



2026:AHC:9860-DB

Order Reserved On:-20.11.2025

Order Delivered On:-14.01.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 807 of 1989

Raj Pal

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	:	Kharag Singh, Vikas Srivastava
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 Sri Rizwan Ahmad, learned Amicus Curiae appearing on behalf of appellant and Ms. Manju Thakur, learned A.G.A.-I for the State and perused the trial court record.
2. This present criminal appeal against the judgments and order passed by Additional Sessions Judge, Bulandshahr, dated 01.04.1989 in Sessions Trial No. 263 of 1983, convicting and sentencing the appellants under section 148 IPC to one year rigorous imprisonment; under section 307/149 IPC to five years rigorous imprisonment and fine of Rs. 500/-; under section 302/149 IPC to life imprisonment and fine of Rs. 2,500/-. In failure to deposit the fine, the appellants have been directed to undergo further rigorous imprisonment of two years. All the sentences have been directed to run concurrently.
3. During the pendency of trial, two accused, namely, Pyare and Brahmdeo, had died and the trial was abated against the aforesaid accused.
4. The above noted appeal has been preferred by 12 appellants. By the order dated 27.10.2025, the appeal has already been dismissed as abated regarding appeal nos. 1, 3, 4 and 8, namely, RajPal, Choko, Deviram and Khamani.

5. The appeal is being heard only regarding surviving appellant no. 2, Shankar son of Rajpal; appellant no.5, Vijendra son of Rajpal; appellant no.6, Roop Singh son of Rajpal; appellant no.7, Lakhan son of Rajpal; appellant no.9, Teekam son of Birbal; appellant no.10, Name Singh son of Gulab; appellant no.11, Om Prakash, son of Girwar and Dharamvir son of Debi.

6. The prosecution case is that on 21.03.1981 at about 06:00 P.M., the cousin of the informant, Rajpal son of Gulab (P.W.-2) demanded Rs.44/- from accused Rajpal son of Gajraj, Sarpanch, towards his labour duty for performing the job of brick laying. At that time Rajpal, the Sarpanch, was present at his flour mill and tube well along with his two sons, Kunwar Pal and Shankar. Regarding the aforesaid demand, both parties abused and assaulted each other. Thereafter, Rajpal and his two sons called other sons of Rajpal and challenged the other party, calling upon their men to come armed with weapons. Soon, thereafter the accused, Bijendra, Roop Singh, Khamani and Brahmdeo, armed with guns and the accused, Lakhan, Shankar, Debi, Teekam, Nem Singh, Om Prakash and Munshi Lal, armed with country-made pistols and Chokhey, Dharmvir, Kunwar Pal and Pyare, armed with *Lathis* arrived at on the spot and, after extending threats and with intention to kill, started firing and beating with *lathis*. As a result the poor and unarmed people belonging to the Jatav caste started running. In the firing father of informant, Khacheru, died after suffering gun shot injury caused by Bijendra; Smt. Narayani died due to gun shot injuries caused by Roop Singh and Kallu, Lalaram, Anandi, Chameli, Kiran, Basdeo, Saligram, Km. Mundra, Hariom, Nagav, Rajpal son of Ram Sahai, Rajpal son of Natthu, Rajpal son of Gulam, Nekram, Surajpal, Ramvir, Charan Singh, Vijay Singh, Rajpal son of Babu Singh suffered fire arm injuries and Baula son of Gulab, Gokal and Shyam Lal suffered injuries caused by *lathi*. On the instigation of Munshiram, the accused Devi Ram and Kunwar Pal set the *Jhopadi* (thatched hut) on fire. Sauran Jatav, Ramji Das and other *Thakurs* witnessed the incident.

7. After submission of charge sheet by the Investigating Officer, the trial court framed charges against the appellants, Shankar, Munshi Lal, Debiram,

Bijendra, Roop Singh, Lakhan, Khumani, Teekam Singh, Nem Singh, Om Prakash under Section-148, 307/149, 302/149 I.P.C. Against accused Chokhey, Dharamvir, Kunwarpal and Rajpal charges were framed under Section-147, 307/149, 302/147 I.P.C. and other accused namely Debiram, Kunwar Pal and Munshi were also charged under Section - 436 I.P.C.

8. To prove the prosecution case, the prosecution examined P.W.-1, Rajaram the informant; P.W.-2, Rajpal son of Gulab; P.W.-3, Dr. S.C. Singh; P.W.-4, Chokey Lal son of Dayaram; P.W.-5, Constable Teekam Singh; P.W.-6, Dr. K.N. Singh; P.W.-7, H.C.Mukhteyar Singh; P.W.-8, Dr. D.B.Singh, P.W.-9, Sub Inspector, Sardar Singh; and P.W.-10, Inspector, V.S. Tomar, 9 P.W.-1, proved the prosecution case as per the F.I.R. and proved the report lodged at the Police Station and the recovery memo of the cartridges recovered from the spot.

9. P.W.-2, Rajpal, proved that Rajpal Sarpanch was required to pay him Rs.44/- as labour charges which he had demanded from him. At that time, Shankar and Kunwarpal were present there. Because of the aforesaid amount a dispute took place between him and Rajpal Sarpanch. Thereafter, he went to his house. Subsequently, he heard the sound of firing and, when he opened his widow he suffered pellet injuries and he closed his door. He did not see who caused injuries to whom. On that day, Khacheru and Smt. Narayani, died due to fire arm injuries, while Hariom died after 4-5 days. His injuries were medically examined along with other injured but he did not know who caused him the injuries.

10. P.W.-3, Dr. S.C. Singh, proved the medical report of the injured before the trial court.

11. P.W.-4, Chokhey Lal, proved that on hearing the noise, he went to the place of incident, where Rajpal, D.W.-2, was demanding his labour charges from accused, Rajpal Sarpanch. Fighting took place between the sons of Rajpal Sarpanch and P.W.-2, and Rajpal Sarpanch asked his sons to call his men. After 15-20 minutes all the accused came armed with guns and country

made pistols; started firing, wherein Khacheru, Narayani and Hariom died and 23 persons suffered injuries.

12. P.W.-5, is a formal witness.

13. P.W.-6, Dr. K.N.Singh proved the postmortem report of deceased Hariom.

14. P.W.-7, is again formal Police witness.

15. P.W.-8, Dr. D.B.Singh proved the postmortem report of Khacheru and Smt. Narayani.

16. P.W.-9, is again a formal witness.

17. P.W.-10 proved that after transfer of P.W.-11, the investigating officer, he filed charge sheet before the court.

18. P.W.-11, proved the documents and records of investigation conducted by him.

19. Mohan Lal, was examined as C.W.-1 before the Trial Court.

20. The statements of the accused were recorded under Section 313 Cr.P.C. before the Trial Court, wherein he stated that on the basis of false evidence they have been implicated in this case on account of enmity and party politics. The Police did not properly investigate the case.

21. Accused, Rajpal, stated in his defense that he was suffering from paralysis and was taken to Debai for treatment on 31.03.1981 on a *buggi*. On the way, the *buggi* fell into a trench and he suffered injuries. on 22.03.1981. He was taken to the Hospital and on 23.03.1981 was sent to jail.

22. Accused, Khumani, stated that on 18.03.1981 the Inspector of P.S. Debai came to him and demanded his gun and cartridges at 09:00 A.M., for hunting deer which he refused. On the same day, at 09:00 P.M., four constables came and took away his gun and cartridges. On 21.03.1981, he was falsely implicated in this case and his guns and cartridges were never returned.

23. Accused, Teekam Singh, stated that he came to know later that a dispute has taken place between two groups of *Jatavas*. As all the injured belonged the same party, on the statement of Ompal Singh, he was falsely implicated.

24. Accused, Nem Singh, stated that Ompal Singh had falsely implicated him in this case.

25. Accused, Deviram, denied the prosecution case and stated that he is employed as Lineman in Electricity Department at Khurja and on the date of incident dated 21.03.1988 he was on duty from 02:00 P.M. to 10:00 P.M. Ompal Singh has falsely implicated him in this case on account of party politics.

26. Accused, Chokhey, denied the evidence of the prosecution and stated that his 5 *bighas* of land was situated near the tube well of Rajpal Singh, but Rajpal did not provide him water to irrigate his land; therefore, he had enmity with accused Rajpal. Adjacent to his land, there was *abadi* of Jatavas and their animals, destroyed his crops and on account of this enmity he had been implicated along with his brother, Ramveer, in this case.

27. Accused, Dharamvir, in his additional statement stated that accused, Chokhey, is his real brothers and the statement given by him is correct. Both the brothers carry out cultivation together.

28. Accused, Lakhan, stated that on the date of incident, he was not in the village and had gone to attend funeral at his in-laws place.

29. Accused, Om Prakash, stated that he did not formed any unlawful assembly for the purpose of murdering Khacheru, Narayani and Hariom nor did he cause injuries to Rajaram and others, nor did he set anyone's hut on fire. At the time of incident, he had gone, to Ghaziabad in search of a suitable match for the marriage of his sister. He fell ill at Ghaziabad and was hospitalized from 20.03.1981 to 23.03.1981. He has been falsely implicated in this case and would produce the Doctor in his defense.

30. Accused, Vijendra son of Rajpal Singh, stated that he has been implicated

in this case merely because he is son of Rajpal Singh, who has married another woman and ousted him from his house. He has been living separately from his father since 1965 and is a Government Employee posted at Moradabad. He was not present in the village at the time of incident.

31. Accused, Munshi Lal, denied the evidence led by the prosecution and stated that he had no enmity with either the injured or the deceased. He has been practicing as a lawyer in Aligarh for the last about 14 years. Om Prakash Singh, was teacher in Kuber Inter College, Debai, who was on good terms with Vikram Singh Tomar, Station House Officer, Debai. Ramesh Chandra is his cousin, who lodged a case against Birbal Singh and others in 1979. At the same time, his uncle, Om Prakash, submitted a report, but it was not registered. Thereafter, complaint was made against Ompal Singh to the higher authorities, due to which Om Prakash and Vikram Singh falsely implicated him in this case.

32. D.W.-1, Vipin Kumar Agarwal, Junior Accounts Clerk in the office of Project Director, Moradabad stated that accused, Vijendra was on leave from 20.03.1981 to 22.03.1981 and he had not given any application for leave from the Station. A Certificate in this regard was issued to the accused, which he proved before the Court.

33. D.W.-2, Ompal, stated that accused, Munshi Lal, is his nephew. About 9 years ago, Birbal and others had plucked mangoes from his field and a report was made at the Police Station, where the S.H.O., Vishram Singh, demanded a bribe due to which a complaint was made to the higher authorities. The complaint was filed and proved before the Court. The note of the Member of Parliament addressed to Superintendent of Police, Bulandshahr, dated 15.05.1979 was also filed and proved in evidence.

34. D.W.-3, Dr. Prem Shankar, stated that he was working at Government Ayurvedic Hospital, Kaziabad, Aligarh on 20.03.1981 and he produced the O.P.D. and I.P.D. register of the Hospital in evidence, along with the details of the patients treated by him.

35. D.W.-4, Kanhai Singh, stated that he was Pradhan of Village Karansinghpur in 1981. When Rajpal along with his wife was traveling going in a *buggi*, they met with an accident in which Rajpal suffered a head injury. At that time, he appeared to be an ailing person.

36. D.W.-5, Balbir Singh, proved that the accused, Debiram, was working as a Lineman in Bakrala Electricity Sub-station and a photocopy of log sheet was proved and filed before the Trial Court. He stated that the employees are not given leave on big festivals, like Holi and Diwali in the Electricity Department.

37. Documentary evidence were also filed by the defense before the trial court.

38. C.W.-1, proved that the accused Munshi Lal made an application dated 14.05.1979 before the Member of Parliament making a complaint against of Vishram Singh, S.H.O., Debai stating that he had enmity with him and his uncle, Om Prakash.

39. The trial court, after considering the evidence led before it, convicted 12 accused and acquitted two of them, namely, Munshi Lal and Kunwar Pal.

40. After considering the rival submissions, material on record of the trial court and the judgment and order of the trial court, we find that the prime witness of this case is P.W.-2, Rajpal, who was also injured. The entire dispute started between him and the accused, Rajpal Sarpanch, and the motive of the crime also involved him, as the dispute regarding his wages of Rs.44/- with the accused, Rajpal Sarpanch, culminated in the unfortunate incident wherein three persons lost their lives and 23 persons got injured.

41. P.W.-1, Rajaram, is not an eye witness to the incident and he is the son of the deceased, Khachru. He is an interested witness who assigned a specific role to Vijendra and Roop Singh for causing fatal fire arm injuries to Khacheru and Smt. Narayani respectively. In his statement before the Court, he did not assigned any specific role to the accused, Vijendra and Roop Singh, and also admitted that when he reached the spot, he saw, Rajpal Sarpanch and Rajpal,

son of Gulab (PW-2) engaged in a verbal altercation. Thereafter, Rajpal Sarpanch, after exhortation, sent his sons, namely, Shankar and Kunwarpal, to call members of his gang for fighting. However, in his statement before the Court, he admitted that the co-accused, Shankar and Kunwarpal, were not seen at the place of incident. He also admitted that he does not know whether Vijendra, Khamani, Brahmdeo and Roop Singh were carrying guns or not, and he also does not know whether the weapons were country made of any other kind. A suggestion was given to this witness that the first information report was lodged in collusion with Ompal teacher and the police, and a specific suggestion was also given that on the date of the incident, the co-accused, Deviram and Vijendra, were not present in the village as they were doing government job in Khurja and Moradabad. He did not deny the same.

42. P.W.-2, namely, Rajpal son of Gulab, was declared hostile. Present incident started with P.W.-2 and Rajpal Sarpanch and he admitted that after quarrel between them, he went to his house and does not know about the incident and which firing by whom hit the injured and the deceased.

43. P.W.-4 is a highly interested and partisan witness, in as much as he is closely related to one of the gangs of the village and in his statement he admitted that one Ompal Singh was helping the families of the deceased persons with money and grain, and that he had influence at the police station. P.W.-4 is a peon in the college where the Ompal was a teacher, and his appointment as a peon in the college was supported by Ompal. He admitted that his statement under Section 161 Cr.P.C. was recorded after 7 days of the incident. He also admitted that on hearing hue and cry, he reached the place of the incident. He further admitted that when the incident started, he first ran away from the place of the occurrence and hid himself in his house, and that after 3 hours when he came to know that the police had arrived, he came out of his house. Clearly P.W.-4, is a resident of the same village therefore, he has given evasive answers to the specific queries put to him and as such, the learned trial court committed gross illegality in placing reliance on the testimony of such an interested and partisan witness.

44. None of the injured appeared before the trial court to prove the prosecution case, though they were eye witnesses to the incident and their testimonies were most vital for proving the prosecution case. It appears that due to the fear of the accused side, they could not muster the courage to give their statements before the trial court.

45. Be that as it may, we can not afford to uphold the conviction and sentence of the appellants on the basis of the evidence, which does not inspire confidence in the court and does not prove the prosecution case beyond reasonable doubt, despite the fact that it is a case of gruesome day light murder of three persons and the causing of multiple injuries to 23 persons. The conviction and sentence of the appellants are based on presumptions which can not be upheld.

46. Accordingly, the judgment and order passed by the trial court is set aside. The surviving appellants are on bail. Their bail bonds are cancelled and sureties are discharged. They need not surrender.

47. This criminal appeal is **allowed**.

48. The offices directed to return the trial court record within two weeks and notify the judgment to the trial court too.

49. Sri Rizwan Ahmad, learned Amicus Curiae is directed to be paid his professional fees of Rs.15,000/- within a month from the date of raising of the bill.

January 14, 2026
Abhishek

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