



2026:AHC:14886-DB

Reserved On :- 13.01.2026

Delivered On :- 21.01.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL APPEAL No. - 485 of 1990**

Pappu @ Tej Kumr

.....Appellant(s)

Versus

State

.....Respondent(s)

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| Counsel for Appellant(s)  | : Ankit Gaur, R.S. Tiwari             |
| Counsel for Respondent(s) | : A.G.A., Manu Raj Singh, Nidhi Singh |

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**In Chamber**

**HON'BLE SIDDHARTH, J.**

**HON'BLE JAI KRISHNA UPADHYAY, J.**

(Delivered By Hon'ble Siddharth, J.)

1. Heard Ms. Sandhya Sharma, learned Amicus Curaie appearing on behalf of appellant; Shri Anurag Singh, learned counsel for the informant, Shri Sushil Kumar Pandey, learned A.G.A. 1st for the State and perused the record.
2. This criminal appeal has been preferred against the judgment and order dated 08.03.1990 passed by Special Judge, D.A.A., Kanpur Dehat in S.T. No. 88 of 1987, State vs. Pappu and another convicting the appellant to undergo life imprisonment under Section 302 IPC.
3. The case of the prosecution as per F.I.R., Ext. Ka-1 and the evidence led in the court is that there had been enmity between deceased, Nanhe Lal and one, Devi Prasad Shukla, in connection with the election of Pradhan. Consequently, Devi Prasad Shukla and accused, Pappu etc., had beaten Nanhe Lal and his brother, Ram Nath (P.W.-1) before the present occurrence. A report was lodged against Pappu and others and police had submitted charge sheet in the said case against them. It is further alleged that on 14.02.1987 at about 07:30 p.m deceased, Nanhe Lal, was present in the hotel of Ram Prakash in village- Shahjahanpur, Police Station- Bhognipur and was taking tea. An electric bulb was giving light in the said hotel. Accused, Pappu alias Tej Kumar, armed with pistol and Bare @ Ramesh, arrived at the hotel. Pappu @ Tej Kumar fired at Nanhe Lal from his pistol. The bullet pumped into the

neck of the deceased. He sustained injuries. The occurrence was witnessed by hotel owner, Ram Prakash, Lalji, Mahesh and Ram Avtar, who were present there. The accused after firing at the deceased ran towards *satti*. They were chased but could not be caught. Nanhe Lal was taken to the police station where Ram Nath submitted written report Ext. K-1. The condition of Nanhe Lal was serious. He was first taken to Punkharaya hospital and from there to U.H.M., Hospital, Kanpur. His case was referred to L.L.R hospital, Kanpur and from there he was taken to medical college, Lucknow where he expired. The case which was originally registered under Section 307 IPC was converted to that under Section 302 IPC.

4. The police after completing all usual formalities submitted charge sheet against both the accused named above. Both the accused were charged under Section 302/34 IPC. They pleaded not guilty to the charge. The prosecution in support of their case examined 7 witnesses before the trial court.
5. P.W.-1, Ram Nath, is the complainant and brother deceased, Nanhe Lal. He has unfolded the entire prosecution case as mentioned above. He has stated that there had been enmity between Nanhe Lal and Devi Prasad in connection with the election of Pradhan. On the day of occurrence, Nanhe Lal, was sitting in the hotel of Ram Prakash, Mahesh, Lalji and Ram Avtar, were also present in the hotel. He had also reached there. At about 07:30 p.m., Pappu @ Tej Kumar and Ramesh, came to the hotel. Both of them were armed with country made pistols. Tej Kumar fired at Nanhe Lal from his pistol and the bullet hit the neck of Nanhe Lal. At that time electric bulb was glowing at the shop. Nanhe Lal fell down. The accused persons, thereafter, made good their escape. He took his brother to Bhognipur by taxi. He had prepared a written report of the occurrence which is Ext. K-1. Nanhe Lal was taken to Punkharaya. However, the medical officer at Punkharaya advised them to go to U.H.M hospital, Kanpur. The case was referred to L.L.R hospital and from there Nanhe Lal was sent to Lucknow (medical college). Nanhe Lal expired in the medical college, Lucknow after four days i.e., on 18<sup>th</sup> (February).
6. P.W.-2, Ram Prakash, is the owner of the hotel where the occurrence had taken place. He had corroborated the testimony of P.W.-1, Ram Nath and the prosecution case.

7. P.W.-3, Dr. Y.N. Pathak, the then Surgeon in Civil hospital, Lucknow, had conducted the post-mortem examination on the dead body of Nanhe Lal and prepared report Ext. K-2. The genuineness of this report had been admitted by the counsel for the accused under section 313 Cr.P.C. The details of injuries, has therefore, not been noted in the statement of Dr. Pathak. The following ante-mortem injuries and other details were found on the dead body of Nanhe Lal as per post mortem examination report Ext. Ka-2 :-

#### Ante Mortem Injuries

- (i) lacerated fire arm wound of entry 5 cm x 3 cm x bone deep with fracture cervical vertebrae C-6 and C-7 at the back of neck on the left side of mid-line near the root, 47 pellets recovered from the wound.

#### Internal Examination :-

Skull traction burr-hole present on both side of skull, which might have been done by Neuro Surgeon for treatment. Fracture of C-6 and C-7 cervical vertebrae present. Injury no. 1 ante-mortem injury.

8. P.W.-4, Dr. S.N. Ahmad of the U.H.M hospital, Kanpur, had examined, Nanhe Lal, when he was brought in injured condition to the hospital at 12:45 a.m in the night between 14/15.02.1987. He had found the following injuries on his body :-

- (i) lacerated wound 3 cm x 3 cm x depth not probed on the back of neck at it's root on mid-line. No blackening or tattooing present.

- (ii) abrasion 2.5 cm x 1.5 cm on the left side back. 4 cm below and left to the injury no. 1.

It was stated by Dr. Ahmad that all the injuries were fresh.

Injury no. 2 was simple in nature caused by friction against hard object. Injury no. 1 kept under observation. He has also proved injury report Ext. K-3.

9. P.W.-5, S.I. Daya Ram Verma, had conducted investigation of this case. He proved the chik F.I.R Ext. K-4. He further stated that he had started investigation of the case on 14.02.1987 and recorded the statement of Nanhe Lal in his case diary. Nanhe Lal has died . The

copy of the statement recorded by him is Ext. K-5, which is the true copy of the statement written in case diary. He had also prepared the site plan of the occurrence Ext. K-6 and taken the blood stained and raw earth in his possession and prepared memo Ext. K-7. He further stated that on 24.03.1987 complainant, Ram Nath, had submitted an application at the police station that his brother had died in Lucknow hospital on 18.02.1987. An entry was made in the general diary. The carbon copy of the same was Ext. K-7A. He obtained a certificate from Lucknow regarding the death of deceased, Nanhe Lal, on 12.04.1984. He was, thereafter, transferred.

10. P.W.-6, S.I., Sri D.P. Singh, had conducted the part investigation of this case. He proved the G.D. Ext. K-8. He had submitted the charge sheet Ext. K-9, after the completion of investigation.
11. P.W.-7, Head Constable, Krishan Pal Gupta, had written the chik F.I.R Ext. K-4 and filed the copy of the G.D. Ext. K-8.
12. Learned counsel for the accused had admitted the genuineness of panchayatnama Ext. K-10, letter of dispatch of dead body Ext. K-11, photo Lash Ext. K-12 and information sent by medical officer, Gandhi Memorial Hospital, Lucknow, regarding death of deceased, Nanhe Lal, Ext. K-13, under Section 294 Cr.P.C.
13. The accused in their statements recorded under Section 313 Cr.P.C repudiated the truth of prosecution allegation. Accused, Pappu alias Tej Kumar, has stated that Ram Nath, had enmity with him. None of the witnesses knew him before hand and he had submitted application for his test identification and the same was not conducted. Bare alias Ramesh stated that he has been falsely implicated in this case.
14. Accused persons examined Sri P.K. Agarwal, C.J.M., Kanpur Dehat, as defence witness in the court. He has stated that on 20.06.1987 he had recorded the statement of complainant, Ram Nath, under Section 200 Cr.P.C in complainant, Ram Nath vs. Tej Kumar. This statement was Ext. Kh-1.
15. Learned amicus curaie appearing for the appellant has submitted that it is a case of belated medical treatment given to the deceased, since after suffering the gun shot injury, he was taken to the police station, in spite of his condition being serious and thereafter taken to the Punkharaya

hospital and from there to U.H.M., Hospital, Kanpur wherefrom he was referred to L.L.R hospital, Kanpur and finally he was taken to the medical college, Lucknow where he died. Had he been taken to Medical College, Lucknow promptly his life could have been saved. She has also submitted that Ex-5, the statement of deceased, Nanhe Lal, recorded under Section 161 Cr.P.C is not on the record of trial court.

16. It has further been submitted by the amicus curiae that it is a case of single shot and therefore the conviction and sentence of the appellant under Section 302 IPC is not justified. It has finally been submitted that the appellant was aged about 23 years in the year 1989 when his statement under Section 313 Cr.P.C was recorded. He is now a senior citizen aged about 60 years and has no previous criminal antecedents to his credit. He is on bail since 09.03.1990.
17. Learned amicus curiae has placed reliance upon the two judgments of the Apex Court in the cases of ***Virsa Singh, Appellant vs. State of Punjab, Respondent, reported in 1958 0 AIR (SC) 465*** and ***Jage Ram and others vs. State of Haryana, 2015 (11) SCC 366*** in support of her submissions.
18. Learned counsel for the informant and learned counsel appearing for state have vehemently opposed the submissions made by learned Amicus Curaie appearing for appellant. They have submitted that the learned Amicus Curaie is trying to bring the case within the definition of culpable homicide defined under Section 299 IPC, explanation II which provides that if death is caused by bodily injury, the person who causes such injury shall be deemed to have caused death, although by resorting to proper remedies and skilful treatment the death might have been prevented.
19. They have further submitted that it is a case of murder, which was committed with pre-meditation on account of earlier enmity regarding election of pradhan as proved by P.W.-1 before the trial court and therefore the benefit of exception 4 to section 300 IPC can also not be extended to the appellant. They have submitted that the judgment and order of trial court convicting and sentencing the appellant to life imprisonment is justified.
20. After hearing the rival submissions, we find that the argument of

learned Amicus Curiae that the deceased was not given immediate treatment and was taken to the police station first which resulted in loss of precious time has some force but we find that since the deceased was injured at that time, the police was required to prepare and provide *chitthi majroobi* for his medical examination, being medico-legal case. Thereafter, the appellant was taken to Punkharaya hospital and from there to U.H.M., Hospital, Kanpur. His case was referred to L.L.R hospital, Kanpur and from there he was taken to medical college, Lucknow where he expired. It is not a case of the defence that the deceased was not taken to big hospital for proper treatment. The deceased was first taken to immediate hospital and thereafter he was taken to the other hospitals on the directions of the doctors which he complied but ultimately his life could not be saved. The gravity of the injury and the internal damage caused to the deceased are evident from the statement of P.W.-3, Dr. Y.N. Pathak. 47 pellets were recovered from the back of neck of the deceased. He suffered fractures in cervical vertebrae, C-6 and C-7. Solitary injury proved fatal for the deceased.

21. The reliance of learned counsel for the appellant on the judgment of ***Virsa Singh (supra)*** is misconceived. We have gone through the aforesaid judgments of the Hon'ble Supreme Court and find that the aforesaid judgment was regarding infliction of single fatal spear injury in the stomach of the deceased. Before Apex Court, it was argued that the intention of accused was not to inflict fatal injury to the deceased. The Apex Court has held that once injury proves the intention to cause it, it will not be presumed otherwise unless the evidence or the circumstances warrant an opposite conclusion.
22. The second judgment of ***Jag Ram (supra)*** relied upon by the learned Amicus Curiae is regarding the case of attempt to commit the murder and on the principles of sentencing the accused and awarding him appropriate punishment. In this case the sentence awarded by the trial court cannot be altered since appellant has been convicted under Section 302 IPC for life. Therefore, the case cited at bar has not relevance for deciding this case.
23. In order to satisfy ourselves we have gone through the statements of the prosecution witnesses, defence witness and the statement of the accused under Section 313 Cr.P.C and other documentary evidence on record. We find that apart from prosecution case being proved by P.W.-1 and P.W.-2 before the trial court, there is statement of the

deceased, Nanhe Lal, recorded under Section 161 Cr.P.C before his death by P.W.-5, Sub-Inspector, Daya Ram Verma, the Investigating Officer of this case. The copy of statement was brought on record and was exhibit as Ex. Kha-5 only. After the recording of aforesaid statement the deceased, Nanhe Lal, died. Same has been treated as his dying declaration as per the law. The argument of learned Amicus Curiae is not factually correct since we have found Ex-5 in the record of the trial court. Her contention is that it is missing from record of trial court is incorrect. The aforesaid statement clearly narrates the manner of incident and is in consonance with the statement of P.W.-1 and P.W.-2. Deceased clearly stated that the appellant was accompanied by Bade @ Ramesh. It was the appellant, Pappu @ Tej Kumar, who had pistol in his hand and he fired at him. He further stated that his brother, Ram Nath, had come to the hotel i.e., the place of incident at that time. Deceased, Nanhe, was examined at 00:45 a.m by P.W.-4 at U.H.M hospital and his report shows that Nanhe Lal suffered lacerated wound 3cm x 3 cm on the back of neck which proved fatal for his life later.

24. We find that it is a case of direct evidence and from the evidence on record there is nothing which may compel us to disbelieve the prosecution case and the evidence on record. The judgment of the trial court appears to be well merited one and its finding are based on proper appreciation of material on record. It deserves to be confirmed.
25. Accordingly, the judgment and order of trial court is hereby confirmed.
26. The criminal appeal lacks merit and is accordingly, dismissed.
27. The appellant is on bail. His bail bonds are cancelled and sureties are discharged.
28. He shall surrender forthwith and carry out the remaining sentence.
29. Let the copy of this judgment be notified to the C.J.M., Kanpur Dehat for necessary compliance and trial court record be returned to the trial court too.
30. Learned Amicus Curiae is held entitled to her professional fees of Rs. 10,000/- payable to her within six weeks of her raising such bill.

**January 21, 2026**  
Rohit

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