2) came to him and told that Vimlesh was burnt to death by her in-laws. It is stated by Ram Babu (PW-1) that he went to his sister-in-laws house and tried to register the FIR, but the FIR was not lodged. He moved an application on 13.11.1985 before the Superintendent of Police, Mathura and on the direction of Superintendent of Police, Mathura, the FIR was lodged on 16.11.1986. No plausible explanation has been given for delay in lodging the FIR.

32. The FIR under Section 154 Cr.P.C. as such could not be treated as substantive piece of evidence. It can only be used to corroborate or

contradict the informant's evidence in the Court. But undue or unreasonable delay in lodging the FIR may give rise to suspicion. Of course, the delay in lodging of the FIR itself cannot be regarded as the sufficient ground to draw an adverse inference against prosecution.

33. The Apex Court in the case of **Manoj Kumar Sharma Vs. State of Chhatisgarh**, reported in **2016 (9) SCC** has observed in its paragraph no. 18 as under:-

18) Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity, danger also creeps in of the introduction of a coloured version or exaggerated story. In our opinion, such extraordinary delay in lodging the FIR raises grave doubt about the truthfulness of allegations made by Respondent No. 2 herein against the appellants, which are, in any case, general in nature. We have no doubt that by making such reckless and vague allegations, Respondent No. 2 herein has tried to rope the appellants in criminal proceedings. We are of the confirmed opinion that continuation of the criminal proceedings against the appellants pursuant to this FIR is an abuse of the process of law. Therefore, in the interest of justice, the FIR deserves to be quashed. In this context, it is apt to quote the following decision of this Court in [Jai Prakash Singh vs. State of Bihar & Anr.](#) (2012) 4 SCC 379 wherein it was held as under:-

“12. The FIR in a criminal case is a vital and valuable piece of evidence though may not be substantive piece of evidence. The object of insisting upon prompt lodging of the FIR in respect of the commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of the eye-witnesses present at the scene of occurrence. If there is a delay in lodging the FIR, it loses the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of large number of consultations/deliberations. Undoubtedly, the promptness in lodging the FIR is an assurance regarding truth of the informant's version. A promptly lodged FIR reflects the first hand account of what has actually happened, and who was responsible for the offence in question.”

34. So far as omission of some facts in FIR is concerned, it is a settled law that FIR is not an encyclopedia disclosing of offence in complete details

relating to the offence. It is not meant to be a detailed document containing chronicle of intricate and minutes details. FIR is not even considered to be substantive piece of evidence and can be only used to corroborate or contradict the informant's evidence in the Court.

35. So far as the demand of dowry is concerned, the Satya Prakash (CW-1), real brother of the deceased Vimlesh, has himself admitted that there was no demand of dowry by Naresh Kumar and his family members. The alleged motive for the commission of offence of murder of the deceased for demand of a scooter as dowry could not be proved by the prosecution. In this connection, there is no allegation or evidence of any physical or mental torture.

36. So far as presence of appellant, Naresh Kumar, at the place of occurrence is concerned, S.N.Sahgal (DW-1) has stated that at the time of occurrence of the incident, the appellant, Naresh Kumar, was on duty and he was in district Robertsganj/Sonebhadra/Mirzapur. So the plea of *alibi* of appellant Naresh Kumar is proved and his presence at the time of occurrence and at the place of occurrence is doubtful.

37. So far as the presence of witnesses, Satya Prakash (PW-2) and Bhagwan Singh (PW-4) are concerned, they are chance witnesses who have stated that they have gone to the place of incident to negotiate the marriage of the daughter of Basdev (DW-5), with accused Dinesh Kumar, but DW-5 has stated that he never sent Satya Prakash (PW-2) and Bhagwan Singh (PW-4) for negotiation of his daughter's marriage and if the witnesses were aware of demand of dowry and torture by in-laws of the deceased still why then went there for negotiation of marriage of the daughter of Basdev (DW-5), is not explained.

38. The specific case of prosecution is that the incident had occurred in the house but in cross examination Satya Prakash (PW-2) has stated that the door was locked from inside and no one was there when he and Bhagwan Singh (PW-4) reached there. The site plan (Ex-Ka-16) as well as Index No. 3 mentions that "the door was

locked from inside and they entered into the room after removing the hinge pin of the door, which indicates that the deceased herself committed suicide and it was not a murder.

39. In the view of the facts and circumstances discussed above, we are of the opinion that prosecution has failed to establish its case beyond the reasonable doubt. Hence, the benefit of doubt would have to be extended to the accused-appellants. Consequently, the Criminal Appeal No. 1823 of 1987 (Chhatar Singh and 3 others Vs. State of UP) and the connected Criminal Appeal No. 1866 of 1987 (Naresh Kumar Vs. State of UP) deserves to be allowed regarding appellants Chhatar Singh and Naresh Kuumar and it is accordingly allowed. The judgment of the trial court is set aside. The appellants namely Chhatar Singh and Naresh Kumar, are acquitted of all the charges for which they have been tried.

40. The appellants are in jail. Their bail bonds are cancelled and sureties are discharged.

41. Let a certified copy of the judgment and order alongwith trial court record be sent to the concerned Chief Judicial Magistrate/Trial Court for compliance.

January 22, 2026

S.K.S.

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