



2026:AHC:4370-DB

Order Reserved On:-17.11.2025.

Order Delivered On:-08.01.2026.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 59 of 1989

Hanif And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Nikhil Kumar, Vijay Shankar Yadav
Counsel for Respondent(s)	:	D.G.A.

In Chamber

HON'BLE SIDDHARTH, J.

HON'BLE PRASHANT MISHRA-I, J.

(Delivered by Hon'ble Siddharth,J.)

1. Heard Mr. Nikhil Kumar, learned counsel for the surviving appellant; learned Additional Government Advocate representing the State and perused the record.

2. The criminal appeal has been preferred against the judgment and order dated 06.01.1989 passed by Addl. Sessions Judge, Saharanpur, in Sessions Trial No. 344 of 1988, convicting the appellants under sections 302 read with section 34 IPC and sentencing them to undergo R.I. for life.

3. The case of accused Hanif, Ashiq and Smt. Hasina, was committed to the court of sessions by the Chief Judicial Magistrate Saharanpur, to stand their trial upon the charge under section 302 read with sections 34 of the Indian Penal Code of P.S. Mirzapur. The accused persons denied the charges and claimed to be tried.

4. The prosecution case, stated briefly, is that on 18.3.1986 at about 1:30 A.M., Ashiq son of Gulab (accused) lodged a complaint at P.S.Mirzapur, alleging that on 17.03.1986 he along with his brother Hanif (accused) had gone to attend the court and returned to village at about 9:00 P.M., and found the women folks of the house weeping. Smt. Buggal, daughter of Hanif, was dead. On inquiry his mother Smt. Bundi, told him that at about 5:00 P.M., Israr son of Ahur of village Pasapur, whose fields are adjacent to their fields, has committed rape on Smt. Buggal, in the wheat field and ran away leaving Smt. Buggal weeping and shrieking. Israr was seen running by Smt. Bundi, Meer Daag and Faizu. The women brought Smt. Buggal to the

house, where Smt. Buggal, died at about 8:00 P.M. in the night. Report of Ashiq under section 376/304 I.P.C. was registered at the police station. The investigation of the case was taken over by Harish Chand Saxena, the then S.O., P.S. Mirzapur. He visited the spot and prepared Panchayat Nama of the dead body of Smt. Buggal and sent the dead body for post-mortem, after preparation of necessary papers. He also collected the vomit stained earth from the house of deceased and recorded the statements of witnesses. On the basis of investigation, arrested accused Ashiq and Hanif on 30.05.1986. On 24.06.1986, Smt. Hasina, accused, surrendered before the court. After investigation the S.O., Mirzapur, charge-sheeted the accused persons.

5. The prosecution examined following witnesses:-

6. P.W.-1, Mahabir Singh; P.W.-2, Nazim; P.W.-3, Shahid; P.W.-4, Smt. Hanife; P.W.-5, Sanam; P.W.-6, Dhaula; P.W.-7, Mehboob Hasan; P.W.-8, Phulla; P.W.-9, Rakesh Kumar; P.W.-10, Abdul Rahim; P.W.-11, Mohd. Hassan; P.W.-12, Dr. Pradeep Singhal; and P.W.-13. S.O., Harish Chandra Saxena.

7. P.W.1, Mahabir Singh, had registered the case at the police station and prepared the chick report on the basis of the written report of Ashiq. He proved the chick report and the G.D., which have been marked as Ex. Ka-1 and Ka-2 respectively. On receipt of the post-mortem report at the police station the case was converted from section 376/304 I.P.C. to section 302 I.P.C. An entry to this effect was made in the G.D. on 19.03.1986 at 20-45 hours at G.D.report no.25. He has filed and proved the copy of G.D.report no.25 dated 19.03.1986 which was marked as Ex Ka-3. A special report was sent to the higher authorities on 20.03.86 and the copy of G.D. in that regard was filed and proved and was marked Ex. Ka-4. He further stated that the written report of this case was handed over to him by accused, Ashiq, at the police station.

8. P.W.-2, Nazim, denied knowledge about the incident and also his presence on the place of incident.

9. P.W.-3, Shahid, stated that on the date of incident at about 3-4/30 P.M., he was returning from his field with fodder and when he came near the house of accused, Hanif, he saw that accused Smt. Hasina slapped Smt. Buggal, saying that why did she go to the wheat field. At that time, other women were present in the house of Hanif. Next morning he came to know that Smt. Buggal has died. He further stated that field of Israr son of Zaheer, is adjacent to the field of accused, Hanif. Israr had friendly relationship with Smt. Buggal. Smt. Buggal was married while Israr was unmarried.

10. P.W.-4, Smt. Hanife, stated that on the date of incident at about 03:00 P.M., she saw that many women had gathered at the house of Hanif and Smt

Buggal was also there. The mother and aunt of Smt. Buggal were abusing her. The father of Smt. Buggal and her uncle returned from Saharanpur after sunset. Thereafter, she heard that Smt. Buggal died.

11. P.W.-5, Salman, stated that about two years ago, he had seen Israr going to the field with Smt. Buggal in the field. Israr left the field and accused Smt. Hasina, the aunt and grand mother of Smt. Buggal brought her back to the house. Gulab was with them and all were beating Smt. Buggal. Next morning he came to know that Smt. Buggal, was dead. Smt. Buggal was friendly with Israr, but he was not aware whether Israr, raped Smt. Buggal on the date of incident or not.

12. P.W.-6, Dhaula, stated that while returning from his field at about 05:00 P.M., he saw 4 or 5 women at the house of Hanif, he did not see anything else. He was declared hostile and found to be cousin of Israr.

13. P.W.-7, stated that he saw Hanif and Smt. Buggal were present in their house and both seemed to be fine.

14. P.W.-8, Bulla, stated that on the date of incident, he came near the house of accused Hanif but did not see him coming out of his room. The women in his house were weeping. This witness was also declared hostile.

15. P.W.-9, Rakesh Kumar, was a formal witness.

16. P.W.-10, Abdul Rahim stated that he had seen people gathered at the house of Hanif on the fateful day stating why they have murdered the girl. He did not saw anyone beating Smt. Buggal. He saw Smt. Buggal standing at her house. He admitted that Israr is his real nephew.

17. P.W.-11, Mohd. Hasan, proved that he scribed the application on the dictation of Ashiq regarding the death of Smt. Buggal.

18. P.W.-12, proved that on the dead body of Smt. Buggal, he found the following ante-mortem injuries:-

- (i) Abraided contusion 1.5 c.m. x 1 c.m. on the right side neck middle part with abrasion about 1 c.m. x 0.75 c.m.
- (ii) Abrasion 1.5 c.m. x 1/2 c.m. on the left side neck upper part obliquely directed downwards.
- (iii) Abrasion 1.5 c.m. x 1/4 c.m. on the left side below joint lower part to

upper forearm back side.

19. The doctor opined that ante-mortem injury nos. (i) and (ii) were due to strangulation and were sufficient to cause death. He stated that death of the deceased might have taken place on 17.01.1986 at about 08-09:00 P.M.

20. P.W.-13, S.O. Harish Chandra Saxena, proved record of investigation conducted by him and proved that he came to know that Israr had illicit relationship with Smt. Buggal, the deceased. He admitted that he received the report of pathologist during investigation but the same was not available on record.

21. Late Dr. T.R. Joshi, was examined as C.W.-1, under section 311 Cr.P.C., he proved the letter of Dr. P. Singhal and his pathological report before the trial court.

22. The accused denied having committed any offence. The accused Hanif, pleaded he had gone to the court on the date of incident. Accused, Ashiq, pleaded that when he came back from court at Saharanpur to his house at about 09:00 P.M., his mother, Bundi and another women of the house informed him that Israr has committed rape of Smt. Buggal and strangulated her and left Smt. Buggal weeping. Smt. Buggal was brought back to her house by the women and after some time, she died. Accused, Hasina, pleaded that she brought Smt. Buggal, back from the field to the house. She was unable to walk and was weeping. She further stated that Israr had committed rape of her daughter, Smt. Buggal, at about 05:00 P.M. and strangulated her. Israr was seen by her and other women running away, leaving Smt. Buggal weeping. When her husband returned from Saharanpur, she informed about the incident.

23. During pendency of appeal, the convicted appellant no.1, Hanif and convicted appellant no. 3, Smt. Hasina, wife of Hanif, have already died, only appellant no.2, Ashiq, son of Gulab, is alive and is on bail since 09.01.1989 as per the office report dated 07.12.2022.

24. Learned counsel for appellant submits that the deceased was the daughter appellant no.1, Hanif and appellant no.3 Hasina. Appellant no.2 Ashiq, is her uncle and has been falsely implicated in this case. None of the prosecution witnesses have proved his presence on the place of incident. In the evidence, it has come that the deceased, appellant no.3, Hasina, slapped her daughter, Smt. Buggal, after she was found with Israr in the field. None of the prosecution witnesses have named appellant no.2 nor assigned him any role. Before the trial court, two theories were put forth. The first one was that Israr, after committing the offence of rape against Smt. Buggal, strangulated her to death which the trial court did not accept and rightly so, because in case Smt. Buggal was strangulated in the field, how she came back to her

house on her foot along with women of the village, was not explained. At the time of incident, only appellant no.3, Hasina, was assigned the active role and from her conduct, as proved by the prosecution witnesses, it appears that she may have strangled her daughter to death in the rage of anger, after she discovered her along with Smt. Buggal, in the filed with Israr at about 05:00 P.M. The main accused, Smt. Hasina, appellant no.3, has already died along with her husband, appellant no.1, Hanif. The surviving appellant no.2, Ashiq, appears to have been implicated in this case only because, he was uncle of the deceased and brother of deceased, appellant no.1.

25. We find that Smt. Buggal, the deceased, was daughter of appellant no. 1, Hanif and deceased, appellant no.3, Smt. Hasina. It appears from the record that she had an affair with her neighbour, Israr, who was unmarried and was found alone with him in wheat crop field. She was brought back from the field by her mother, Smt. Hasina, and was reprimanded. The prosecution has generally implicated appellant no.2 without assigning him any specific or overt role in causing the alleged offence against Smt. Buggal. He deserves to be granted benefit of doubt.

26. Accordingly, appellant no.2, Ashiq, is acquitted of all the charges. The judgment and order passed by the trial court is **set aside qua, appellant no.2, Ashiq, only.**

27. The appellant no.2 is on bail. His bail bonds are cancelled and sureties are discharged. He need not surrender.

28. Appeal is **allowed.**

29. Let the record of this case be returned with a copy of this judgment to the trial court.

January 8, 2026
Abhishek

(Prashant Mishra-I,J.) (Siddharth,J.)