



2025 INSC 140

**NON-REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. \_\_\_\_\_ OF 2025**  
**(Arising out of SLP (Crl.) No. 9115 of 2018)**

**AJAI KUMAR CHAUHAN** **...APPELLANT(S)**

**VERSUS**

**THE STATE OF UTTAR PRADESH** **...RESPONDENT(S)**

**J U D G M E N T**

**B.R. GAVAI, J.**

1. Leave granted.
2. This appeal challenges the judgment and order passed by the Division Bench of the High Court of Judicature at Allahabad dated 3<sup>rd</sup> May, 2018 in Criminal Appeal No.1914 of 1986, thereby dismissing the appeal filed by the appellant, which in turn challenged the judgment and order passed by the VI<sup>th</sup> Additional Sessions Judge, Mainpuri dated 30<sup>th</sup> June, 1986 in Sessions Trial No.390 of 1985, thereby convicting the appellant for offence under Section 302 of the Indian Penal Code (for short, 'IPC') and sentencing him to

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NARENDRA PRASAD  
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Reason:

suffer rigorous imprisonment for life along with a fine of Rs.5,000/-.

**3.** The case of the prosecution, shorn of details, is as under:

**3.1** Pradeep Kumar (PW.2), Rajeev (deceased) and Desh Raj (PW.3) and Amar (PW.4) were sitting on the rooftop on the date of incident i.e. on 19<sup>th</sup> March, 1985 at around 8:30 p.m. It is the case of the prosecution that the deceased, who was a student of B.Sc., was studying while sitting on the rooftop of the building. At around 8.30 p.m., Ajai Kumar (accused) came to the door of the deceased/Rajeev and called him to come downstairs. The deceased/Rajeev therefore went downstairs alone. After some time, the witnesses heard cries of the deceased "*Dada ana, mujhe mar dala*". Upon hearing the same, Pradeep Kumar (PW.2) rushed downstairs. The other witnesses also came running and saw that accused-Ajai Kumar was causing knife injuries to the deceased. All of them intervened and apprehended accused-Ajai Kumar and handed him over to the police. In the meantime, the accused threw his knife in the water tank situated in the premises of the cold storage. For medical treatment, the deceased was

initially taken to Dr. Kunwar Pal (PW.7) and after preliminary treatment the deceased was taken to Government Hospital Sirsaganj, where Dr. A. K. Garg (PW.1) treated him.

**3.2** The evidence of PW.1 shows that the deceased had sustained two injuries, which are as under:

- i. One stab wound measuring 1 cm x muscle deep, on the left side of stomach, 12 cm away from Naval, in the position of 10 O'Clock. Angle acute.
- ii. One stab wound measuring 2 cm x 1 cm x cavity deep on the right side of the chest, 1½ cm from the right nipple. Angle acute.”

**3.3** Since the condition of the deceased was serious, he was being taken for further treatment to S.N. Hospital, Agra. However, before he could reach the hospital, he succumbed to the injuries.

**4.** The learned Trial Judge as well as the Division Bench of the High Court have concurrently relied on the evidence of PWs.2, 3 and 4, being eye witnesses to the incident.

**5.** Shri Ravindra Singh, learned Senior Counsel appearing for the appellant submits that the case of the prosecution is full of lacunae. It is submitted that though the incident is alleged to have occurred in the house of Pradeep Kumar

(PW.2) and the deceased, the blood stains are not found there and therefore the finding that the place of incident is at the residence of PW.2 and the deceased is not sustainable. It is further submitted that the prosecution has also failed to prove any motive. It is lastly submitted that the prosecution has falsely implicated the appellant.

**6.** Shri Vikas Bansal, learned counsel appearing for the respondent/State, on the contrary, submits that the motive has clearly been established. He submits that the appellant had some friendly relations with one girl, which fact was known to the deceased. He submits that the deceased had teased the girl, and the appellant being angered by the said fact had proceeded to assault the deceased.

**7.** The evidence of all the three eye witnesses would reveal that the appellant is said to have come to the house of the deceased. Thereafter, he called the deceased out, and when the deceased came downstairs, the witnesses heard the cries of the deceased. The witnesses then came downstairs and saw that the appellant was assaulting the deceased. They caught hold of the appellant and handed him over to the police.

**8.** It is thus clear that what has preceded the assault has not been witnessed by any of the witnesses. Insofar as the motive as recorded by the learned Trial Judge is concerned, from the evidence of the witnesses it is found that though some suggestions were given with regard to the said motive, the eye witnesses have denied the same.

**9.** It is also to be noted that both the appellant and the deceased were young boys aged about 20-21 years at the time of the incident and were students pursuing B.Sc. From the evidence of the witnesses, it could be seen that both of them were having cordial relations. The evidence would also show that whenever the deceased had any difficulties regarding his studies, he would consult the appellant.

**10.** From the evidence, as placed on record, it is difficult to come to a finding that the appellant had come with a premeditated mind to kill the deceased. The possibility of an altercation taking place between the appellant and the deceased for some reason and the appellant assaulting the deceased in the heat of passion on account of a sudden fight, cannot be ruled out.

**11.** Based on the discussion above, we are of the view that the prosecution has failed to bring the case within the meaning of Section 300 of the IPC. The possibility of the incident occurring in the spur of the moment and the appellant assaulting the deceased on account of sudden provocation, due to a sudden fight between them cannot be ruled out. We find that the appellant would be entitled to the benefit of Exception 4 of Section 300 of the IPC. As such, the conviction of the appellant under Part I of Section 304 IPC would meet the ends of justice.

**12.** The appeal is therefore partly allowed. The conviction of the appellant under Section 302 of the IPC is altered to the one under Part-I of Section 304 of the IPC.

**13.** As the appellant has already served the sentence for eight and a half years and with remission it amounts to a period of more than ten years, we find that the said sentence would sub-serve the ends of justice.

**14.** The appellant is, therefore, directed to be released forthwith, if his detention is not required in any other case.

**15.** Pending application(s), if any, shall stand disposed of.

.....**J.**  
**(B.R. GAVAI)**

.....**J.**  
**(AUGUSTINE GEORGE MASIH)**

.....**J.**  
**(K. VINOD CHANDRAN)**

**NEW DELHI;**  
**JANUARY 29, 2025.**