



2026:AHC:124949-DB

Reserved on : 18.02.2026

Delivered on : 03.06.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 4031 of 2010

Sherpal

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Jai Singh Chandel, Kanchan Ranjan, R.D. Dauholia
Counsel for Respondent(s)	: Govt. Advocate

Court No. - 44

HON'BLE SIDDHARTH, J.

HON'BLE HARVIR SINGH, J.

(Delivered by Hon. Harvir Singh, J.)

1. Heard Sri Ashwani Kumar Ojha, the learned counsel for the appellant, and Mrs. Manju Thakur, the learned AGA- Ist for the State-responded and perused the trial court records and judgment and order passed by the learned trial court.

2. The instant criminal appeal has been preferred against the judgment and order dated 27.04.2010 passed by the learned Additional Sessions Judge, Court No. 7, Bulandshahr, in Sessions Trial No. 1142/2008. This trial arose out of Case Crime No. 176/2008, under Sections 302 and 307 of the Indian Penal Code, 1860, registered at Police Station Aurangabad, District Bulandshahr. Whereby, the appellant was convicted under Section 302 of the I.P.C. and sentenced to life imprisonment with a fine of Rs. 10,000/-.

3. The case of the prosecution, in brief, is that on 28.06.2008, the informant Kishanchand, a resident of village Moodi Bakapur, Police Station Aurangabad, District Bulandshahr, submitted a written complaint (Exhibit Ka-1) to the Station House Officer (SHO) of Police Station Aurangabad. The complaint stated that the accused, Sherpal, son of

Ameechand, a resident of the same village, was a person of bad character and a vagrant. The accused reportedly kept an evil eye on the informant's daughter, Seema (now deceased), and had molested her in the past, for which he had tendered a public apology. On 28.06.2008, Seema, along with her brother Sanjeev (aged about 10 years) and sister Anju (aged about 12 years), went to their field to harvest fodder. While they were working, the accused, Sherpal, arrived at the field armed with a country-made pistol (tamancha). With malicious intent, he caught hold of Seema and began dragging her toward a sorghum (jowar) field. When Seema and her siblings raised an alarm, Veerpal, son of Chandrapal, and Ramesh Chand, son of Malli Singh, who were working in neighboring fields, rushed to rescue her. Finding his attempt thwarted, the accused, Sherpal, shot Seema in the stomach and fled toward the northern fields. When the witnesses chased to apprehend him, the accused fired at them and managed to escape while waving his pistol in the air. The entire incident was witnessed by the two neighbors as well as the brother and sister of the injured Seema. While being transported to the Bulandshahr Hospital, Seema succumbed to her injuries near the Syana Bus Stand.

4. On the basis of the written complaint (Exhibit Ka-1) submitted by the informant, Kishanchand, a First Information Report (FIR) bearing Case Crime No. 176/2008, under Sections 302 and 307 of the Indian Penal Code, 1860, was registered at Police Station Aurangabad, District Bulandshahr, against the accused-appellant, Sherpal. The investigation was initially commenced by Shri Kanhaiyalal Choudhary, Station House Officer, Police Station Aurangabad, and was subsequently taken over by Shri Balveer Singh, Station House Officer, Police Station Aurangabad.

5. After recording the statements of the eyewitnesses and other witnesses, and preparing the Site Plan, the Investigating Officer submitted a charge sheet against the accused, Sherpal, under Sections 302 and 307 of the Indian Penal Code. Charges were framed by the Court against the accused on 27.01.2009. The accused-appellant, Sherpal, denied the charges and claimed to be tried.

6. To prove its case, the prosecution examined eight witnesses:

PW-1 Kishanchand (informant), PW-2 Sanjeev (brother of the deceased/eyewitness), PW-3 Km. Anju (sister of the

deceased/eyewitness), PW-4 Ramesh Chand (eyewitness), PW-5 Constable 734 Devendra Singh, PW-6 Sub-Inspector Kanhaiyalal Choudhary, PW-7 Dr. B.P. Singh Kalyani, PW-8 Station House Officer Balveer Singh.

7. The prosecution also relied upon various pieces of documentary evidence before the trial court, including: the Written Complaint (Exhibit Ka-1), First Information Report (Exhibit Ka-2), General Diary entry (Exhibit Ka-3), Site Plan (Exhibit Ka-5), Recovery Memo of plain and blood-stained soil (Exhibit Ka-6), Recovery Memo of one 12-bore empty cartridge (Exhibit Ka-7), Inquest Report (Exhibit Ka-8), Challan Lash (Exhibit Ka-9), Photograph of the corpse (Exhibit Ka-10), Chitti Pratisar Nirikshak (Exhibit Ka-11), Letter of the Chief Medical Officer (Exhibit Ka-12), Sample Seal (Exhibit Ka-13), Post-Mortem Report (Exhibit Ka-14), Site Plan of weapon recovery (Exhibit Ka-15), and the Charge Sheet (Exhibit Ka-16).

8. PW-1, Kishanchand, who is the informant in the case, stated in his examination-in-chief that the deceased, Seema, was his daughter and was about 16 to 17 years old. On 28.06.2008, Seema, along with her sister Anju and younger brother Sanjeev, went to the field to harvest fodder. This field had been taken by him on an advance lease (peshgi) from Ram Singh and was cultivated with a sorghum (jowar) crop. While the children were harvesting the crop, at around 11:00 AM, the accused, Sherpal, approached Seema with malicious intent, grabbed her hand, and began dragging her into the field. Upon this, all three children raised an alarm, prompting Veerpal and Ramesh to rush to the spot. Because their timely arrival prevented the accused from executing his evil design to rape Seema, the accused shot her in the stomach with a country-made pistol. Thereafter, Sherpal fled in a northern direction. He was chased by Veerpal and Ramesh. By that time, the informant also reached the spot and attempted to apprehend him, but the accused fired a shot at him, which he narrowly escaped. The accused successfully fled from the scene. Veerpal, Ramesh, the informant, and the two minor children attempted to take the injured Seema to Bulandshahr Hospital, but due to the severity of her injuries, she succumbed on the way near the Syana Bus Stand. Upon arrival at the hospital, she was declared dead. Leaving the body at the hospital, they went to lodge the report. The informant had the written

complaint dictated to Harinarayan Sharma, and the contents were written exactly as narrated. It was read over to him, whereupon he affixed his signature. The report was also shown and read over to the witnesses, who confirmed its veracity. The complaint was marked as Exhibit Ka-1. The informant then proceeded to the police station with the report to register the case. This report was scribed outside the premises of the police station.

9. In his cross-examination, PW-1 stated that he is uneducated and has not passed the high school examination. He deposed that intense political rivalry and factionalism (party-bandi) existed in his village due to a previous local election (pradhani), where two candidates, Omdatt and Rajendra Saini, contested against each other. The witness and his faction actively supported Omdatt, whereas the accused, Sherpal, campaigned for Rajendra Saini, which laid the foundation for deep-seated hostility between them. He testified that the scene of the crime is situated approximately half a kilometer away from his residential house. Regarding the topography of the crime scene, the witness stated that he had taken a 4-bigha portion of land on rent from one Ram Singh at a rate of Rs. 3,000/- per bigha, where a crop of sorghum (jowar) had been sown. He detailed the boundaries of the field, stating that to its north, south, and east lay other lands belonging to Ram Singh, while to the west lay a water channel (naali), a dirt track (chakroad), and the field of Mawasi. He further noted that the field of Ramesh (son of Malhi) lay further south, separated only by the field of Kachhid Baksha, and that Ram Singh's total consolidated landholding (chak) spanned about 48 to 50 bighas.

10. The witness further stated that on the fateful day, at around 10:30 AM to 10:45 AM, his family members left the house to harvest the standing jowar crop, which was about 6 to 7 feet high but sparsely sown. At that time, the surrounding fields in all four directions were vacant. The witness followed the children after a brief gap of about 4 to 6 minutes. While he was about a field's distance away, he heard a loud commotion and rushed toward the spot. From a distance of about 25 to 30 meters, he directly witnessed the assailant firing a gunshot at the victim, which struck her in the abdomen. Upon seeing this, the witness and others attempted to apprehend the accused. To facilitate his escape, the accused turned and fired a shot directly at the pursuing party from a distance of 40

to 45 meters, narrowly missing them. The chase lasted for about 15 to 20 minutes before the accused managed to flee.

11. PW-1 narrated the subsequent events, stating that they remained at the field for about 20 minutes after the shooting before loading the injured girl into a horse-cart (bogi) to rush her to the police station. The harvesting tools including three sickles (daranti) and ropes along with the cut crop, were left behind at the spot. They reached the police station at around 11:45 AM, and after spending 7 to 8 minutes there, the written complaint (tehrir) was formally handed over at 12:00 PM. This complaint was scribed outside the police station by one Harinarayan of village Mudhi Bakapur, whom the witness knew and had brought along. The witness stated that his own clothes became heavily stained with blood when he lifted the victim into the buggy, which he later handed over to the Investigating Officer. He also noted that the deceased was wearing a silver chain around her neck. While en route to the hospital from the police station, the injured girl succumbed to her injuries near the Syana bus stand and was officially declared brought dead upon arrival at the hospital at 12:15 PM.

12. The witness further deposed that the police arrived at the village later that afternoon, between 3:00 PM and 4:00 PM, and recorded his statement under Section 161 of the CrPC on the very same day. Other villagers, Ramesh and Veerpal, also arrived at the spot, with Veerpal's land being situated immediately south of the incident site. The inquest proceedings (panchayatnama) were conducted in his presence at the hospital about an hour before the post-mortem, and the post-mortem examination was conducted around 3:00 PM. The body was subsequently handed over to the family by evening, between 4:00 PM and 4:30 PM.

13. In his cross-examination, PW-1 confronted several defense theories and omissions in the initial documentation. He asserted that the accused runs very fast despite walking with a slight limp, and he categorically denied the defense suggestion that the accused's right leg was afflicted with polio. When confronted with omissions in the written complaint specifically regarding the details of the land lease, the exact location where the victim was dragged, the ownership of the field, the exact point of the retaliatory fire during the chase, and the mention of the vehicle

used, the witness stated that he had narrated these facts to the Investigating Officer and could assign no reason for their omission from the formal text. Finally, the witness vehemently denied the defense's suggestions that he had fabricated a false case because he owed a loan of Rs. 50,000/- to the accused, Sherpal, or that he was rendering false testimony due to village factionalism. He denied that only Satyaveer and Sitaram had gone to the police station, that the deceased was never taken to the hospital, or that the original complaint had been substituted with a fabricated one, maintaining that his account was entirely truthful.

14. The prosecution further examined PW-2, Sanjeev Kumar, son of Kishan Chand, aged about 12 years, a student of Class 6, and a resident of Muni Bakapur, Aurangabad, District Bulandshahr. This witness, having an understanding of the sanctity of an oath, stated that the deceased, Seema, was his elder sister and that he recognized the accused, Sherpal, who belonged to his village. PW-2 deposed that the incident occurred on June 28, 2008, at around 11:00 AM while he, along with his sisters Seema and Anju, was cutting sorghum (jowar) in the field that his family had taken on rent (peshgi). He testified that the accused, Sherpal, arrived at the spot from the empty fields, caught hold of his sister Seema's hand, and forcefully began dragging her into the jowar field. When the witness, along with his sister Anju, resisted and raised an alarm, several villagers, including Veerpal and Ramesh, attracted by the noise, rushed to the spot. Thereupon, the accused, Sherpal, pulled out a country-made pistol (tamancha) from his waist (anti) and fired a shot directly at his sister Seema, hitting her in the abdomen. The witness further stated that when they attempted to apprehend the assailant, the accused turned and fired at them, but they narrowly escaped, enabling the accused to flee the scene. PW-2 immediately narrated the details of the incident to his father and other villagers, and stated that while his family members were transporting Seema to the hospital, she succumbed to her injuries en route. He further mentioned that prior to this incident, the accused had harassed and misbehaved with Seema, which had led to a village panchayat where the accused, Sherpal, had tendered an apology.

15. Upon being recalled for further examination, PW-2 testified that on the day of the incident, they had left their house at around 11:00 AM and reached the field after about half an hour, where they harvested around 2

to 3 bundles (gaddi) of jowar, a task that took nearly an hour. He reiterated that the field in question was situated to the north of Ram Singh's field and was surrounded by several other agricultural plots, though he could not specify the ownership of all adjoining lands. PW-2 clarified that a single shot was fired at the spot, and following the shooting, they fled the field, leaving behind the cut crop, ropes, and sickles (daranti). He stated that his father arrived at the spot shortly after the incident, within approximately 20 minutes, though the shooting did not take place in his father's presence. He added that the villagers initially carried Seema toward the hospital and information regarding her demise was received only after she had passed away, following which his father and others went to the hospital. When confronted with defense suggestions regarding the physical condition of the accused, the witness stated that the accused walks with a limp in his right leg, but denied the assertion that the accused cannot run. PW-2 further stated that about 15 days prior to the incident, he had personally witnessed the accused harassing his sister Seema with an unknown individual, which led to a village panchayat approximately 20 days later, though he admitted he did not personally attend the panchayat meeting. The witness denied the defense theories that the accused had not committed any harassment, that no such panchayat had taken place, or that they were cutting jowar on the southern side of Ram Singh's field. He further refuted the suggestions that he was rendering false testimony due to village factionalism, that the entire incident was fabricated, or that a false case was registered against the accused under the pretext of a fictitious robbery.

16. The prosecution also produced PW-3, Kumari Anju, daughter of Kishan Chand, aged about 14 years, who has studied up to Class 4 and resides in Mudi Bakapur, Aurangabad, District Bulandshahr. PW-3 deposed that the deceased, Seema, was her elder sister. She stated that approximately one year and two months prior to her deposition, she, along with her elder sister Seema and her brother Sanjeev, had gone to harvest fodder in the field of Ram Singh, which their family had taken on rent. At around 11:00 AM, while the three of them were cutting the crop, the accused, Sherpal, emerged from the vacant fields, caught hold of Seema's hand, and forcefully tried to drag her into the jowar field. Seema resisted, and when the witness along with Sanjeev raised a loud alarm,

village locals Ramesh and Veerpal rushed toward the spot. At that moment, the accused, Sherpal, pulled out a country-made pistol (tamancha) from his waist (anti) and shot her sister Seema in the abdomen. PW-3 testified that, when the gathered villagers attempted to catch the accused, he opened fire upon them with his weapon to secure his escape. The injured Seema was subsequently rushed toward the hospital by the villagers, but she passed away on the way.

17. When recalled for further cross-examination, PW-3 stated that the weather on the day of the incident was rainy and the standing jowar crop was about 6 to 7 feet high. She clarified that they had left their house at around 11:00 AM after having their meals, taking about half an hour to reach the agricultural plot, and had spent another half an hour harvesting one bundle (gaddi) of jowar. The witness asserted that she understood directions and described that the jowar was sown in the portion containing the dirt track (chak road) to the south of Ram Singh's land. She stated that, while they were cutting the crop near the south-east corner of the field, an individual approached from the northern direction, grabbed Seema, and shot her. Following the attack, they left the field out of fear, leaving behind the ropes, sickles, and the harvested crop. The wounded victim was taken to the hospital by the villagers, and upon receiving news of her death, her father and other family members proceeded to the hospital. PW-3 firmly rejected the defense suggestions that no such incident had taken place, that her narration of the facts was false, or that she had not witnessed the commission of the offense.

18. The prosecution further examined PW-4, Ramesh Chand, son of Malli Singh, aged about 55 years, resident of Mudi Bakapur, Police Station Aurangabad, District Bulandshahr. The witness deposed on oath that the incident took place approximately 16 months prior, at around 11:00 AM. He stated that he was working on his own field and was sitting on the boundary ridge (medh) sharing a smoke (biri) with Veerpal when they suddenly heard a loud commotion. Upon standing up to investigate, they observed the accused, Sherpal, forcefully pulling the victim, Seema, by her arm with explicit illicit intent, dragging her into the standing sorghum (jowar) crop. PW-4 testified that, when they moved toward the spot as Seema screamed, the accused noticed their arrival and immediately fired a gunshot directly into the victim's abdomen. The witness and Veerpal

pursued the fleeing assailant, but the accused turned and opened fire on them, causing them to stop to preserve their lives, after which the accused fled toward the northern direction. Upon approaching the crime scene, PW-4 found two to four other villagers gathering at the spot, shortly followed by the victim's father, Kishan Chand. The injured girl was subsequently placed into a horse-cart (buggy) that was stationed in the forest area, transported to the village, and then immediately shifted into a motor car to be taken to Bulandshahr for medical aid, while the witness remained behind in the village.

19. During cross-examination, PW-4 clarified that the accused fired the weapon at him from a distance of about 50 paces while running away, looking back repeatedly during his escape. He stated that the boundary ridge where he and Veerpal were sitting was located roughly 40 to 50 meters away from the jowar field, where the children were harvesting. He noted that the field in question belonged to Kishan Chand, who had taken 4 to 5 bighas on lease from Ram Singh out of the latter's total holding of 50 bighas. Regarding local boundaries, he described that Naurang's field lay to the east, the fields of Naresh, Mahichand, and Amarpal lay to the west, and Veerpal's field lay to the south. PW-4 specified that his own holding of 10 bighas lay immediately to the left of Veerpal's 20 to 21 bighas. He further stated that they ran toward the spot empty-handed, leaving behind their agricultural tools (khurpi and phawda). He confirmed that two gunshots were fired at the scene of the crime and described that about 1 to 2 rows of jowar had been harvested before the assault, with cut bundles and two sickles (daranti) left behind on the ground, though no ropes were present. He observed that the victim was wearing a yellow-colored suit at the time, but could not recall any specific ornaments like a locket. PW-4 rejected the defense theories concerning local political factionalism, noting that, although he belongs to the Lodh Rajput community like the informant, he is not related to him. He admitted the voting for Omdatt in the village elections, while Rajendra Saini was the rival candidate, but strongly denied that village politics had caused old enmity or led to false implications. He firmly refuted the defense assertions that he did not witness the incident, that the victim was killed by an unknown assailant, or that a fabricated case had been built against the accused to cover up a false allegation of robbery.

20. The prosecution further examined PW-5, Constable Devendra Singh, who deposed that on June 28, 2008, he was posted at Police Station Aurangabad. He testified that on the basis of the written complaint (tehrir) submitted by the informant, Kishan Chand, he registered the formal First Information Report (FIR) under Case Crime No. 176/08. The original chick FIR, written in his own handwriting and bearing his signature, was formally exhibited before the court as Exhibit Ka-2. PW-5 further stated that he recorded the corresponding entry in the General Diary (GD) as Rappat No. 171 at 2:45 PM on the same day. He brought the original General Diary to court and verified that the carbon copy contained in the case file was prepared in the same running process as the original register, and the entry was marked as Exhibit Ka-3.

21. During his cross-examination, PW-5 admitted that, there was an omission regarding the date and time in Column 15 of the document. He asserted that no other criminal case was registered at the station on that day either before or after the lodging of the present case. He vehemently denied the defense suggestion that the FIR was registered as an "anti-time" document by backdating it in connivance with the informant. He pointed out that the seal of the Chief Judicial Magistrate (CJM) dated July 4, 2008, was affixed right below Exhibit Ka-2, and noted that, while the Circle Officer (C.O.) had signed the document, no date was specified beneath that particular signature.

22. The prosecution further examined PW-6, Sub-Inspector K.L. Choudhary, the first Investigating Officer of the case, who was the then Station Officer (S.O.) at Police Station Aurangabad. He deposed that on June 28, 2008, he took over the investigation of Case Crime No. 176/08, registered under Sections 302 and 307 of the Indian Penal Code (IPC). On the same day, he recorded the statements of the informant Kishan Chand, the scribe of the FIR, and the eyewitness Sanjeev Kumar. He subsequently inspected the place of occurrence and prepared the site plan (naksha nazari) in his own handwriting, which was exhibited as Exhibit Ka-5. The witness testified that on the date of the incident, he collected samples of blood-stained soil along with plain soil from the spot and prepared a recovery memorandum (fard) in the presence of the spot witnesses, which was marked as Exhibit Ka-6. He also recovered one 12-bore empty cartridge shell (khokha kartoos) from the scene of the crime,

which was sealed in a cloth container under a formal seal and memorandum in the presence of the witnesses.

23. During the court proceedings, a sealed bundle received from the court repository was opened before the witness, revealing three empty cartridge shells marked Tc-1, Tc-2, and Tc-3, along with one live cartridge. PW-6 identified these items as the ammunition sent for forensic examination, and they were marked as Material Exhibits 1 and 9. A second sealed bundle was opened, from which the witness explicitly identified the specific empty cartridge shell he had recovered from the spot, which was marked as Material Exhibit 5. He further deposed that on June 29, 2008, he recorded the statements of witnesses Karan Singh and Suresh at the village market (katra), received the inquest (panchayatnama) and post-mortem reports of the deceased Seema, and transcribed them into the Case Diary (CD). He also recorded the statements of Constable Subhash Babu and Sahadev prior to his subsequent transfer from the station. PW-6 further stated that the inquest proceedings of the deceased, Seema, were conducted on June 28, 2008, under his instructions by Sub-Inspector S.P. Singh. The original inquest report, bearing the signature of S.P. Singh and the signatures of the punch witnesses (ray panchan), was exhibited as Exhibit Ka-8. He verified that on the same day, S.I. S.P. Singh prepared the necessary forwarding paperwork, including the police challan of the body (challan lash), form for specimen seal (namuna mohar), photograph of the corpse, and the formal letters addressed to the Reserve Inspector (RI) and Chief Medical Officer (CMO), which were exhibited as Exhibits Ka-9 to Ka-13.

24. When subjected to cross-examination, PW-6 stated that he had been posted at Police Station Aurangabad for 11 months, though he could not recall the exact dates of his tenure. He admitted that the recovery memorandum Exhibit Ka-5 did not explicitly depict any harvested jowar, sickles, or ropes at the spot, nor did it mark the precise entry or exit routes of the witnesses to the scene. He was confronted with omissions in the Section 161 CrPC statements of the witnesses; he noted that the informant, Kishan Chand, had not stated during his initial interrogation that he chased the accused or that the accused fired back at him. He further noted that Kishan Chand had not handed over any blood-stained clothes to him during his part of the investigation. He confirmed that the

child witness, Sanjeev Kumar, had not stated in his initial statement that his father arrived at the spot "after 10 minutes or within a short time," and that Kumari Anju's statement regarding the accused firing a weapon when the villagers tried to catch him was missing from the Case Diary.

25. PW-6 explained that these omissions might have been recorded by the subsequent Investigating Officer who took over the matter. He stated that he did not personally dispatch the recovered cartridge shells to the forensic lab for comparison, as that procedure was carried out by the second I.O., and he could not specify the identification numbers of those cartridges. He verified that his signature was present on the bundle containing the empty cartridges. Lastly, when questioned about procedural details, he noted that the remaining clothes were torn, his signature was absent on Exhibit Ka-8, and the inquest report did not explicitly mention that it was prepared under his direct instructions or contain the name of the accused, crime number, or statutory sections. He strongly denied the defense suggestions that he never visited the spot, that no empty cartridge was recovered by him, or that the entire investigation was conducted while sitting at the police station.

26. The prosecution further examined PW-7, Dr. V.P. Singh Kalyani, who stated that on 28.06.2008, he was posted as a medical officer at the District Hospital, Bulandshahr. On that day, at 4:50 PM, he performed the post-mortem examination of the body of Ms. Seema, daughter of Kishan Chand, resident of Moodi Bakapur, Police Station Aurangabad, District Bulandshahr. The body was sent by the Station House Officer (SHO), Aurangabad, sealed in a cloth, along with the relevant police papers. Constable 962 Subhash Babu and CP 150 Sahdev Singh, who brought the body to the station, identified it. A sample of the seal on the body was compared with the specimen seal and found to be intact. The deceased was approximately 17 years old and had been dead for approximately a quarter of a day. She was of normal height and build. Stiffness was developing in the upper part of her body. Both her hands and feet were covered with mud.

27. The following injuries were found on the deceased's body: The site of penetration measured 1.5 cm x 1.00 cm, extending deep into the abdominal cavity, located on the right side of the abdomen, 1 cm from the

umbilicus at the 7 o'clock position. The edges of the wound were inverted, and there was blackening and tattooing along the edges. Bowels were protruding from the wound. Upon dissection, the peritoneum, left kidney, and spleen were found to be lacerated. A plastic ring and 15 pellets (metal fragments) were recovered from the abdomen. Approximately 1200 ml of blood was present within the abdominal cavity. All internal organs appeared pale/yellow. The deceased's stomach contained 150 grams of undigested food, and her gallbladder was partially filled. The deceased's ovaries were clear. The deceased was wearing a kurta, a kameez, a salwar, two dupattas, a ring, two white metal rings, a hair band, two earrings, a white metal chain, a nose pin, and pieces of a glass bangle, all of those were sealed in a cloth. The wadding piece (tikli) taken from the stomach and the 15 metal pieces were placed in a sealed envelope and handed over to the accompanying police personnel. The police papers, the post-mortem report, and the body were also handed over to them. In his opinion, the deceased died from shock and hemorrhage resulting from ante-mortem injuries. The original post-mortem report dated 27.01.2010 was verified on record and marked as Exhibit Ka-14. The doctor opined that, it was entirely possible for the deceased to have sustained the injuries around 11:00 AM on 28.06.2008.

28. On cross-examination by the defense counsel, the witness stated that the deceased might have consumed food 2 to 3 hours prior to her death. He conceded that it was possible the deceased died around 10:00 AM on 28.06.2008, noting that the time of death could vary by 1 to 1.5 hours. He noted that the surface, where the deceased fell might have been muddy. He stated that he could not conclusively determine the exact position of the person, who shot the deceased, whether they were standing directly in front of her or elsewhere. He further stated that he could not determine the exact distance from which the injury was inflicted, or whether it was from a distance of 10 to 12 feet.

29. The statement of the accused was recorded under Section 313 of the Code of Criminal Procedure, wherein he stated that the entire prosecution story is false, baseless, fabricated, and concocted, and that the evidence produced by the witnesses is incorrect. The accused further stated that he has been falsely implicated in the present case, that he has not committed any offense as alleged by the prosecution, and that the First Information

Report was lodged with an ulterior motive. It was also contended by the accused-appellant, Sherpal, that he had given Rs. 50,000/- to the informant, Kishanchand, to solemnize the marriage of his daughter, and had previously advanced another Rs. 10,000/- to the informant for the same purpose. He alleged that because the informant did not want to return the money, he falsely implicated the accused. Furthermore, the accused, Sherpal, stated that he is differently-abled in one leg and consequently could not have committed the crime and fled the scene instantly, thereby demonstrating that the entire prosecution story is false.

30. The learned counsel for the appellant, vehemently contended that the entire prosecution story is a web of fabrication spun out of deep-seated village political factionalism and financial animosity. It was submitted that the material omissions in the written complaint (Exhibit Ka-1) and the initial statements recorded under Section 161 of the CrPC, specifically regarding the omission of the chase, the alleged retaliatory firing by the accused, and the absence of any harvested crop, sickles, or ropes in the site plan (Exhibit Ka-5) fatally undermine the credibility of the eyewitness accounts.

31. The learned counsel for the appellant further contended that, the physical disability of the appellant, who suffers from a pronounced limp in his right leg, completely falsifies the prosecution's claim that he dragged the deceased and subsequently outran a group of agile pursuers during a 20-minute chase. Pointing to the medical testimony of PW-7, it was argued that the variation in the estimated time of death and the presence of undigested food suggest that the incident occurred much earlier in isolation, and the appellant was subsequently framed at the behest of the informant to evade an outstanding loan of Rs. 60,000/-.

32. Per contra, the learned AGA-Ist for the State-respondent, strongly defended the impugned judgment and argued that the prosecution's case stands on the unshakeable foundation of three consistent eyewitness testimonies, including two natural child witnesses (PW-2 and PW-3) who were present at the scene of the crime alongside their deceased sister. The learned AGA submitted that minor variations or omissions in the initial documentation cannot overshadow the vivid, consistent, and ocular accounts of the brutal assault.

33. It was further contended by the learned AGA that the medical evidence seamlessly corroborates the ocular testimony, as the inverted edges of the wound, blackening, and tattooing conclusively establish a close-range firearm injury inflicted at the time asserted by the prosecution. The learned AGA concluded that the defense of physical disability was a mere subterfuge, as walking with a limp does not incapacitate an individual from pulling a trigger, and the immediate lodging of the FIR completely rules out any possibility of deliberate concoction or false implication.

34. The learned Counsel for the appellant contended that the Child Eyewitnesses (PW-2 and PW-3) were unreliable or tutored. To counter this, the learned A.G.A. referred the law on child witnesses and the established tests for detecting tutored testimony.

35. The Indian Evidence Act, 1872 (in short, the "Evidence Act") does not prescribe any particular age as a determinative factor to treat a witness to be a competent one. On the contrary, Section 118 of the Evidence Act envisages that all persons shall be competent to testify, unless the court considers that they are prevented from understanding the questions put to them or from giving rational answers to these questions, because of tender years, extreme old age, disease - whether of mind, or any other cause of the same kind. A child of tender age can be allowed to testify, if he has intellectual capacity to understand questions and give rational answers thereto.

36. The Hon'ble Apex Court in [Dattu Ramrao Sakhare v. State of Maharashtra](#) reported in (1997) 5 SCC 341 this Court held that as long as a child witness is found to be competent to depose i.e., capable of understanding the questions put to it and able to give rational answers, the testimony of such witness can be considered as evidence in terms of [Section 118](#) of the Evidence Act, irrespective of their tender age or absence of any oath. The only additional factor to be considered is that the witness must be found to be reliable, exhibiting the demeanour of any other competent witness, with no likelihood of having been tutored. It further clarified that there is no requirement or condition that the evidence of a child witness must be corroborated before it can be considered, and rather the insistence of any corroboration is only a rule of prudence that

would depend upon the peculiar facts and circumstances of each case. The relevant observation reads as under: -

"5. [...] A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words even in the absence of oath the evidence of a child witness can be considered under [Section 118](#) of the Evidence Act provided that such witness is able to understand the questions and able to give rational answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored. There is no rule or practice that in every case the evidence of such a witness be corroborated before a conviction can be allowed to stand but, however as a rule of prudence the court always finds it desirable to have the corroboration to such evidence from other dependable evidence on record." (Emphasis supplied)

37. Similarly in [Pradeep v. State of Haryana](#) reported in 2023 SCC OnLine SC 777, the Hon'ble Apex Court emphasized on the importance of preliminary examination of a child witness. It held that although oath cannot be administered to a child witness under 12-years of age yet, as per [Section 118](#) of the Evidence Act, it is the duty of a Trial Judge to conduct a preliminary examination before recording the evidence of the child witness to ascertain, if the child is able to understand the questions put to him and that he is able to give rational answers to the questions put to him. It held that the Trial Judge must record its opinion and satisfaction that the child witness understands the duty of speaking the truth and state why he is of the opinion that the child understands the duty of speaking the truth. It further held that the questions put to the child in the preliminary examination must also be recorded, so that the appellate court can go into the correctness of the opinion of the Trial Court. The relevant observations read as under: -

"8. Under the proviso to sub-Section (1) of [Section 4](#), it is laid down that in case of a child witness under 12 years of age, unless satisfaction as required by the said proviso is recorded, an oath cannot be administered to the child witness. In this case, in the deposition of PW-1 Ajay, it is mentioned that his age was 12 years at the time of the recording of evidence. Therefore, the proviso to [Section 4](#) of the Oaths Act will not apply in this case. However, in view of the requirement of [Section 118](#) of the Evidence Act, the learned Trial Judge was under a duty to record his opinion that the child is able to understand the questions put to him and that he is able to give rational answers to the questions put to him. The Trial

Judge must also record his opinion that the child witness understands the duty of speaking the truth and state why he is of the opinion that the child understands the duty of speaking the truth.

9. It is a well-settled principle that corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence. A child witness of tender age is easily susceptible to tutoring. However, that by itself is no ground to reject the evidence of a child witness. The Court must make careful scrutiny of the evidence of a child witness. The Court must apply its mind to the question whether there is a possibility of the child witness being tutored. Therefore, scrutiny of the evidence of a child witness is required to be made by the Court with care and caution.

10. Before recording evidence of a minor, it is the duty of a Judicial Officer to ask preliminary questions to him with a view to ascertain whether the minor can understand the questions put to him and is in a position to give rational answers. The Judge must be satisfied that the minor is able to understand the questions and respond to them and understands the importance of speaking the truth. Therefore, the role of the Judge who records the evidence is very crucial. He has to make a proper preliminary examination of the minor by putting appropriate questions to ascertain whether the minor is capable of understanding the questions put to him and is able to give rational answers. It is advisable to record the preliminary questions and answers so that the Appellate Court can go into the correctness of the opinion of the Trial Court." (Emphasis supplied)

38. The Hon'ble Apex Court in [Ratansinh Dalsukhbhai Nayak v. State of Gujarat](#) reported in (2004) 1 SCC 64, this Court explained that although child witnesses are considered as dangerous witnesses as they are pliable and liable to be influenced easily, shaped and moulded yet it is an accepted norm that, if after careful scrutiny their testimony is found to inspire confidence and truthful, then there is no obstacle in accepting the evidence of such child witness. The relevant observation reads as under: -

"7. [...] The decision on the question whether the child witness has sufficient intelligence primarily rests with the trial Judge who notices his manners, his apparent possession or lack of intelligence, and the said Judge may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligation of an oath. The decision of the trial court may, however, be disturbed by the higher court if from what is preserved in the records, it is clear that his conclusion was erroneous. This precaution is necessary because child witnesses are amenable to tutoring and often live in a world of make-believe. Though it is an established principle that child witnesses are dangerous witnesses as they are pliable and liable to be influenced easily, shaped and moulded, but it is also an accepted norm that if after careful scrutiny of their evidence the court comes to the conclusion that there is an impress of truth in it, there is no obstacle in the way of accepting the evidence of a child witness."

39. The Hon'ble Apex Court in [Panchhi v. State of U.P.](#) reported in (1998) 7 SCC 177, held that the evidence of a child witness should not be outrightly rejected, but the evidence must be evaluated carefully and with greater circumspection because a child is susceptible to be swayed by what others tell him and an easy prey to tutoring. The relevant observations read as under: -

"11. Shri R.K. Jain, learned Senior Counsel, contended that it is very risky to place reliance on the evidence of PW 1, he being a child witness. According to the learned counsel, the evidence of a child witness is generally unworthy of credence. But we do not subscribe to the view that the evidence of a child witness would always stand irretrievably stigmatized. It is not the law that if a witness is a child, his evidence shall be rejected, even if it is found reliable. The law is that evidence of a child witness must be evaluated more carefully and with greater circumspection because a child is susceptible to be swayed by what others tell him and thus a child witness is an easy prey to tutoring.

12. Courts have laid down that evidence of a child witness must find adequate corroboration before it is relied on. It is more a rule of practical wisdom than of law."

40. The Hon'ble Apex Court in [Suryanarayana v. State of Karnataka](#) reported in (2001) 9 SCC 129 held that the evidence of a child witness who has withstood the test of cross-examination should not be rejected per se, if his testimony is found to be free from any infirmity. It reiterated that corroboration to the testimony of a child witness is not a rule but a measure of caution and prudence. The [Court further held](#) that while assessing the evidence of a child witness, courts must rule out the possibility of tutoring. However, in the absence of any allegation of tutoring or an attempt to use the child witness for ulterior purposes by the prosecution, the courts must rely on the confidence-inspiring testimony of such a witness in determining the guilt or innocence of the accused. The relevant observation reads as under: -

"5. [...] The evidence of the child witness cannot be rejected per se, but the court, as a rule of prudence, is required to consider such evidence with close scrutiny and only on being convinced about the quality of the statements and its reliability, base conviction by accepting the statement of the child witness. The evidence of PW 2 cannot be discarded only on the ground of her being of tender age. The fact of PW 2 being a child witness would require the court to scrutinise her evidence with care and caution. If she is shown to have stood the test of cross-examination and there is no infirmity in her evidence, the prosecution can rightly claim a conviction based

upon her testimony alone. Corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence. Some discrepancies in the statement of a child witness cannot be made the basis for discarding the testimony. Discrepancies in the deposition, if not in material particulars, would lend credence to the testimony of a child witness who, under the normal circumstances, would like to mix-up what the witness saw with what he or she is likely to imagine to have seen. While appreciating the evidence of the child witness, the courts are required to rule out the possibility of the child being tutored. In the absence of any allegation regarding tutoring or using the child witness for ulterior purposes of the prosecution, the courts have no option but to rely upon the confidence inspiring testimony of such witness for the purposes of holding the accused guilty or not." (Emphasis supplied)

41. This Court in [State of M.P. v. Ramesh](#) reported in (2011) 4 SCC 786 summarized the principles pertaining to the appreciation of evidence of a child witness as under: -

(i) First, it held that that a child witness must be able to understand the sanctity of giving evidence on oath and the import of the questions that were being put to him. The evidence of a child witness must reveal that he was able to discern between right and wrong, and the court may ascertain his suitability as a witness through either cross-examination or by putting questions to the child in terms of [Section 165](#) of the Evidence Act or by determining the same from the evidence or testimony of the child itself. The relevant observation reads as under: -

"11. The evidence of a child must reveal that he was able to discern between right and wrong and the court may find out from the cross-examination whether the defence lawyer could bring anything to indicate that the child could not differentiate between right and wrong. The court may ascertain his suitability as a witness by putting questions to him and even if no such questions had been put, it may be gathered from his evidence as to whether he fully understood the implications of what he was saying and whether he stood discredited in facing a stiff cross-examination. A child witness must be able to understand the sanctity of giving evidence on oath and the import of the questions that were being put to him. ([Vide Himmat Sukhadeo Wahurwagh v. State of Maharashtra](#) (2009) 6 SCC 712.)" (Emphasis supplied)

(ii) Secondly, if the evidence of the child explains the relevant events of the crime without improvements or embellishments, and the same inspire confidence of the court, his deposition does not require any corroboration whatsoever. The relevant observation reads as under: -

"12. In [State of U.P. v. Krishna Master](#) (2010) 12 SCC 324 this Court held that there is no principle of law that it is inconceivable that a child of tender age would not be able to recapitulate the facts in his memory. A child is always receptive to abnormal events which take place in his life and would never forget those events for

the rest of his life. The child may be able to recapitulate carefully and exactly when asked about the same in the future. In case the child explains the relevant events of the crime without improvements or embellishments, and the same inspire confidence of the court, his deposition does not require any corroboration whatsoever. The child at a tender age is incapable of having any malice or ill will against any person. Therefore, there must be something on record to satisfy the court that something had gone wrong between the date of incident and recording evidence of the child witness due to which the witness wanted to implicate the accused falsely in a case of a serious nature." (Emphasis supplied)

(iii) Thirdly, even if the courts find that the child witness had been tutored, even then the statement of a child witness can be relied upon if the tutored part can be separated from the untutored part and the remaining untutored part inspires confidence. In such cases, the untutored part can be believed or at least taken into consideration for the purpose of corroboration as in the case of a hostile witness. The relevant observation reads as under: -

"13. Part of the statement of a child witness, even if tutored, can be relied upon, if the tutored part can be separated from the untutored part, in case such remaining untutored part inspires confidence. In such an eventuality the untutored part can be believed or at least taken into consideration for the purpose of corroboration as in the case of a hostile witness. ([Vide Gagan Kanojia v. State of Punjab](#) (2006) 13 SCC 516.)" (Emphasis supplied)

(iv) Lastly, it held that an inference as to whether child has been tutored or not, can be drawn from the contents of his deposition. If the deposition of a child witness inspires the confidence of the court and there is no embellishment or improvement therein, the court may rely upon his evidence. The evidence of a child witness must be evaluated more carefully with greater circumspection because he is susceptible to tutoring. Only in case there is evidence on record to show that a child has been tutored, the court can reject his statement partly or fully and look for corroboration. The relevant observation reads as under: -

"14. In view of the above, the law on the issue can be summarised to the effect that the deposition of a child witness may require corroboration, but in case his deposition inspires the confidence of the court and there is no embellishment or improvement therein, the court may rely upon his evidence. The evidence of a child witness must be evaluated more carefully with greater circumspection because he is susceptible to tutoring. Only in case there is evidence on record to show that a child has been tutored, the court can reject his statement partly or fully. However, an inference as to whether child has been tutored or not, can be drawn from the contents of his deposition." (Emphasis supplied)

42. From the above exposition of law, it is clear that the evidence of a child witness for all purposes is deemed to be on the same footing as any other witness as long the child is found to be competent to testify. The

only precaution, which the court should take while assessing the evidence of a child witness is that such witness must be a reliable one due to the susceptibility of children by their falling prey to tutoring. However, this in no manner means that the evidence of a child must be rejected outrightly at the slightest of discrepancy, rather what is required is that the same is evaluated with great circumspection. While appreciating the testimony of a child witness the courts are required to assess, whether the evidence of such witness is its voluntary expression and not borne out of the influence of others and whether the testimony inspires confidence. At the same time, one must be mindful that there is no rule requiring corroboration to the testimony of a child witness before any reliance is placed on it. The insistence of corroboration is only a measure of caution and prudence that the courts may exercise if deemed necessary in the peculiar facts and circumstances of the case.

43. It is further submitted by the learned counsel for the appellant that omissions in the Site Plan and minor contradictions in the testimony of PW-6 is highly unsustainable. The learned counsel for the appellant heavily relies on the fact that the Investigating Officer (IO) failed to depict harvested crops, sickles, or exact pathways in the site plan. Learned A.G.A. placed reliance upon the settled law of the Hon'ble Supreme Court in Jagdish Narain v. State of U.P. AIR 1996 SUPREME COURT 3136, where the Hon,ble apex court explicitly held that procedural lapses or minor omissions by an Investigating Officer in the preparation of a site plan, such as a failure to mark precise spots or agricultural tools, cannot be used to discard the creditworthy and untarnished ocular testimony of eyewitnesses. Such defects are to be treated as mere investigative omissions rather than fatal contradictions that would vitiate the prosecution's case.

44. The Court, after thoroughly scrutinizing the trial court records, testimonies, and material exhibits, observed that the presence of the eyewitnesses PW-2 (Sanjeev Kumar) and PW-3 (Km. Anju) at the agricultural field is entirely natural and believable, as they had accompanied their sister to harvest fodder. Their testimony regarding the accused grabbing Seema's hand and firing the fatal shot into her abdomen remained completely unshaken during rigorous cross-examination. The Court noted that in cases involving ocular evidence of such high

credibility, minor procedural omissions in the site plan, such as the non-mapping of sickles or harvested bundles, do not dent the core of the prosecution's version. Regarding the defense of absolute physical incapacity due to a leg infirmity, the Court observed that while the witnesses admitted the accused walked with a slight limp, it was categorically denied that he was paralyzed or incapable of running under the adrenaline of escaping a crime scene. More importantly, physical disability does not impede the ability to wield and fire a deadly country-made pistol. The cause of death has been shown to be ante-mortem injuries as suggested by medical report.

45. The theory of political rivalry and financial dispute, holding that an outstanding loan or village *party-bandhi* is liable to be rejected because, a double-edged sword that provides an equally strong motive for the accused to commit the offense, especially given the history of the appellant's misbehavior with the deceased for which a public apology had been tendered. The medical findings of PW-7 perfectly dovetailed with the prosecution's timeline, and the presence of mud on the hands and feet of the corpse further solidified the fact that the struggle and shooting took place in the muddy, rain-affected field as narrated.

46. Consequently, this Court finds no illegality, infirmity, or perversity in the well-reasoned judgment passed by the trial court. The prosecution has established the guilt of the accused-appellant beyond any reasonable doubt under Section 302 of the Indian Penal Code.

47. The conviction and sentence of life imprisonment along with the fine imposed by the learned Additional Sessions Judge, Court No. 7, Bulandshahr, are hereby affirmed and upheld. If the appellant is on bail, then his bail bonds are cancelled and is directed to surrender before the concerned trial court forthwith.

48. Hence, the instant criminal appeal is accordingly **dismissed**.

(Harvir Singh,J.) (Siddharth,J.)

June 3, 2026

Gurpreet Singh