



2026:AHC:13211-DB

Reserved On :- 24.11.2025

Delivered On :- 20.01.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2201 of 1989

Amar Singh And Others

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	: Ashok Kumar Rai, Mangla Prasad Rai(Senior Adv.), Pavan Kumar Pandey
Counsel for Respondent(s)	: D.G.A.

In Chamber

HON'BLE SIDDHARTH, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

(Delivered By Hon'ble Siddharth, J.)

1. Heard Sri Mangla Prasad Rai, learned Senior Counsel assisted by Sri Ashok Kumar Rai, learned counsel for the appellants; Sri Prem Shankar Prasad, learned A.G.A for the State and perused the trial court record.
2. This criminal appeal has been preferred against the judgment and order of Additional Sessions Judge, Fatehpur dated 09.11.1989 in Sessions Trial No. 552 of 1987 convicting the appellant nos. 1 and 2 under Section 302 IPC and sentencing them to imprisonment for life and convicting appellant nos. 3 and 4 under Sections 302/34 IPC and sentencing them to life imprisonment.
3. The prosecution case, as narrated by Raghuraj Singh, complainant (P.W.-1) is that on 19.02.1987 complainant, Raghuraj Singh, his daughter, Km. Nanki and his minor son, Arjun, had gone to his field for fetching green leaves. After some time deceased, Kamta Singh, also reached there for collecting the green leaves. After having collected the leaves of the trees, complainant, Raghuraj Singh, Km. Nanki and Arjun, were returning home. Kamta Singh, remained behind them at the field. When complainant, his daughter and his minor son, reached the *Khalihan* (place of harvesting) of Raj Bahadur which was situated in the *Parti* (fallow) land it was 12 in the noon. His son deceased, Kamta Singh, went past on the bicycle and was going ahead of them. When he was coming towards the village from the turn through the *Kachcha Galiyara* accused, Amar Singh, Nankawa Singh, both

armed with guns, Iqbal and Bhoodar alias Tej Bahadur, both armed with country made pistol ambushed from the shrubs in the field of Shankar Singh. They stopped Kamta Singh. Iqbal and Bhoodar caught hold of his bicycle and exhorted to kill upon which Amar Singh and Nankawa fired at Kamta Singh with their guns. The shots of the guns hit Kamta Singh. He died then and there. Complainant and his son and daughter raised alarm upon which the accused fled towards the village. Upon hearing the alarm Shakoor Pathan and Pachchu Kewat, also came. They saw the accused persons fleeing.

4. The accused appeared before Additional Sessions Judge, Fatehpur who framed charge under Section 302 IPC against Amar Singh and Nankawa and a charge under Section 302/34 IPC against Iqbal and Bhoodar @ Tej Bahadur Singh. Each of the accused pleaded not guilty and claimed to be tried.

5. In order to establish its case, the prosecution examined Raghuraj Singh as P.W.-1, Km. Nanki as P.W.-2, Head Constable, Deo Dutta Tiwari as P.W.-3, S.I. R.K. Mishra as P.W.-4 and Dr. Ramesh Sharma as P.W.-5 and closed its evidence.

6. Raghuraj Singh (P.W.-1) gave details of the prosecution story. In cross-examination he stated that there was a civil litigation between him on one hand and Balwant Singh, Amar Singh and Nankawa Singh, on the other. He had filed the case against them. One Chheda Singh was also impleaded as defendant. He admitted that he lost the case from the Munsif's Court. Thereupon an appeal was preferred against the said judgment of Munsif. That too has been decided against him. The said civil litigation concerned the closing of *Nabdan* (drain) etc., and due to which the witness admitted that he was also having animosity with the accused. He explained that it was his daily routine to go for picking up green leaves from the field. Sometimes there used to be a gap in that routine. Off and on he was accompanied by Km. Nanki and Arjun also, his daughter and son respectively. He had left the house at about 10:00 a.m on the day of occurrence with his daughter, Km. Nanki and son, Arjun. After the passage of 1-2 hours, Kamta Singh had reached the field. Kamta Singh had come all of a sudden. Kamta had gone with him before also. Nanki and Arjun did not go to the school for studies on the date of the occurrence. They stated that they would not go to school for the studies. They showed their willingness for accompanying him for collecting green leaves. Upon a question put by the court the witness replied that Nanki and Arjun had gone to their school for studies but had returned home by 10 a.m. When they came at 10 a.m. to the house he asked them as to why they have returned from school. They replied that the studies were

not going on properly. Therefore, they had returned home. Many other children had left the school and therefore, they had also come back in the same way. The witness clarified that Kamta did not take food with him in the morning. Accused, Bhoodar, was holding the bicycle from its right side and Iqbal accused from left. They had caught hold of the handle of the bicycle of Kamta and at that time when Amar Singh and Nankawan fired at Kamta from right side, both Bhoodar and Iqbal had separated themselves about 1-2 steps from the bicycle. The witness further explained that at that time he and his children were about 10 paces away from Kamta. First shot was fired by Amar Singh at the chest of Kamta and the second one was fired by Nankawa at his temporal region. Seeing this firing the witness stated that he immediately raised alarm saying that "*Maar Dalen*" and reached near the place of the occurrence. There was no obstruction in the view between the witness (P.W.-1) and the accused. The accused did not try to shoot at Raghuraj Singh, complainant. In further cross-examination, the witness stated that deceased, Kamta, did not go to ease himself that morning before him.

7. Nanki (P.W.-2) was aged 15 years. Several question have been asked to her in order to ascertain as to whether she was knowing the sanctity of oath or not. She also knew difference between truth and the falsehood and therefore after administering oath by the court she narrated the aforesaid prosecution story as detailed by complainant, Raghuraj Singh,(P.W.I), her father. In cross- examination she testified the assertion of Raghuraj Singh that Kamta did not take food before her. She stated that Kamta was sleeping at the time when all of them were taking food and by that time when they were going for picking up the green leaves, Kamta had awakened but did not ease himself by that time. After collecting the leaves Kamta stayed at the fields for inspecting them. She along with her father and brother Arjun had proceeded for the house. As soon as they reached the *Khalihan* of Raj Bahadur, Kamta came from backside on bicycle and went past through them. He had hardly traveled some distance when the accused ambushed from the nearby shrubs. Kamta was caught hold by Bhoodar and Iqbal and the rest two accused fired at him from his right side. Both of them were armed with guns. The distance between the barrel and the body of Kamta was about one feet. Pellet shots were fired at the time when the deceased had not got down from the bicycle. He was not allowed to get down from it. After he was being hit by the shots of the gun Kamta fell on the ground along with the bicycle. On a court question the witness stated that at about 7-8 A.M. she had gone to the school in order to avoid doing domestic work. But at about 9:00 a.m, she had returned home after getting her attendance noted at the school. When the school started at 10:00 a.m and she got her attendance

noted down she slipped from the school as the teacher said that the students who were hungry were at liberty to go home. Therefore, she along with other schoolmate children also came back to the house. The defence asked as to whether it was the first time when she slipped from the school. The witness replied that this was not the first occasion for her but she had done so in the past also.

8. Deo Dutta Tiwari (P.W.-3), proved the Chik F.I.R., relevant entry in the G.D. regarding the registration of the case. Shri R.K. Mishra, S.I., the Investigating Officer has been examined as P.W.-4. In cross-examination the Investigating officer stated that he got the blood stained and the simple earth as well as the blood stained clothes of the deceased sent to the Chemical Examiner at Agra. He did not send the recovered gun for expert opinion because its barrel was got cleaned and the smell of kerosene oil was coming from it. The witness explained that this finding was entered in the General Diary of the police station at serial No. 32 at paragraph 18.40 on 27.02.1987. The witness identified the bicycle, saddle and *lathi* which were recovered from near the dead body.

9. Dr. Ramesh Sharma (P.W.-5) who conducted autopsy on 20.2.1989 on the dead body of Kamta Singh found the following ante-mortem injuries :-

(i) Fire arm wound of entry 3 cm x 3 cm x brain deep was present over right eye brow. The blackening, tattooing were present. Margins were inverted.

(ii) Fire arm wound of exit 10cm x 6 cm was present over the left side forehead and the skull 3cm above the left ear. one wadding piece and 10 small size pellets were recovered from the wound. The margins of the wound were inverted.

(iii) Fire arm wound of entry 3 cm x 3 cm x cavity deep was present over the right side of the chest 4 cm above the right nipple. The margins were inverted. One wadding piece was, recovered from the wound, No exit wound was seen. Six big size pellets were recovered from the right back of the body just below the scapular angle which were embedded in the skin and were palpable by hand.

10. In the internal examination the right third rib of deceased was found to be fractured, The right lung was lacerated. About one litre of blood was found in the thoracic cavity. The left lung was congested. Tho heart was empty. The stomach contained 4 oz of milk. The small intestines were empty while large ones were full of faecal matter. The liver was congested. The gall bladder was full. The pancreas, spleen and kidney were congested. Urinary bladder was empty. According to the doctor, the death could have been caused about one day prior to the date of the postmortem examination

and death was due to shock and hemorrhage as a result of ante-mortem injuries. A *tahmat*, a shawl an a shirt, a sweater, one *langot* and *tawiz* were found on the dead body which were sent sealed to the concerned police. The doctor specifically stated that the death of Kamta could have been caused on 19.2.1987 at 12 in the noon. The ante-mortem injuries which were found on the dead body were sufficient in ordinary course of nature to cause the death of Kamta and the injuries were the result of two shots and the shots could have been fired from a fire arm such as gun. In cross-examination the doctor stated that it was possible that Kamta could have died on 19.2. 87 between 8 to 9 a.m. The injuries No. 1 and 3 were not caused from one place. The first was caused from right side while the third injury would have been caused from front. The injuries nos. 1 and 3 were caused from different distances. The deceased could have taken milk about half an hour before his death. The doctor testified that the deceased was young and stout. Since the large intestines were full of faecal matter, it was possible that he would not have eased himself before his death.

11. The accused in their statements under section 313 Cr.P.C refuted the allegations made by the prosecution against each of them. Amar Singh stated that Raghuraj Singh had filed a case against him. He lost it. Therefore he was having animosity with him resulting in the false implication. Nankawa stated that Raghuraj Singh was not in the village at the time of the occurrence. He had gone to attend invitation out of the village. After the death of Kamta Singh persons went to call him. When Raghuraj Singh came in the night thereafter the report was lodged. Bhoodar @ Tej Bahadur did not say any specific thing. So is the case with Iqbal Singh.

12. The accused produced Zamin Ali as defence witness. He was the Pradhan Adhyapak of the Primary Pathshala, Deolan since 5.7.1980. He produced the Attendance Register of 19.2.1987. He stated that the timing of the school was from 8 a.m to 1.00 p.m on that day. He further stated that Km. Nanki (P.W.-2) and Arjun were studying in the month of February, 1987 in his school in class IV and Class II respectively. Both of them were in attendance at 8 AM. in the morning on that date. He contended that both of them remained there upto 12.45 p.m. At about 12.45 p.m. Km. Nanki came to him weeping saying that his brother was murdered and therefore she should be relieved. So he relieved her at once. She went away with her brother, Arjun Singh. The witness contended that from 8 a.m to 12.45 p.m both Nanki and Arjun remained in the school. In cross-examination by the State Counsel he stated that there were three rooms in the school which includes one *varandah* and two rooms. On that day every student of every class was present. The girls and boys used to study at the same time. Three

different classes used to run in two rooms. The students of the rest two classes used to sit outside of the *varandah* in the field. The witness stated that he was sitting in the Vth class. There were 82 students which included girls and boys in the school on the date of the occurrence. The witness further stated that he was the class teacher of class-Vth. The class teacher of class-IIInd was Beni Madho, Assistant Teacher and that the class teacher of class-IVth was Vidhya Nidhi on 19.02.1987. On 19.02.1987 the attendance of all the sections of all the classes were entered by him alone. The attendance of class-Ist to class-Vth during whole of the February had been entered by him. Arjun remained attending the school even after 19.02.1987 and continued to attend upto 24th and then he came on 2nd of March. Similarly Km. Nanki remained in attendance from 19th February to 24th February.

13. After hearing the rival submissions, going through the material on record of trial court and perused the judgment of the trial court, we find that the incident in dispute took place on 19.02.1987 at about 12:00 p.m and the F.I.R was lodged on the same day at 15:30 p.m. The F.I.R was lodged by P.W.-1, Raghuraj Singh, the father of deceased. The F.I.R is clearly not delayed. The defense taken by the appellant no. 2, Nankawa Singh, that Raghuraj, was not in the village at the time of occurrence and he had gone to attend an invitation out of the village does not seems to be correct as found by the trial court.

14. The second issue is regarding the presence of P.W.-2, the minor sister of deceased, along with P.W.-1 at the time of alleged incident.

15. Learned counsel for the appellants has laid much stress on the fact that P.W.-2 has not seen the incident since she was in school and D.W.-1 has proved that she was present in her school at the time of alleged offence and only after the news of murder of her brother was received in the school, he let her go along with his brother, Arjun, to her house at 12:45 p.m. She has admitted that she left her school early at 09:00 a.m after her attendance was recorded but why she left her school was not convincingly explained. She stated that she used to run from the school earlier also. Therefore, the presence of P.W.-2 on the place of incident may be doubted, but it will not make any dent in the prosecution case.

16. Regarding the statement of P.W.-1, there does not appears to be any doubt about his presence on the place of incident. He has assigned the role of catching hold of bicycle of his son, Kamta to Bhoodar and Iqbal. Nankawan and Amar Singh, were alleged to have fired at Kamta from right side. Therefore, role of catching hold of bicycle was only assigned to the

surviving appellant no. 4, Bhoodar. The motive of crime alleged by P.W.-1 is a civil litigation between P.W.-1, Balwant Singh, on the one hand and Arjun Singh and Nankawa on the other. P.W.-1 also admitted that he lost the case from Munsif's Court and also the appeal and because of aforesaid dispute the accused had animosity against him.

17. It is well settled law that the evidence in trial depends upon its quality and not the quantity of the evidence lead before it. The conviction can be ordered relying upon the statement of even the solitary witness, if it inspires confidence of the court. In the present case, this court finds that the statements of P.W.-1 and P.W.-2 are almost similar. Both the witnesses have assigned the same role of appellants. Therefore, even if the statement of P.W.-2 is discounted, the testimony of P.W.-1 inspires confidence of the court. P.W.-1 has proved that there was animosity between the parties and has clearly proved the manner and mode of firing by the appellant no. 1, Amar Singh and appellant no. 3, Nankawa, of causing two fire arm injuries each to the deceased, while he has assigned the role of catching hold of the bicycle of the deceased to deceased-appellant no. 3, Iqbal and appellant no. 4, Bhoodar.

18. We further find that the deceased was caused two fire arm injuries from close range. P.W.-5, the doctor, found blackening and tattooing present around the fire arm wound of entry over right eyebrow of the deceased. Wadding pieces were recovered from both the injuries which proves that both the injuries were caused from short range. The prosecution case, so far as it assigned the role of catching hold of handle of bicycle of the deceased to the surviving appellant no. 4 and deceased-appellant no. 3, Iqbal, does not inspire confidence of this court. Since both the injuries were caused from very short range, the catching hold of the bicycle by Bhoodar from right side and Iqbal from left side was not required. Kamta could have been shot by the assailants even after falling from the bicycle and there was no need of making him stationary on the bicycle before causing him two fatal gun shot injuries assigned to the appellants, Amar Singh and Nankawa Singh. Therefore, we are of the view that surviving appellant no. 4, Bhoodar, deserves to be granted benefit of doubt and acquitted of all charges.

19. However, so far as the case of surviving appellant no. 2, Nankawa, is concerned, this court finds that he was party to the litigation along with Amar Singh, Balwant Singh in the civil case when Bhoodar was not party to the litigation with P.W.-1. Therefore, we uphold the conviction and sentence awarded to the surviving appellant no. 2, Nankawa, while setting aside the conviction and sentence of appellant no. 4, Bhoodar @ Tej Bahadur.

20. Nankawan, appellant no. 2, is on bail. His bail bond is cancelled and sureties are discharged. He shall surrender forthwith and undergo the remaining sentence.

21. Surviving appellant no. 4, Bhoodar @ Tej Bahadur, is also on bail. His bail bonds are directed to be cancelled and his sureties are discharged.

22. The criminal appeal is partly allowed.

23. Let the trial court record be returned to the trial court along with copy of the judgment for necessary compliance.

January 20, 2026

Rohit

(Vinai Kumar Dwivedi,J.) (Siddharth,J.)