



2026:AHC:10285-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL U/S 413 BNSS DEFECTIVE No. - 4 of 2026

Tehjeeb Beg

.....Appellant(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Ashok Kumar Mishra, Avesh Mishra
Counsel for Respondent(s)	:	G.A.

Court No. - 43

**HON'BLE SALIL KUMAR RAI, J.
HON'BLE DR. AJAY KUMAR-II, J.**

Order On Delay Condonation Application

The appeal is reported to be beyond time by 19 days.

The delay in filing the appeal is condoned.

Delay condonation application is allowed.

Office to allot regular number to the appeal.

Order On Appeal

Heard the counsel for the appellant and the Additional Government Advocate.

This is a victim's appeal filed under Section 419(3) B.N.S.S, 2023 against the judgement and order dated 18.08.2025 passed by the Additional District & Sessions Judge/Special Judge E.C. Act, Bijnor acquitting the accused/opposite parties in Sessions Trial No. 541 of 2021 (State Vs. Asif Hasan and Others) as well as Sessions Trial No. 735 of 2021 (State Vs. Shahid Hasan) registered under Sections 302/34 and 506-II/34 I.P.C. arising out of Case Crime No. 189 of 2020, Police Station-Mandawar, District-Bijnor.

The case of the prosecution is that on 15.03.2020 at 10:15 p.m. the accused came to the house of Tehjeeb Beg-the first informant- and asked his son Sarfaraz to accompany them. At that time Naseem Beg, Azeem Beg, Altaf, Kadir and other family members were present in the house. At 11:30 p.m. the accused informed that Sarfaraz had fallen from the terrace and when

Mehraz Beg, the second son of the first informant, and other persons which included Rashid Beg went there, they found Sarfaraz was lying with his face down in the half constructed house of Zahid. There was an injury on the right temple of Sarfaraz which appeared to be caused by some sharp and pointed weapon. Sarfaraz was taken to the hospital where he was declared dead. Because of the death of his son Sarfaraz the first informant was in a state of shock and trauma and fell ill. The family members buried Sarfaraz. When after three months of the incident the first informant recovered from his illness, he was told by the persons of the locality that the deceased had relations with the daughter of opposite party No. 5 which the accused did not relish, therefore, the accused/opposite parties murdered Sarfaraz and threw his dead body in the half constructed house of Zahid. The dead body of the deceased was exhumed from the grave on the request of the first informant and postmortem was conducted. It was the case of the first informant that the accused were also threatening him that they would kill him in case he got the first information report lodged against them. The postmortem, on the request of the first informant, was conducted on 16.06.2020 and a first information report was registered on 23.08.2020 registering Case Crime No. 189 of 2020. Subsequently, a charge-sheet was filed under Sections 302/34 and 506-II/34 I.P.C. and the accused were committed to trial by the sessions court and Sessions Trial No. 541 of 2021 and Sessions Trial No. 735 of 2021 under Sections 302/34 and 506-II/34 I.P.C. were registered against the accused. The accused pleaded not guilty and claimed trial.

The prosecution examined nine witnesses. P.W. 1 to P.W. 3 were examined to prove the F.I.R. version and P.W. 4 was examined to prove that the deceased was last seen with the accused at around 11:00 p.m. P.W. 5 was the surgeon who conducted the postmortem. P.W. 6 to P.W. 9 were police witnesses and Investigating Officers in the case.

In his testimony P.W. 1, who is the first informant, apart from reiterating the F.I.R. version, explained the delay in getting the first information report registered by stating that he was in a state of shock and trauma after the death of his son Sarfaraz, therefore he fell ill and was under treatment. In his evidence, the witness states that when he regained consciousness after three months, the people of the area told him about the relationship between his son and the daughter of opposite party No. 5 and that the accused did not approve the relationship, therefore, they murdered his son. The witness requested the District Magistrate to get the dead-body of the deceased

exhumed from the grave and that the body be medically examined.

Azeem Beg-P.W. 2 also reiterated the F.I.R. version and claimed that when he was saw the dead-body there was a hole in the right temple of the deceased which could have been caused by a sharp pointed weapon. It was stated by P.W. 2 that there was no blood on the spot where the deceased was lying face down. Similar testimony has been given by P.W. 3-Mehraj Beg, who is the other son of the first informant. P.W. 4 is Smt. Kusum, who is not a member of the family of the deceased and the first informant and was not present when the accused allegedly took away Sarfaraz. In her testimony, P.W. 4 stated that she saw the accused holding the deceased at 11:00 p.m. when she and her husband were going to Doctor to get medicines for her husband. In her examination-in-chief the witness stated that she did not go to the Doctor after she saw the accused with the deceased and told her daughter and other persons about the incident, but did not tell anything to the first informant. In her cross-examination, the witness also stated that she had gone to the clinic of the Doctor but as it was closed therefore she came back and again went to the clinic at six in the morning. P.W. 5 has proved the postmortem report and the injury on the body of the deceased as stated in the first information report. The police and investigating officers have proved the other documents relevant for the trial which includes the first information report and the site plan.

A perusal of the judgement of the trial court and of the statement of the witnesses annexed with the appeal shows that in his evidence P.W. 1 did not file any medical prescription nor examined any Doctor to prove his illness as claimed by him in the first information report and as testified by him in his evidence. The witness has also not named the Doctor who treated the witness. Further, in his evidence P.W. 2-Azeem Beg did not support the claim of P.W. 1 that he was in a state of shock and trauma after the incident, but stated that the witness maintained his social relations and was mentally fit. The claim that P.W. 1 was ill has been made by P.W. 1 to justify the delay in lodging the first information report. The first information report was lodged five months after the incident. The incident happened on 15.03.2020. The delay in lodging the first information report has not been properly explained even if it is accepted that P.W. 1 was ill for three months. P.W. 1 admittedly regained consciousness by 16.03.2020 when he got the body of the deceased exhumed from the grave and had come to know about the alleged motive of the accused to kill the deceased. The first information

report was lodged two months after the dead-body was exhumed from the grave. It also comes out from the judgement of the trial court that P.W. 3, i.e., Mehraz Beg who is the other son of the first informant and was present on the scene was 28 years old at the time of incident. There is no explanation as to why Mehraz Beg could not get the first information report lodged even if his father, i.e., P.W. 1 fell ill because of shock and trauma after the incident. The delay in registering the first information report has not been explained.

It also comes out from the judgement of the trial court that there are major contradictions between the prosecution evidence regarding the place where the dead-body was found. The site plan proved by P.W. 8 and marked as Exhibit Ka-10 in the trial court shows that the body was found in the pit dug for constructing a gutter in the half constructed house of Zahid, while in his evidence P.W. 2 has stated that the dead-body was found on the marble floor of the house. It also comes out from the judgement of the trial court that it was dark where the dead-body was lying face down and there was no source of light to identify any injury on the dead-body of the deceased.

P.W. 4, who allegedly last saw the deceased with the accused has been disbelieved by the witness because of major inconsistencies and contradictions in her statement.

Apart from the aforesaid, the motive imputed to the accused to kill Sarfaraz has not been proved by the prosecution. It was the claim of the prosecution that the accused killed Sarfaraz because they did not relish the relationship between the deceased and the daughter of one of the accused. There is no eye-witness to the incident and the case of the prosecution rests on circumstantial evidence. Motive is an important fact which has to be taken into consideration in case of circumstantial evidence. There is no evidence on record to prove that the claim of the prosecution to prove the relationship between the deceased and the daughter of one of the accused and also the fact that such relationship was not relished by the accused. It would also be relevant to note that the Doctor who declared Sarfarz dead when the body was taken to the hospital after the incident has not been examined by the prosecution.

A perusal of the aforesaid would show that the prosecution failed to explain the delay in lodging the first information report, the place of incident and the

place where the dead-body was found. The witnesses have not been relied upon by the trial court because of the contractions in their statements and also failed to prove the motive for the crime.

After considering the aforesaid facts, the trial court rejected the prosecution case and acquitted the accused. The order of acquittal has been passed by the trial court after considering the entire evidence on record and we do not find any reason to admit the appeal and substitute our own opinion for the findings by the trial court.

The appeal lacks merit and is ***dismissed*** summarily without issuing notice to the opposite parties.

Let the file be consigned to record after allotment of regular number to the appeal and after certifying a copy of the present judgement to the trial court.

January 16, 2026
Anurag/-

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