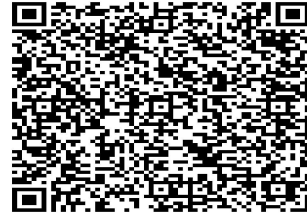


AFR
Judgment reserved on
29.04.2026
Judgment delivered on
15.07.2026



2026:AHC:142546-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL APPEAL No. - 3794 of 2010

Dhanushdhari Singh

.....Appellant(s)

Versus

State of U.P.

.....Respondents(s)

Counsel for Appellant(s)	: Amit Kumar, Kameshwar Singh
Counsel for Respondent(s)	: Debee Shanker Pandey, Govt. Advocate, S.K.Shukla, S.K.Singh

Along with

Criminal Appeal No. 3925 of 2010

Yashwant Singh Versus State of U.P.

Court No. - 43

HON'BLE SIDDHARTH, J.
HON'BLE VINAI KUMAR DWIVEDI, J.

(Delivered by Hon'ble Vinai Kumar Dwivedi,J.)

1. Heard Sri Kameshwar Singh and Sri Amit Kumar, learned counsel for the appellant; Sri Debee Shanker Pandey, learned counsel for the informant; Mohd. Shoeb Khan, learned A.G.A.-I for the State and

dated 04.06.2010 passed in Sessions Trial No. 173 of 2008, State of U.P. Vs. Dhanushdhari Singh, Sessions Trial No. 145 of 2009 State of U.P. Vs. Ankur Singh @ Sheru Singh and others arising out of Case Crime No. 42 of 2008 under Sections 302/34, 307/34, 504, 506, and 427 I.P.C.

3. Prosecution story as has been narrated in the written report Exhibit-Ka-1 is as follows; informant Digvijay Singh, has got ascribed written report Exhibit Ka-1 from Dwarika Singh son of late Ram Bhushan Singh and filed Exhibit Ka-1 at police station Rasda, District Ballia. In written report Exhibit Ka-1, PW-1 has stated that informant Digvijay Singh son of Shiv Ji Singh is a resident of Village Sului, Police Station Rasda, district Ballia. Yesterday on 12.03.2008, at the evening time my brother Ved Prakash Singh, told me that today in day, a dispute has arisen between him and Ankur Singh @ Sheru Singh (**since deceased**) son of Tej Bahadur Singh, resident of Village Rasda, Yashwant Singh son of Shivrath Singh, resident of Village Rasda and Agnivesh Singh @ Maan Singh Son of Iqbal Singh, Uttar Patti, Village Rasda, Police Station Rasda, District Ballia and Dhanushdhari Singh, son of Keshav Singh Azad, Village Kasma, Police Station Haldhar, District Mau, on the point of demanding of money previously given by me and they said that they will see him. There is a possibility that today they can quarrel with him or cause any mis-happening. After listening these things, I said that I will proceed with you, you do not make any dispute or quarrel. I by one motorcycle and my brother Ved Prakash Singh, Mayank Singh @ Nikku Singh and Rahul Gupta @ Guddu Gupta on another motorcycle proceeded to appear in the B.A. First year Examination. Today on 13.03.2008, early in the morning at 06:30, we reached at Sului turn, there in a Bolero Car of red colour, the above Mayank Singh @ Nikku Singh and other people were sitting and saw the

Kumar Singh @ Sheru Singh (**since deceased**) with his friends driving the Bolero Car himself trying to chase the vehicle behind them and coming near the pond of Hita Ka Pura with intention to kill colluded with Bolero Car. Due to this, my brother Ved Prakash Singh has died on the spot and Mayank Singh @ Nikku Singh, Rahul Gupta @ Guddu Gupta become seriously injured. On making hue and cry by me, nearby people rushed, then Ankur Kumar Singh @ Sheru Singh (**since deceased**) and his friends gave intimidation to kill and firing with firearms have ran away. I have taken the dead body of my brother to the Police Station and injured have been sent to the hospital at Rasda for treatment. I have taken the dead body from the hospital and have come to the police station.

4. On the basis of written report Exhibit Ka-1, Constable Chote Lal Yadav PW-6 has registered the FIR Exhibit Ka-8 against the named accused persons Ankur Kumar Singh @ Sheru Singh (**since deceased**), Dhanushdhari Singh, Yashwant Singh, at Case Crime No. 42 of 2008 under Sections 302/34, 307/34, 504, 506 and 427 I.P.C. After the registration of the F.I.R., investigation of the case was taken by Sub-Inspector Ramashray Prasad-P.W-7, into his hands. The Investigating Officer Ramashray Prasad-P.W.-7 prepared the *panchayatnama*-Exhibit Ka-10 of the dead body of the deceased Ved Prakash Singh. Thereafter he visited at the place of occurrence and prepared other necessary police papers, such as letter to R.I., letter to C.M.O., again letter to C.M.O., photolash and sample (*Namuna*) and seal and sample of the stamp and police papers in his handwriting as Exhibit Ka-11 to Exhibit Ka-16. The Investigating Officer has recorded the statement of the informant and other prosecution witnesses and on the pointing out of the informant Digvijay Singh and Kripa Shankar Pandey, prepared the site plan Exhibit

has recorded the statement of the other prosecution witnesses under Section 161 Cr.P.C., and he tried to arrest the accused persons. However, the accused persons could not be arrested, due to this reason, he prayed for issuance of process of Section 82/83 Cr.P.C. The Investigating Officer also sent the dead body of the deceased for postmortem examination. The Investigating Officer also recovered an admit card from the pocket of the deceased and prepared *fard* memo as Exhibit Ka-2. In the mid of the investigation, the Investigating Officer Sub-Inspector Ramashray Prasad-P.W-7 has been transferred and the investigation of this case was handed over to Inspector Surya Bhan Singh PW-8. Inspector Surya Bhan Singh PW-8, however, could not complete the work of the investigation. He took the judicial remand of accused Dhanushdhari Singh on 19.06.2008. He was also transferred to other place. Thereafter Circle Officer, Anil Prakash Mishra PW-10, has taken the investigation into his hands. Anil Prakash Mishra PW-10 has again recorded the statement of the informant and other prosecution witnesses under Section 161 Cr.P.C. Anil Prakash Mishra PW-10 has also recorded the statement of other formal witnesses under Section 161 Cr.P.C. Anil Prakash Mishra PW-10 has also visited the place of occurrence and prepared the site plan of the occurrence Exhibit Ka-19. He also requested for process of Section 82/83 against the accused persons in the Court of the CJM, Ballia. After completing all the formalities of the investigation, last I.O. Anil Prakash Mishra PW-10 submitted a charge-sheet Exhibit Ka-21 against the accused persons in the Court concerned. Against accused Dhanushdhari Singh, a charge-sheet was also submitted by the then Inspector Rasda, Hari Prasad Gautam.

5. Dr. Roshan Singh Patel PW-5, has prepared the injury report of Chandan Gupta, Mayank Kumar Singh, Guddu Gupta as Exhibit Ka-5,

(1) Lacerated wound approx 5 cm. in length & .5 cm in depth present left to right eye.

(2) A Traumatic swelling with CLW approx 2.5 cm x .5 cm x .5 cm present over occipital region.

(3) A Traumatic swelling with deformity present Rt. leg upper & middle 1/3rd - Adv. X-Ray Rt. leg

Opinion (1) & (2) simple blunt object of fresh abrasion (3) K.U.O."

Dr. Roshan Singh Patel PW-5, has also prepared the injury report Exhibit Ka-6 of Mayank Kumar Singh and he found the following injuries on his body:

(1) Lacerated abrasion present over whole of Rt. scapular region and Rt. shoulder post.

(2) Abrasion & lacerated wound present over post aspect of Rt. elbow joint.

(3) Lacerated wound & abrasion present over Rt. hand palmar aspect.

(4) Multiple abrasion present Rt. foot and ankle Jt. lateral aspect and Lt. Knee Jt.

(5) Abrasion present over Lt. Forearm and Lt. Knee Jt.

On the same date, on 13.03.2008, Dr. Roshan Singh Patel PW-5, has also examined the injured Guddu Gupta, and prepared the injury report as Exhibit Ka-7. The following injuries were found by Dr. Roshan Singh Patel PW-5, on the body of Guddu Gupta :

(1). CLW approx.8 cm x 1 cm x bone deep over Rt.

- (4). Abrasion c traumatic swelling over Rt. side face.
- (5) Abrasion traumatic swelling over Rt. wrist & Lt. Palm CLW
- (6) L.W aprox. 4cm x 0.5 cm x upto muscle deep. Adv. X-Ray Rt. F.A. wrist Jt. swelling over mid part of it. Middle finger on post aspect, oozing front Adv. X-Ray Lt Hand & wrist.
- (7) LW- aprox 3 cm x 0.5 cm x bone deep on mid part of lt. middle finger on post aspect, oozing front Adv. X-Ray. Lt. hand & wrist.
- (8) L.W. aprox. 8 cm x 1 cm x 1 cm over Lt Elbow jt. post aspect.
- (9) Ab. L.W. aprox 5 cm x 1 cm x bone deep over occipital region."

6. Dr. Jameel Ahmad PW-9 has conducted the postmortem examination of the dead body of deceased Ved Prakash Singh and prepared postmortem report Exhibit Ka-18. Dr. Jameel Ahmad, PW-9 found the following ante mortem injuries on the dead body of the deceased Ved Prakash Singh.

External Injuries :

- 1. A lacerated wound measuring 3 cm x 1 cm x bone deep, situated on the left side of the forehead.
- 2. A lacerated wound measuring 1 cm x 1 cm x bone deep, situated on the eyebrow of the left eye.
- 3. A lacerated wound measuring 20 cm x 6 cm x bone deep, situated on the left side of the head.
- 4. Contused abrasion (bruise with scratch) measuring 6 cm x 4 cm, on the outer side of the left arm, just above the elbow joint.

7. Contused abrasion within an area of 10 cm x 12 cm, on the right side of the chest.
8. A lacerated wound measuring 3 cm x 1 cm x bone deep, situated below the chin.
9. Abrasion measuring 8 cm x 4 cm, on the left knee joint.
10. Abrasion measuring 20 cm x 10 cm, situated on the front side of the right thigh.

Internal examination :

The skull bone was fractured extending from the left parietal bone to the right parietal bone, and from the left ear bone to the right ear bone. The brain and meninges (brain membranes) were torn. A blood clot of about half a liter was present in the brain. The chambers of the heart were empty.

In the opinion of Dr. Jameel Ahmad PW-9, the cause of death was ante mortem injury that was sufficient to cause death in the ordinary course of nature.

7. After the submission of the charge-sheet against the accused persons in the concerned Magistrate Court, case was committed to the Court of Session for trial. The learned Trial Court has framed charge against accused Dhanushdhari Singh on 15.10.2008 under Section 302/34 IPC, 307, 504, 506 and 427 IPC. Accused Dhanushdhari Singh denied from the charge and demanded trial. Charges were also framed against Ankur Kumar Singh @ Sheru Singh (**since deceased**) by the Trial Court on 22.08.2009 under Sections 302, 307, 504, 506 and 427 IPC, accused Ankur Kumar Singh @ Sheru Singh (**since deceased**) denied from the charge levelled against him and demanded trial. Charges were

8. To substantiate its case, prosecution has adduced informant Digvijay Singh PW-1, Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4, as witnesses of the fact and Dr. Roshan Singh Patel PW-5, Chote Lal Yadav PW-6, Ramashray Prasad PW-7, Surya Bhan Singh PW-8, Dr. Jameel Ahmad PW-9, Anil Prakash Mishra PW-10, as formal witnesses of the prosecution. Apart from the above ocular evidence, the prosecution has also relied on documentary evidence from Exhibit Ka-1 to Exhibit Ka-22 in support of its case.

9. After recording of the evidence of prosecution witnesses, accused persons were examined under Section 313 Cr.P.C., by the Trial Court. All accused persons expressed ignorance about the questions put to them under Section 313 Cr.P.C. They have also stated that police has wrongly and falsely investigated the case and prepared false and illegal documents against them and falsely implicated them and charge-sheeted them in the Court without any evidence. The accused persons have also stated that they are innocent and they are falsely implicated by the informant with the collusion of the police due to enmity and rivalry in the village and locality. They have also stated that they have not committed the crime as alleged against them. They were not present at the place of occurrence or near the place of occurrence. Police has falsely implicate them in collusion with the prosecution due to enmity against them. They have also stated that they will adduce evidence in their defence. They adduced Vijay Bahadur as DW-1 and Virendra Pratap Singh as DW-2. They have also filed documentary evidence as Exhibit Kha-2 to Kha-5 in their defence.

10. After recording the proceedings of evidence of prosecution and defence and hearing of the arguments of both sides, learned Trial Court delivered the judgment and order dated 04/06/2010 in which accused

accused-appellant Ankur Kumar Singh @ Sheru Singh (**since deceased**) under Section 302, 307, 504, 506 and 427 IPC. The accused-appellant Ankur Kumar Singh @ Sheru Singh (**since deceased**) was convicted for life imprisonment under Section 302 IPC and a fine of Rs. 5,000/-. He was convicted for ten year rigorous imprisonment under Section 307 IPC and by a fine of Rs. 2500/-, for charge under Section 504 IPC, he was convicted by one year rigorous imprisonment. Under Sections 506 and 427 IPC, he was sentenced for each offence by one year rigorous imprisonment. Accused appellant Dhanushdhari Singh and Yashwant Singh were also held guilty and were convicted under Section 302/34 IPC, 307/34, 504, 506 and 427 IPC and each were convicted for life imprisonment and a fine of Rs. 5,000/- each under Section 302/34 and each were also convicted under Section 307/34 IPC by ten years rigorous imprisonment and a fine of Rs. 2500/- each. For the offence under Section 504 IPC, each were convicted by one year rigorous imprisonment and also for the offence under Section 506 IPC, each were convicted by one year rigorous imprisonment and for the charge under Section 427 IPC, each were sentenced by one year rigorous imprisonment. In case of default of payment of fine, each accused appellant were directed to serve six months additional imprisonment. All the sentences were directed to run concurrently for each accused person. Aggrieved by the above judgment and order of conviction and sentence dated 04.06.2010, passed by the learned Trial Court, accused-Ankur Kumar Singh @ Sheru Singh (**since deceased**), Dhanushdhari Singh, Yashwant Singh have preferred Criminal Appeal Nos.3793 of 2010, 3794 of 2010 and 3925 of 2010, respectively. Since the above three criminal appeals have arises from the same judgment and order of conviction and sentence dated 04.06.2010, passed by the learned Trial

Sheru Singh Vs. State of U.P.) has become **abated** by order of this Court dated 11.01.2023, therefore, we are adjudicating the present Criminal Appeals only in respect of surviving accused-appellants Yashwant Singh and Dhanushdhari Singh respectively.

12. Learned counsel for the accused-appellants have submitted that in the present case, three persons namely Mayank Singh @ Nikku Singh, Rahul Gupta @ Guddu Gupta and Chandan Gupta, who received injuries in the incident have not been examined and in this view of the fact, adverse inference must be drawn against the prosecution and as such, conviction is bad in law. There is a conflict between eye-witness account and medical evidence. None of the injuries are grievous injury. The prosecution case is that after the deceased fell down, Ankur Kumar Singh @ Sheru Singh (**since deceased**) ran his vehicle on the body of the deceased with *to and fro* motion. Allegations did not find corroboration from medical evidence and as such, conviction is bad in law. It is also submitted by the learned counsel for the accused-appellants, that two prosecution witnesses Madan Singh and Chandra Sen Singh have not been mentioned in the FIR and their statements were recorded after eight months from the date of incident that is to say, on 09.11.2008 and the learned Sessions Judge committed a manifest error in placing reliance upon the testimony of Madan Singh and Chandra Sen Singh. Learned counsel for the accused-appellants have also submitted that a memo was sent from the hospital to police station Rasda, District Ballia, which contains a recital to the effect that three injured and deceased have received injuries in the accident. The memo further continued a recital to the effect that the body of the deceased is handed over to police station, Rasda, Kotwali, later on, on the aforesaid words were scored out and it was mentioned that the body was handed over to relatives. These

case. All the prosecution witnesses of the fact were not present at the place of occurrence when accident happened. From a perusal of the evidence of the prosecution witness of the fact, it is apparent that all prosecution witnesses of the fact are projected eye-witnesses of the prosecution to support the prosecution case. The learned Trial Court has not appreciated the evidence in this respect as available on the record and without any evidence against the accused-persons wrongly believed on the unreliable and false evidence of the prosecution witnesses of the fact, and held guilty to accused-appellant for the commission of the crime. The finding and reasoning as recorded by the Trial Court is without any evidence on the record and is against the settled principles of law. Therefore, the judgment and order of conviction and sentence as passed by the learned Trial Court dated 04.06.2010 is perverse and bad in law, hence liable to be set aside and the criminal appeals of the appellants deserves to be allowed.

13. Per contra, learned AGA-I for the State and learned private counsel for the informant have vehemently opposed the above arguments and submissions of the appellants. The learned AGA-I on behalf of the State and learned private counsel for the informant, have submitted that accused persons with a pre-plan, premeditation and pre-concert, with intention to kill the deceased Ved Prakash Singh and other injured persons used four wheeler Bolero Vehicle in commission of the crime. The accused persons intentionally colluded the Bolero with high speed against motorcycle on which injured persons and deceased Ved Prakash Singh were sitting, thereby causing a very grievous and fatal injury by which Ved Prakash Singh died and other persons were injured seriously. The learned Trial Court has appreciated the evidence available on record in a proper perspective. The Trial Court by appreciating the evidence has

perversity in the finding and reasoning of the Trial Court. The Trial Court has appreciated the evidence in accordance with the settled principles of law and delivered cogent finding which is based on evidence and, therefore, held guilty and convicted the accused persons for the alleged crime. Therefore, there is no merit and substance in the criminal appeals as preferred by the accused-appellant persons. Hence, the criminal appeals as preferred by the accused-appellants are devoid of merit and are liable to be dismissed.

14. In the light of the above submission and counter submissions advanced on behalf of both parties, from the perusal of the written report Exhibit Ka-1, it is clear that informant Digvijay Singh PW-1 has lodged a written report naming all accused persons liable for commission of the crime. In written report Exhibit Ka-1, the informant Digvijay Singh PW-1 shows and projected himself as an eye-witness of the incident.

15. From a perusal of the evidence of informant Digvijay Singh PW-1, we find that informant PW-1 has stated in his examination-in-chief, the same things and facts as have been stated by him in written report Exhibit Ka-1, which has been repeated by PW-1 in his evidence, in his examination-in-chief which is covering in four pages. He tried to support the prosecution story. From a perusal of the cross examination, we find that according to this witness, on the date of incident i.e. 13.03.2008, when brother of PW-1 Ved Prakash Singh, who was going to appear in B.A. Part-I Examination at Mathura Degree College, Rasda, Ballia and with him, injured Mayank Kumar Singh and Rahul Gupta were also present. It was time about 06:30 early in the morning. Injured Mayank Kumar Singh was driving the motorcycle and the injured Rahul Gupta was sitting behind Mayank Kumar Singh and deceased Ved Prakash Singh was sitting on the same motorcycle behind Rahul Gupta

sitting on the other side of the driver. Another accused persons were sitting in the Bolero vehicle in middle and back sides. According to this witness, this witness heard accused Ankur Kumar Singh @ Sheru Singh **(since deceased)** saying that today finish Ved Prakash Singh because by finishing Ved Prakash Singh the issue about money will also be finished. According to this witness, informant PW-1, accused Ankur Kumar Singh @ Sheru Singh **(since deceased)** moved the Bolero vehicle with high speed and reaching near the village Bheet Ka Pura and overtakes the motorcycle of Mayank Singh and after overtaking the motorcycle of Mayank Singh, Ankur Kumar Singh @ Sheru Singh **(since deceased)** turned his vehicle again in the direction from which direction Mayank Singh was coming driving his motorcycle with Rahul Gupta and deceased Ved Prakash Singh. After turning his vehicle with intention to kill, Ankur Kumar Singh @ Sheru Singh **(since deceased)** colluded his Bolero vehicle with high speed at the headside of motorcycle of Mayank Singh. Due to this collusion, Mayank Singh, Rahul Gupta have fallen down towards north direction and Ved Prakash Singh fell down towards southern direction. Ved Prakash Singh tried to stand up, then Ankur Kumar Singh @ Sheru Singh **(since deceased)** with his Bolero vehicle again colluded against Ved Prakash Singh and he moved the Bolero vehicle over the body of Ved Prakash Singh, thereby crushed Ved Prakash Singh. Thereafter, accused Ankur Kumar Singh @ Sheru Singh **(since deceased)** by turning his Bolero vehicle proceeded towards Rasda. He also colluded on the scooter of Chandan Gupta. According to this witness, Kripa Shankar Pandey and Madan Singh, Chandra Sen Singh of the village have also witnessed the incident. Number of Bolero vehicle of accused Ankur Kumar Singh @ Sheru Singh **(since deceased)** is UP 54 F 9594.

cash, accused Ankur Kumar Singh @ Sheru Singh **(since deceased)** has not delivered a motorcycle as had been agreed upon between Ankur Kumar Singh @ Sheru Singh **(since deceased)** and deceased Ved Prakash Singh since Ankur Kumar Singh @ Sheru Singh **(since deceased)** was holding and running a motorcycle agency and selling motorcycle. However, Ankur Kumar Singh @ Sheru Singh **(since deceased)** has not delivered a new motorcycle to deceased Ved Prakash Singh, then, Ved Prakash Singh began to demand Rs.25,000/- which were given in advance for the motorcycle. However, accused Ankur Kumar Singh @ Sheru Singh **(since deceased)** was not willing to give new motorcycle or return the money to the sum of Rs. 25,000/- as given in advance by Ved Prakash Singh. Due to continuous demand of Rs.25,000/- by deceased Ved Prakash Singh, accused Ankur Kumar Singh @ Sheru Singh **(since deceased)** has caused the alleged crime by his Bolero vehicle when deceased Ved Prakash Singh was going to appear in B.A. Part-I examination with the injured Rahul Gupta and Mayank Kumar Singh.

17. Thus, from the perusal of the evidence of informant PW-1, it is clear that target for the purpose of killing was deceased Ved Prakash Singh. The deceased Ved Prakash Singh was sitting as third person behind the injured Rahul Gupta @ Guddu Gupta and Mayank Kumar Singh. Mayank Kumar Singh was driving the motorcycle. The motorcycle on which deceased Ved Prakash Singh was sitting was going forward and Ankur Kumar Singh @ Sheru Singh **(since deceased)** was behind them with his Bolero vehicle. In this way, deceased Ved Prakash Singh was on the motorcycle in front of the Bolero vehicle of the accused appellant Ankur Kumar Singh @ Sheru Singh **(since deceased)**, in this condition it is very easy and convenient to collude his Bolero vehicle from the back side for hitting against the deceased Ved Prakash

the front side of the motorcycle when Mayank Singh was driving the motorcycle and cause the accident thereby injuring Mayank Kumar Singh, Rahul Gupta @ Guddu Gupta, Chandan Gupta and causing death of Ved Prakash Singh. The mode and manner of commission of the crime which is in the form of motor vehicle accident, as has been stated by informant Digvijay Singh PW-1 in this respect, appears to be highly doubtful and suspicious. A number of questions at this stage arises as to why accused-appellant Ankur Kumar Singh @ Sheru Singh **(since deceased)** has not hit and colluded the motorcycle from the back side where the deceased Ved Prakash Singh was sitting. Accused-appellant Ankur Kumar Singh @ Sheru Singh **(since deceased)** overtakes the motorcycle of Mayank Singh and from the front side of the motorcycle and turned his Bolero vehicle colluded and hit the motorcycle, which was driven by Mayank Kumar Singh, where accused-appellant Ankur Kumar Singh @ Sheru Singh **(since deceased)** overtakes the motorcycle of Mayank Kumar Singh, turned back and colluded against the front side of motorcycle of Mayank Kumar Singh so that Mayank Kumar Singh who was driving the motorcycle and Rahul Gupta, who was sitting behind Mayank Kumar Singh on the motorcycle could easily identify the accused-appellant Ankur Kumar Singh @ Sheru Singh **(since deceased)** and other persons who were sitting in the Bolero vehicle. The manner and mode in which informant Digvijay Singh PW-1 has narrated the prosecution story creates a reasonable doubt about presence of this witness Digvijay Singh PW-1 at the place of occurrence and also on this fact that this witness has not seen the happening of the incident/accident with his own eyes.

18. From the perusal of the whole evidence of informant Digvijay Singh PW-1, we find that this witness has not stated true facts and story about

and creates doubt and suspicion about his veracity and truthfulness. From the perusal and appreciation of the evidence of informant Digvijay Singh PW-1, it is evident and clear that this witness has been stating artificially false, imaginary and concocted story with a view to falsely implicate and prosecute the accused-persons. From the evidence of this witness Digvijay Singh PW-1, we find that the presence of this witness is highly doubtful, suspicious at the place of occurrence. Due to this reason, whole evidence of this witness appears to be concocted and artificially narrating a false and fabricated story against the accused-appellant persons. Thus, we are of the considered view that the evidence of the informant Digvijay Singh PW-1 does not inspire any confidence, therefore, we find the testimony of this witness as unreliable.

19. It is also a fact apparent from the evidence of informant Digvijay Singh PW-1 that even after intimidation given by accused-appellant Ankur Kumar Singh @ Sheru Singh (**since deceased**) before a day of incident on 12.03.2008, we find that he has not given any information or lodged any report about intimidation against the accused-appellant Ankur Kumar Singh @ Sheru Singh (**since deceased**) at police station. This fact also creates a suspicion about the prosecution story as written in Exhibit Ka-1 and stated by informant Digvijay Singh PW-1 in his evidence.

20. The prosecution has also adduced Kripa Shankar Pandey as PW-2, Madan Singh as PW- 3 and Chandra Sen Singh as PW-4. According to the prosecution, all the above prosecution witnesses are eye-witness of the incident, who had seen the happening of the incident with their own eyes. From the perusal of the evidence of Kripa Shankar Pandey - PW-2, Madan Singh-PW- 3 and Chandra Sen Singh-PW-4, we find that above prosecution witnesses have also stated in their evidence same statements

in their attempt to prove the prosecution story by their evidence. From a perusal of the evidence of the above prosecution witnesses, it is also clear that prosecution witnesses Kripa Shankar Pandey PW-2, Madan Singh PW- 3 and Chandra Sen Singh PW-4 have also been produced by the prosecution as projected witnesses, who had not seen any happening of the incident with their own eyes. The evidence of the above prosecution witnesses itself indicate this fact in clear-cut manner that prosecution witnesses Kripa Shankar Pandey PW-2, Madan Singh PW- 3 and Chandra Sen Singh PW-4 have also stated the prosecution in artificial and concocted manner narrating an imaginary and afterthought way, which was prepared with full consideration and deliberation. The prosecution projected the above prosecution witnesses as an eye-witness of the incident with a view to strengthen and support the prosecution story and also with a view to corroborate the evidence of informant Digvijay Singh PW-1. However, even by adducing Kripa Shankar Pandey PW-2, Madan Singh PW- 3 and Chandra Sen Singh PW-4 as an eyewitness of the incident for proving the prosecution story, the prosecution has itself created a deep and reasonable doubt and suspicion about the truthfulness and trustworthiness of the evidence of the above prosecution witness.

21. In this way, the prosecution adduced PW-1, PW-2, PW-3 and PW-4 as eye-witnesses of the incident, however, from the perusal and appreciation of the whole evidence of the above prosecution witnesses, PW-1, PW-2, PW-3 and PW-4, we find that their evidence and statements does not inspire any confidence about the truthfulness of the prosecution story. All these prosecution witnesses tried to strengthen the case of the prosecution, but from the perusal of the evidence of the above prosecution witnesses, it is clearly revealed from their evidence

22. From the perusal of the evidence of Madan Singh PW-3, it is revealed that Madan Singh PW-3 and Chandra Sen Singh PW-4 have stated in their evidence that accused appellant Ankur Kumar Singh @ Sheru Singh (**since deceased**) after causing the incident has also fired from his firearm. They have also stated that they have given this type of statement to the Investigating Officer in their statement under Section 161 Cr.P.C. However, last I.O. Anil Kumar Mishra PW-10, though in the course of the cross-examination by defence, has accepted this fact that the prosecution witnesses have not given any statement to him that accused-appellant Ankur Kumar Singh @ Sheru Singh (**since deceased**) has fired from the firearms after committing the incident. From this fact, it is revealed that the above prosecution witnesses have narrated and made a false statement in the evidence in the Court only with a view to make the prosecution story more serious and heinous. From the statement of this witness itself and from the evidence of last Investigating Officer Anil Kumar Mishra PW-10, statement of the above witnesses about firing from firearms by accused-appellant Ankur Kumar Singh @ Sheru Singh (**since deceased**) proved to be false and exaggerated. This fact also makes prosecution story to be highly doubtful. This fact also revealed that above prosecution witnesses have given artificial and concocted evidence in the Court against the accused person Ankur Kumar Singh @ Sheru Singh (**since deceased**) with consideration and afterthought only with a view to falsely implicate the accused persons in the alleged crime.

23. In this respect, Hon'ble Supreme Court in **Badam Singh Vs. State of M.P. (2003) 12 SCC 792** held in paragraph 16 as follows:

“16. The learned Sessions Judge after considering the evidence on record and accepting the evidence of the eye witnesses

three eye witnesses having deposed against the appellant, the prosecution had proved its case beyond reasonable doubt. In our view, the High Court has not approached the evidence in the manner it should have done being the first Court of Appeal. The mere fact that the witnesses are consistent in what they say is not a sure guarantee of their truthfulness. The witnesses are subjected to cross-examination to bring out facts which may persuade a Court to hold, that though consistent, their evidence is not acceptable for any other reason. If the Court comes to the conclusion that the conduct of the witnesses is such that it renders the case of the prosecution doubtful or incredible, or that their presence at the place of occurrence as eye witnesses is suspect, the Court may reject their evidence. That is why it is necessary for the High Court to critically scrutinize the evidence in some detail, it being the final court of fact. We have therefore gone through the entire evidence on record with the assistance of counsel for the parties.”

24. In the light of the legal principles as annunciated by Hon’ble Supreme Court in ***Badam Singh (supra)***, it is clear that only from this fact that witnesses are consistent in what they say is not a sure guarantee of their truthfulness. If after appreciating the evidence of prosecution witnesses, it transpires that case of prosecution is doubtful, incredible and it is found that their presence at the place of occurrence is doubtful, then the Court may reject their evidence in the light of the above law. The legal principles of the Hon’ble Supreme Court and from the discussions of evidence in the present case, it is clear that presence of the prosecution witnesses Digvijay Singh PW-1, Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4, at the place of occurrence, at the time of happening of the incident, is highly doubtful, If the presence of the prosecution witnesses Digvijay Singh PW-1, Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4, found to be doubtful at the place of occurrence, then their evidence in respect of prosecution story, as narrated by them in the Court, would automatically be highly doubtful and unreliable. From the appreciation of evidence of prosecution witnesses, Digvijay Singh PW-1 and Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4,

Madan Singh PW-3, Chandra Sen Singh PW-4, are found to be unreliable and unworthy of credit.

25. According to the prosecution story itself, from the written report Exhibit Ka-1 and also from the evidence of Digvijay Singh PW-1, Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4, this is clearly established fact that in this so-called incident, Mayank Kumar Singh, Rahul Gupta and Chandra Sen Singh have also received fatal injuries. From the record of the file, the injury report of Chandan Gupta Exhibit Ka-5, injury report of Mayank Kumar Singh Exhibit Ka-6 and injury report of Rahul Gupta @ Guddu Gupta Exhibit Ka-7 are available and Dr. Roshan Singh Patel PW-5, who examined the body of above injured persons and prepared their injury reports, as Exhibit Ka-5, 6 and 7. At the time of the incident, injured Mayank Kumar Singh was driving the motorcycle and injured Rahul Gupta @ Guddu Gupta was sitting on the motorcycle behind Mayank Kumar Singh and behind Rahul Gupta @ Guddu Gupta, deceased Ved Prakash Singh was sitting on the motorcycle. In this way, those injured witnesses Mayank Kumar Singh and Rahul Gupta @ Guddu Gupta are best witness of the prosecution for supporting the prosecution case. However, surprisingly the prosecution has not adduced the injured witness Mayank Kumar Singh, who was driving the motorcycle on the date of the incident and also not produced Rahul Gupta @ Guddu Gupta, who was also sitting behind Mayank Kumar Singh on the motorcycle. Both Mayank Kumar Singh and Rahul Gupta @ Guddu Gupta being an injured in the said incident, are natural, real and best witnesses of the case. However, the prosecution has not produced Mayank Kumar Singh and Rahul Gupta @ Guddu Gupta as prosecution witnesses in support of its case. The prosecution was duty bound to produce the injured witnesses Mayank

respect of this case, then in this condition prosecution story would easily be proved behind reasonable doubt against the accused person Ankur Kumar Singh @ Sheru Singh **(since deceased)**. There is no answer to this question for prosecution that why and under what circumstances, prosecution has not adduced the injured Mayank Kumar Singh and Rahul Gupta @ Guddu Gupta as prosecution witnesses. It is apparent from the above facts and circumstances that prosecution with a plan and purpose with consideration, afterthought, withheld the valuable evidence of injured Mayank Kumar Singh and Rahul Gupta @ Guddu Gupta from coming into Court. The prosecution on one side withheld the evidence of injured Mayank Kumar Singh and Rahul Gupta @ Guddu Gupta and on the other side tried to project Digvijay Singh PW-1, Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4 as an eyewitness with a purpose to falsely, concocted, with consideration and afterthought to implicate the accused persons falsely on their evidence in this case. In this way, prosecution withheld natural witnesses injured Mayank Kumar Singh and Rahul Gupta @ Guddu Gupta for giving their evidence and produced concocted and artificial evidence of Digvijay Singh PW-1, Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4, of the prosecution witness in support of its case. However, from the evidence of the prosecution witnesses Digvijay Singh PW-1, Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4, prosecution story itself becomes highly doubtful and suspicious, creating doubt about the veracity and truthfulness of the prosecution story. From the perusal of the evidence of Dr. Roshan Singh Patel PW-5 who prepared the injury report of injured Mayank Kumar Singh and Rahul Gupta @ Guddu Gupta Exhibit Ka-5 and Exhibit Ka-6 and Chandra Sen Singh Exhibit Ka-7, respectively, it is stated by this

been brought by some people at the CHC. Name of the deceased person has been mentioned as Ved Prakash Singh. Paper No.8-Ka, which has endorsed the signatures of CHC Superintendent Dr. Kailash Singh has been proved by Dr. Roshan Singh Patel PW-5 as Exhibit Kha-1. Dr. Roshan Singh Patel PW-5 has stated that I have entered the injuries of the three injured persons in the accidental register. The above evidence and facts as stated by Dr. Roshan Singh Patel PW-5, revealed that injured Mayank Kumar Singh, Rahul Gupta @ Guddu Gupta and deceased Ved Prakash Singh, who has received injuries in motorvehicle accident, due to this reason the injuries of the injured persons were entered by this witness in accidental register and intimation has also been sent by paper No.8 Ka, which is Exhibit Kha-1 addressed to the In-charge Inspector, P.S. Kotwali Rasda, district Ballia. This fact also makes the prosecution story suspicious and unreliable.

26. Illustration (g) of Section 114 of the Indian Evidence Act (Act No. 1 of 1872) provides that 'that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it.' In the present case, according to the prosecution itself, on the date, time of incident, Mayank Kumar Singh driving the motorcycle on which deceased Ved Prakash Singh was sitting. According to the prosecution itself, Mayank Kumar Singh driving the motorcycle and behind Mayank Kumar Singh, Rahul Gupta @ Guddu Gupta was sitting and behind Rahul Gupta @ Guddu Gupta deceased Ved Prakash Singh was sitting. Accused Ankur Kumar Singh @ Sheru Singh (**since deceased**) driving his Bolero vehicle overtakes Mayank Kumar Singh and returned after turning his Bolero vehicle and with high speed colluded his Bolero vehicle on the front side of the motorcycle, which was being driven by Mayank Kumar Singh. Mayank Kumar Singh,

best witnesses of the prosecution, since they have also become injured in this accident. However, prosecution withhold the evidence of injured persons Mayank Kumar Singh, Rahul Gupta @ Guddu Gupta and Chandan Gupta. Prosecution has not adduced any injured person amongst Mayank Kumar Singh, Rahul Gupta @ Guddu Gupta and Chandan Gupta. This is a case of motor-vehicle incident or accident and it is prosecution story that accused Ankur Kumar Singh @ Sheru Singh **(since deceased)**, has used his Bolero vehicle as a weapon in killing the deceased Ved Prakash Singh by colluding his Bolero vehicle on the front side of the motorcycle, which was driven by Mayank Kumar Singh. This conduct of the prosecution in not adducing and examining any of the injured person, creates a reasonable doubt about the veracity of the prosecution story, as narrated by informant Digvijay Singh PW-1 and other prosecution witnesses such as Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4.

27. The Hon'ble Supreme Court in **Mohanlal Shamji Soni Vs. Union of India and Another** 1991 Supp (1) SCC 271, has held in paragraph 10 as follows :

“10. It is a cardinal rule in the law of evidence that the best available evidence should be brought before the Court to prove a fact or the points in issue. But it is left either for the prosecution or for the defence to establish its respective case by adducing the best available evidence and the Court is not empowered under the provisions of the Code to compel either the prosecution or the defence to examine any particular witness or witnesses on their sides. Nonetheless if either of the parties with-holds any evidence which could be produced and which, if produced, be unfavourable to the party withholding such evidence, the court can draw a presumption under illustration (g) to Section 114 of the Evidence Act. In such a situation a question that arises for consideration is whether the

law in dispensing justice because it is the duty of a Court not only to do justice but also to ensure that justice is being done. In order to enable the Court to find out the truth and render a just decision, the salutary provisions of Section 540 of the Code (Section 311 of the New Code) are enacted whereunder any Court by exercising its discretionary authority at any stage of enquiry, trial or other proceeding can summon any person as a witness or examine any person in attendance though not summoned as a witness or recall or re-examine any person in attendance though not summoned as a witness or recall and re-examine any person already examined who are expected to be able to throw light upon the matter in dispute; because if judgments happen to be rendered on inchoate,, inconclusive and speculative presentation of facts, the ends of justice would be defeated.”

28. In the light of the legal principles, as laid down by the Hon'ble Supreme Court in ***Mohanlal Shamji Soni (supra)***, we find that learned Trial Court has not tried to summon the injured prosecution witnesses, Mayank Kumar Singh, Rahul Gupta @ Guddu Gupta and Chandan Gupta under Section 311 Cr.P.C. The Trial Court has full power to summon any person as a witness for doing the full and complete justice. On the other side, the Trial Court has not performed its legal duty by summoning as witness the injured persons Mayank Kumar Singh, Rahul Gupta @ Guddu Gupta and Chandan Gupta under Section 311 Cr.P.C., and on the other side, the Trial Court has also not drawn an adverse inference against the prosecution. In the light of Illustration (g) of Section 114 of the Indian Evidence Act, by not adducing injured witnesses Mayank Kumar Singh, Rahul Gupta @ Guddu Gupta and Chandan Gupta as a witness in Court and also not summoning the above witnesses under Section 311 Cr.P.C., the Trial Court committed an error and by misappreciating the evidence of prosecution witnesses against the settled principles of law, wrongly held guilty to the accused appellants for the commission of the crime. It is also settled principles of law that

ground as suspicious and doubtful story. It is also settled principles of law that no accused person could be convicted on doubtful evidence of prosecution. For conviction in a criminal case like murder, prosecution in every circumstances, is liable and bound to prove its case behind all reasonable doubts either by direct evidence or by circumstantial evidence. Hence, in the light of the above observations, prosecution story also becomes suspicious and thereby unbelievable.

29. From the perusal of the evidence of Dr. Jameel Ahmad PW-9, who conducted the postmortem examination of dead body of deceased Ved Prakash Singh and prepared postmortem report as Exhibit Ka-18, it is revealed from the statement, as given in his cross-examination, that this witness has accepted in clear-cut words that there was no marks or sign of grouting on the body of the deceased. This witness has also accepted that there was no mark of tyre of motor-vehicle on the body of the deceased. However, the prosecution witnesses are stating in their evidence that accused-appellant Ankur Kumar Singh @ Sheru Singh **(since deceased)** ran his Bolero vehicle over the body of the deceased Ved Prakash Singh and thereby crushed the body of the deceased. However, statement of Dr. Jameel Ahmad PW-9 clearly refuted the evidence of prosecution witnesses, such as informant Digvijay Singh PW-1, Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4, in this respect. Therefore, the evidence of the so-called eyewitnesses and medical evidence does not corroborate to each other. The evidence of witnesses of facts does not find support and corroboration from the evidence of Dr. Jameel Ahmad PW-9. This fact also creates a reasonable doubt about the veracity of the prosecution story and reliability of the evidence of prosecution witness. Hence, we are of the considered view in the above facts and circumstances of the

Court has not kept in mind and considered the evidence in this regard in the facts and circumstances of the case. The learned Trial Court in cursory and casual manner wholly believing and relying on the evidence of informant Digvijay Singh PW-1, Kripa Shanker Pandey PW-2, Madan Singh PW-3, Chandra Sen Singh PW-4, delivered a finding of conviction without any cogent and reliable evidence available on the record and also against the settled principles of law. The learned Trial Court has not meticulously analysed and appreciated the prosecution evidence, which are highly doubtful and unreliable and unworthy of credit. In heinous case like a murder in which three persons are convicted for murder, the learned Trial Court has great responsibility and duty to analyse and appreciate, the prosecution evidence very meticulously and on every point and aspect. If on careful and proper appreciation of evidence the learned Trial Court finds that by its evidence, if prosecution is able to prove the prosecution story behind reasonable doubt, only in that condition a finding about guilt should be recorded by the Trial Court. However, in the present case, the Trial Court has not performed his duty as imposed by the provisions of law in this regard. In view of the above facts and legal aspects, we are of the considered view that the judgment of conviction and sentence dated 04.06.2010, as passed by the learned Trial Court is perverse and without any evidence in this regard and also against the settled principles of law in this respect. Due to this reason, judgment of conviction and sentence of the learned Trial Court dated 04.06.2010 is not found sustainable in the eyes of law. Hence, we set aside the judgment of conviction and sentence dated 04.06.2010 as passed by the learned Trial Court.

31. In the light of the above discussions, we find force in the submissions advanced by learned counsel for the appellants in this

dated 04.06.2010 passed in Sessions Trial No. 173 of 2008 State of U.P. Vs. Dhanushdhari Singh, Sessions Trial No. 145 of 2009 State of U.P. Vs. Ankur Singh @ Sheru Singh and others arising out of Crime No. 42 of 2008 under Sections 302/34, 307/34, 504, 506, and 427 I.P.C. are hereby **allowed**. The judgment and order of conviction and sentence of the learned Trial Court dated 04.06.2010 is hereby **set aside**.

33. The appellants **Dhanushdhari Singh and Yashwant Singh**, respectively are on bail. Their bail bonds are cancelled and sureties are discharged from their liabilities.

34. Let this judgment and order be sent with Trial Court record to the Trial Court for necessary compliance, forthwith.

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

July 15, 2026
NSC