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2026:AHC:130332-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 6307 of 2022

Pradeep @ Aman Chaurasaiya

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Rajeev Chaddha
Counsel for Respondent(s)	: G.A.

Court No. - 2

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

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

This criminal appeal has been preferred by accused-appellant Pradeep @ Aman Chaurasaiya, against the judgment and order of the learned Additional District and Sessions Judge, (FTC-II), under 14th Finance Commission, Gorakhpur, delivered in Sessions Trial No. 40 of 2016 State Vs. Pradeep @ Aman Chaurasaiya in Crime No. 431 of 2015, under Section 302 IPC., Police Station Chiluwal, District Gorakhpur. The learned District Judge has held that the accused-appellant is guilty of the offence under Section 302 IPC. and has sentenced him to imprisonment for life.

2. Brief fact of the case is that informant Munni Devi PW-1 has got ascribed a written report Exhibit Ka-1 from Subhash Dhar Dubey PW-5 and lodged the written report at Police Station Chiluwatal, District Gorakhpur. The informant Munni Devi PW-1 has stated that applicant Munni Devi wife of Pradeep @ Aman Chaurasaiya is a resident of Nakha No.1 as tenant in the house of Gheesey Yadav, near Scholars School. She is original resident of Village Laxmipur Ekdanga, P.S. Kothibhar, district Maharajganj; my husband name is Pradeep @ Aman Chaurasaiya; often my husband had beaten my elder son Abhimanyu; Abhimanyu was born from my ex-husband, due to this reason, he regarded enmity with him; Today on 28.10.2015 about 11:00 am., he was beating Abhimanyu in the room; On hearing the voice of weeping of Abhimanyu, I reached and saw that my husband is beating him; Blood was oosing from the mouth of my son and he was lying on the bed; On seeing me, my husband ran away. I have seen that Abhimanyu has died; I began to weeping and crying then people of the house, people of the nearby place have come and seen him to ran away. Dead body of my son is lying on spot.

3. After lodging of the written report Exhibit Ka-1, by informant Munni Devi PW-1, and on the basis of it, the First Information Report Exhibit Ka-3 was registered against the accused-appellant by Head Muharir Dinesh Kumar Mishra, PW-6 on 28.10.2015 at 12:15 PM under Section 302 IPC at Police Station Chiluwatal, District Gorakhpur against accused-appellant Pradeep @ Aman Chaurasaiya. Inspector Ram Pal Yadav, PW-8, who was posted at Police Station Chiluwatal, District Gorakhpur at the time of the incident, took the investigation of the case into his hands. He visited the place of occurrence. He got prepared *Panchayatnama* from his companion Govind Ji Singh PW-8, of deceased

the formalities of the investigation, the Investigating Officer submitted charge-sheet Exhibit Ka-7, against accused-appellant Pradeep @ Aman Chaurasaiya in the concerned Magistrate Court having jurisdiction.

4. Since the case was exclusively triable by the Sessions Court, the learned Magistrate committed the case to the Court of Sessions for trial. The learned trial Court has framed charge on 15.07.2016 against accused-appellant Pradeep @ Aman Chaurasaiya under Section 302 IPC. The accused-appellant Pradeep @ Aman Chaurasaiya denied from the charge and claimed for trial.

5. To substantiate its case, prosecution adduced in total nine witnesses in the Court, such as, informant Munni Devi PW-1, Anita PW-2, Dharmendra Yadav PW-3, Gulecha PW-4, Subhash Dhar Dubey PW-5, Dinesh Kumar Mishra PW-6, Dr. Ghanshyam Raman PW-7, Ram Pal Yadav PW-8, and Govind Ji Singh PW-9.

6. Apart from oral evidence, prosecution has also relied as documentary evidence from Exhibit Ka-1 to Exhibit Ka-11 in support of its case.

7. After recording of the prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. In his statement under Section 313 Cr.P.C., accused-appellant Pradeep @ Aman Chaurasaiya has stated that wrong case has been registered against him. He is innocent. The police has not investigated the case on true facts. Wrong charge-sheet has been filed in the wrong way and investigation has been done in a cavalier manner. He also stated that due to enmity the case was registered against him and he is totally innocent. He submitted that he has to adduce defence evidence. In his defence accused-appellant Pradeep @ Aman Chaurasaiya has adduced Ram Awadh Pandey as DW-1 in his defence.

fine of Rs.20,000/-. In case of default of payment of fine, six months additional simple imprisonment was also imposed upon the accused-appellant Pradeep @ Aman Chaurasaiya. Aggrieved by the judgment and order of the trial Court dated 27.05.2022, the accused-appellant Pradeep @ Aman Chaurasaiya has preferred this criminal appeal in this Court challenging the judgment and order of the learned trial Court passed in S.T. No.40 of 2016 State Vs. Pradeep @ Aman Chaurasaiya in Crime No. 431 of 2015 under Section 302 IPC, Police Station Chiluwatal, District Gorakhpur.

9. We have heard arguments of learned counsel for accused-appellant and the learned AGA on behalf of the State-respondents.

10. It is submitted on behalf of the learned counsel for accused-appellant that the judgment and order of the trial Court dated 27.05.2022 is against the facts and circumstances of the case. The first information report of the alleged incident was got lodged after inordinate delay without giving any satisfactory explanation of delay occurred in lodging the same, which itself goes to show that the same was got lodged afterthought on the basis of the concocted and false story. From the evidence, it is very much clear that the F.I.R. was written on the dictation of the police personnel which also goes to prove that the appellant has been falsely implicated in the present case. It is also submitted that during investigation, prosecution got examined nine witnesses out of which five witnesses of the facts during deposition of the aforesaid witnesses, four have turned hostile, but while passing the impugned judgment and order, the learned trial Court has failed to consider and appreciate their evidence in its true perspective. It is also submitted that informant Munni Devi PW-1, who claims herself to be the wife of appellant, no other witness has supported the prosecution story. There

11. It is also submitted on behalf of the accused-appellant that even the medical evidence is not in consonance with the alleged allegations made in the FIR, and the statements of the witnesses. From the evidence of the Investigating Officer, who has been examined as PW-8, it is very much clear that he had not prepared any site plan. This fact has also create doubt with regard to the place of occurrence. From the entire evidence recorded during trial, it is very much clear that appellant had no motive for committing such a heinous crime. However, while passing the impugned judgment convicted the appellant, the learned trial Judge only on conjectures and surmises scrutinized the evidence, which is against the law. Conviction of the appellant is against the evidence on record, as the prosecution has failed to prove its case beyond reasonable doubt. Thus, it is submitted on behalf of the learned counsel for the accused-appellant that there is no cogent and reliable evidence against the accused-appellant Pradeep @ Aman Chaurasaiya. Prosecution is totally unsuccessful to prove its case beyond reasonable doubt. In view of the above, the present criminal appeal filed by the accused-appellant deserves to be allowed and the judgment and order of the learned trial Judge dated 27.05.2022 deserves to be set-aside.

12. Against the above arguments of the learned counsel for the accused-appellant, learned AGA on behalf of the State-respondents has submitted that there is no delay in lodging the FIR at police station. The first information report has been lodged promptly and without any afterthought or concoction by informant Munni Devi PW-1. The informant Munni Devi PW-1, who is helpless lady, whose son deceased Abhimanyu was itself killed by her husband accused-appellant Pradeep @ Aman Chaurasaiya. None was ready to ascribe a written report Exhibit Ka-1, due to this reason, got ascribed written report Exhibit Ka-1

of the sole reliable eye-witness informant Munni Devi PW-1 could not be rejected and doubted on any other ground. The informant Munni Devi PW-1 was living in her room with her husband Pradeep @ Aman Chaurasaiya in the house of Gheesey Yadav as a tenant. At the time of happening of the incident, informant Munni Devi PW-1, was present, she has seen with her own eyes the commission of the crime by accused-appellant Pradeep @ Aman Chaurasaiya. The learned Trial Court has appreciated the prosecution evidence in a very right perspective without any perversity and illegality and found guilty to accused-appellant and convicted him accordingly. The trial Court convicted and held guilty to accused-appellant Pradeep @ Aman Chaurasaiya on the basis of cogent and reliable evidence. There is no conjecture and surmises in the impugned judgment of the learned trial Court. In this way, the learned AGA for the State respondents has submitted that there is no illegality, perversity in the impugned judgment as delivered by trial Court. Prosecution has successfully proved its case by its evidence beyond reasonable doubt. Hence, there is no merit in the criminal appeal as filed by the accused-appellant Pradeep @ Aman Chaurasaiya, therefore, the same is liable to be rejected.

13. In view of the above arguments and counter arguments advanced on behalf of the accused-appellant and the learned AGA for the State, we have gone through the whole evidence as available on records and we have also perused the finding and reasoning of the learned trial Court in this regard.

14. According to the postmortem report Exhibit Ka-4, which was prepared by Dr. Ghan Shyam Raman PW-7, following *ante mortem* injuries were found on the dead body of the deceased Abhimanyu:

1. The body was in a moderate condition; *rigor mortis* was

2. On internal examination, hematoma was found beneath the skin of the neck; the trachea was congested; and the hyoid bone was fractured.

3. The brain weighed about 300 grams. The lungs were congested (right 120g, left 100g). The heart weighed about 90g and contained blood in the right chamber. The stomach contained partially digested food; the small intestine was empty; the large intestine contained fecal matter and gases. The liver, spleen, and kidneys were congested. The urinary bladder was not opened.

4. The time since death was approximately one day prior to the *post-mortem*.

5. The cause of death was asphyxia due to *ante-mortem* neck injury. No other external injuries were found on the body. No injuries were found on the feet or head, and no external bleeding was present. No marks of fingernail pressure were found on the hands. The neck injury indicated pressure by a blunt object causing obstruction of breathing.

6. The injury could have been caused on 28.10.2015 at about 11:00 AM.

Thus, from the perusal of the postmortem report of the deceased Abhimanyu, Exhibit Ka-4, it reveals that Abhimanyu was of two years and his death was caused by asphyxia due to *ante-mortem* neck injury. Thus, from the perusal of the postmortem report Exhibit Ka-4, it is clear that death of the deceased Abhimanyu was homicidal and it was not a natural death.

15. From the perusal of the FIR, Exhibit Ka-3, it is clear that the incident happened on 28.10.2015 at 11:00 am and informant Munni Devi

Chiluwatal, District Gorakhpur. From the prompt lodging of the FIR, it is evident that informant Munni Devi PW-1, without any deliberation, consideration and afterthought, has lodged written report against accused-appellant. Thus, we find that there is no deliberation, afterthought, concoction and consideration in lodging the FIR by informant Munni Devi PW-1. In view of this, we find no force in the arguments of learned counsel for the accused-appellant in this respect.

16. The informant Munni Devi PW-1 has deposed in her examination-in-chief that she is the wife of Pradeep @ Aman Chaurasaiya. She is a resident of Village Laxmipur Ekdanga, Police Station Kothibhar, District Maharajganj and she and Pradeep @ Aman Chaurasaiya had been living as husband and wife before one year from the incident. This incident happened on 28.10.2015 at 11:00 am in the day. At the time of incident, we had been living in Nakah No.1, near Scholars School, in a rented house; she was washing the utensils at the home that then my son Abhimanyu who was two years old from the room loud voice of weeping has come, then I ran to the room and saw that my husband Pradeep @ Aman Chaurasaiya was beating my child. Blood was oosing from the mouth and head of my son Abhimanyu; on seeing blood, I began to weep then my husband Pradeep @ Aman Chaurasaiya had ran away from there; After that I weep, cried and seeing the condition of the child, became unconscious; after that on hearing cry, an unknown person of the locality has telephoned and call the police; the above examination-in-chief of the informant Munni Devi PW-1 was recorded on 29.06.2017, her examination-in-chief could not be completed because it has been written that witness become emotional and weeping, due to this, examination-in-chief was deferred for other day. Thus, the learned trial Court has noticed the demeanor of the informant Munni Devi PW-1.

assaulted and beating him; I requested him by falling down on his feet and prayed not to beat him, even upon this, he annoyed and beating him; I had got written application with police, who had written the application; I do not remember his name, who has written the application; then I have signed on the application.

18. In her cross-examination informant Munni Devi PW-1 has stated that my first marriage was solemnized with Mantu. I could not tell the name of his father. He was resident of Mahadeva Chhapra Hata, district Kushinagar. This marriage was solemnized eight years back from today. Mantu was working as a carpenter. This work he was doing in Surat (Gujarat); I had stayed with Mantu for eight years, again said that I stayed for five years; after one year of marriage, my son Abhimanyu was born. Name of this child was Abhimanyu. At the time of his death, he was two years old; I had two child, name of the second child is Krishna. Krishna was one year younger from Abhimanyu; my paternal home (*Maika*) is in Village Laxmipur Ekdanga, P.S. Kothibhar, district Maharajganj; my marriage with Pradeep @ Aman Chaurasaiya was solemnized in a temple. It was not according to the tradition and customs; at the time of marriage, mother and father of Pradeep @ Aman Chaurasaiya were present.

19. In her cross-examination, informant Munni Devi PW-1, has also stated that I had given *tahreeer* of this case at police station. This thing, written in *tahreeer*, is true that on 28.10.2015 at 11:00 am in day, Pradeep @ Aman Chaurasaiya was beating my son in the room; I told this thing to Daroga Ji; I told this thing of beating my son at 11:00 am in day in Court also. Pradeep @ Aman Chaurasaiya had assaulted on the leg of my child on 28.10.2015 at 8:00 am in the morning, due to this reason, he was not able to stand up; after that I went to wash the utensils and came

child; he dashed him to the floor, raised above and thrown my child, due to which back side of head of my child was injured. Blood was fallen on the floor and spread. Pradeep tried to press the neck of the child and while seeing all this, I became unconscious by weeping. At the time when I came with Pradeep @ Aman Chaurasaiya, the age of Abhimanyu was two years. Pradeep had taken me from the house of my ex-husband; after one year, Pradeep @ Aman Chaurasaiya has killed Abhimanyu; Abhimanyu lived with us for one year. Pradeep had not given food and cloths to him; I provide cloth for his own child; he was doing all things; I had complained to mother and father of Pradeep.

20. Thus, from the perusal of the evidence of informant Munni Devi PW-1, as deposed by her in Court, this fact emerged that firstly she was married with Mantu, who was a resident of Mahadeva Chhapra Hata, district Kushinagar. First marriage of the informant Munni Devi PW-1 was solemnized about eight years before; her ex-husband Mantu was doing carpenter work at Surat (Gujarat); thereafter, after about five years of her first marriage with Mantu, informant Munni Devi PW-1 left her husband Mantu; deceased Abhimanyu was born from wedlock of informant Munni Devi PW-1 with Mantu, by any means and circumstances, she became familiar with accused-appellant. After leaving house of her first husband Mantu, she came with appellant to the house of accused-appellant Pradeep @ Aman Chaurasaiya along with her deceased son Abhimanyu, who was born from her first husband. After leaving her first husband Mantu, informant Munni Devi began to live with accused-appellant. The accused-appellant had taken a rented room in the house of Gheesey Yadav at Nakha No.1, near Scholar School. Informant Munni Devi PW-1, got a second child from her second husband Pradeep @ Aman Chaurasaiya. According to this

second child, who was born from him with the informant Munni Devi PW-1. On the day of incident on 28.10.2015, at 11:00 am in day, informant Munni Devi PW-1, was living in her rented room with Abhimanyu, her first child and with her husband Pradeep @ Aman Chaurasaiya and also with her second child Krishna. At the time of incident, informant Munni Devi PW-1, was washing utensils out of room; when she heard voice of her son Abhimanyu, who was loudly weeping then, on hearing the loud weeping voice of her son, she came in the room and she saw that accused-appellant, Pradeep @ Aman Chaurasaiya was beating the deceased Abhimanyu. Before informant Munni Devi PW-1, accused-appellant pressed the neck of the deceased Abhimanyu, by which he died on the spot. Although, there is contradictions in respect of the time, manner of the incident committed by accused-appellant. However, in view of the above, the contradictions and discrepancies that crept into the cross-examination of the informant Munni Devi PW-1 and that was pointed out by the learned counsel for the accused-appellant, are not found to be major and material contradictions, by reason of which, evidence of this witness could be recorded as false and doubtful. This is a fact that informant Munni Devi PW-1 is mother of the deceased Abhimanyu and the accused-appellant Pradeep @ Aman Chaurasaiya, was husband of the informant Munni Devi PW-1. For accused-appellant Pradeep @ Aman Chaurasaiya, informant Munni Devi PW-1 has deserted and left her first husband Mantu and began to live as wife after marrying with him at temple. A woman like informant Munni Devi PW-1, who deserted and left her first husband and came to live with the accused-appellant Pradeep @ Aman Chaurasaiya, how and why she falsely implicate her second husband for the murder of her elder child Abhimanyu, aged about two years. In

examination-in-chief was being recorded in the Court, since by becoming very emotional, she was weeping due to this reason, trial Court adjourned the examination-in-chief of informant Munni Devi PW-1 for next date i.e. 25.01.2018.

21. It is very natural that when a witness states the same thing to different persons on different dates and occasions, a contradiction and inconsistency in the statement of the witness is likely to and naturally would creep into the statements. It is also a natural fact that a mother, like informant Munni Devi PW-1 in this case, whose two years old son Abhimanyu was killed by her own husband accused-appellant Pradeep @ Aman Chaurasaiya, why she falsely implicate her beloved second husband Pradeep @ Aman Chaurasaiya for whom she deserted and left her first husband Mantu.

22. Thus, from the perusal of the whole evidence of this witness, including cross-examination, we find no contradiction, inconsistency, exaggeration or embellishment in the evidence of informant Munni Devi PW-1 of this nature by reason of which, we could doubt the truthful and creditworthy evidence of this witness. Only on the ground of minor contradictions, inconsistencies, exaggeration and embellishment, reliable and trustworthy evidence of the informant Munni Devi PW-1, could not be doubted and rejected. We find that the evidence and testimony of the informant Munni Devi PW-1 as wholly reliable and creditworthy in respect of the prosecution story.

23. The Supreme Court in the case of *Shyam Sunder Vs. State of Chhattisgarh reported in (2002) 8 SCC 39* has held on the points of contradictions, inconsistencies, exaggerations or embellishments, that:

“when an incident is narrated by the same person to different persons, on different occasions, some difference in

the witness would have really witnessed what he was narrating”.

24. In the light of the legal principles, as laid down by the Supreme Court in **Shyam Sunder** (*supra*), from the perusal of the postmortem report Exhibit Ka-4, which was prepared by Dr. Ghanshyam Raman PW-7, we find that postmortem report of deceased Abhimanyu Exhibit Ka-4, hyoid bone of deceased Abhimanyu was found fractured, meaning thereby that due to heavy pressure by accused-appellant Pradeep @ Aman Chaurasaiya's hands as informant Munni Devi PW-1, mother of deceased Abhimanyu has also clearly stated in her evidence that accused-appellant Pradeep @ Aman Chaurasaiya had pressed the neck of the deceased Abhimanyu, this fact was also corroborated by Dr. Ghanshyam Raman PW-7, who prepared the postmortem report Exhibit Ka-4 that deceased Abhimanyu's hyoid bone was fractured, the cause of death was asphyxia due to *ante-mortem* neck injury. It was found that heavy pressure was applied on the neck, and due to this pressure, breathing had stopped. In this way, we find that in relation to the main incident that accused-appellant Pradeep @ Aman Chaurasaiya has assaulted and beaten the deceased-Abhimanyu, a child of two years of age and forcibly pressed the neck of the deceased, due to which his hyoid bone was fractured and breath was stopped and he died on the spot itself. Thus, we find no force in the arguments of the learned counsel for the accused-appellant in this regard.

25. Prosecution witness Smt. Anita PW-2, although becomes hostile and has not supported the prosecution story, however, from the evidence of this witness, this fact become clearly established that in the house of this witness in the year 2015, an incident happened, the accused-appellant Pradeep @ Aman Chaurasaiya son of Bechu Chaurasaiya was

Dharmendra Yadav son of Gheese Yadav had also proved this fact that in the year 2015, accused-appellant Pradeep @ Aman Chaurasaiya son of Bechu Chaurasaiya was residing with his wife Munni Devi PW-1 and his children in his house and Munni Devi was wife of accused-appellant Pradeep @ Aman Chaurasaiya of whom, had a child of two and half years, whose name was Abhimanyu, suddenly one day he died. How he died, this witness do not know. Thus, from the evidence of hostile witness Dharmendra Yadav PW-3, this fact again being proved and established that in the year 2015 when this incident happened, accused-appellant Pradeep @ Aman Chaurasaiya was living as a tenant with his wife informant Munni Devi PW-1 and his children in a rented room in the house of this witness. From the evidence of hostile witness Gulecha PW-4, the fact of living of Munni Devi PW-1 wife of accused-appellant Pradeep @ Aman Chaurasaiya with her child in the rented room of the house of this witness, also proved.

26. From a perusal of the evidence of Subhash Dhar Dubey PW-5, who ascribed written report Exhibit Ka-1, we find that this witness has also become hostile in the Court and has not supported the prosecution story, but from the evidence of this hostile witness, we find that this witness was also living in a room in the house of same landlord Gheese Yadav and in the same house informant Munni Devi PW-1 wife of accused-appellant Pradeep @ Aman Chaurasaiya was also living with her child Abhimanyu. According to this witness, the incident happened on 28.10.2015 in the morning at 11:00 hours that Munni Devi suddenly began to weep and she began to knock the door thereafter we all people went there in the room and saw that Abhimanyu son of Munni Devi PW-1 was lying dead and Munni Devi was weeping. This witness has accepted in his examination-in-chief that *tehreer*/written report Exhibit

prosecution story. During the cross-examination by the defence, this witness has stated that Daroga Ji has as dictated and as told me, I have so and so written the application. On seeing *tehreer/written report*, Exhibit Ka-1, this witness has stated that I had written the *tehreer* on the dictation of Daroga Ji.

27. Learned counsel for the accused-appellant during his arguments in Court, heavily hammered on the statement of Subhash Dhar Dubey PW-5 and draw the attention of this Court towards the statement of Subhash Dhar Dubey PW-5. Learned counsel for the accused-appellant has submitted, on the above evidence as given by this hostile witness PW-5 Subhash Dhar Dubey in his cross-examination, that written report Exhibit Ka-1 was written on the dictation of *Daroga Ji* in the police station, hence whole prosecution story and truthfulness become highly doubtful and suspicious. However, when we see the whole facts and circumstances of the case, in totality and also in view of the fact that informant Munni Devi PW-1 was a helpless lady when her second husband accused-appellant Pradeep @ Aman Chaurasaiya killed his son Abhimanyu, who is aged about two years and after killing, ran away from the place of incident then family members of the landlord and other tenants living in the same house, came to help and to give consolation to informant Munni Devi PW-1. On the dictation of informant Munni Devi PW-1, Subhash Dhar Dubey PW-5, who was a *Purohit* by profession performing *pooja* and other religious rituals at the houses of the peoples, Munni Devi PW-1 dictated and narrated the story to Subhash Dhar Dubey PW-5 and Subhash Dhar Dubey PW-5 had written the written report Exhibit Ka-1, thereafter Munni Devi PW-1, went to police station Chiluwatal and lodged the written report/FIR to the police station with Subhash Dhar Dubey PW-5. At the time of lodging of the FIR, Subhash

PW-6 has stated that the complainant alone had not come at police station while with one person Subhash Dhar Dubey had also come, meaning thereby, that informant Munni Devi PW-1 was helpless lady, none came forward to help in this unfortunate incident. Subhash Dhar Dubey PW-5, who was also a tenant in the same house of Gheese Yadav came forward and has written the written report on the dictation of the informant Munni Devi PW-1 and both Munni Devi and Subhash Dhar Dubey PW-5 had went at police station to lodge the FIR.

28. However, when the trial began and evidence was recorded of the prosecution witnesses, all the witnesses of prosecution such as, Anita PW-2, Dharmendra Yadav PW-3, Gulecha PW-4, Subhash Dhar Dubey PW-5 became hostiles. Since informant Munni Devi PW-1 was a helpless lady, who was residing with her husband accused-appellant Pradeep @ Aman Chaurasaiya along with her children in a rented room in the house of Gheese Yadav. Anita PW-2, Dharmendra Yadav PW-3, Gulecha PW-4, were members of the landlord's family. Subhash Dhar Dubey PW-5 was also a tenant in the same house of Gheese Yadav. All these above prosecution witnesses have not supported the prosecution story and became hostile. Reason for this was that when Munni Devi PW-1 was betrayed by her husband accused-appellant Pradeep @ Aman Chaurasaiya, then seeing this situation and circumstances, prosecution witnesses including the writer of the *tehreer* Subhash Dhar Dubey PW-5, all have become hostile. Munni Devi PW-1 was a resident of other district then none prosecution witness was desirous and willing to support her and all prosecution witnesses with a view to make a ground for the acquittal of accused-appellant Pradeep @ Aman Chaurasiya, have become hostile and not supported the prosecution case. Prosecution witness, Subhash Dhar Dubey PW-5, writer of the *tehree/written report*

cross-examination falsely and with an intention to make acquittal of the accused-appellant sure and certain. Subhash Dhar Dubey PW-5 with an intention and planning to help accused-appellant Pradeep @ Aman Chaurasaiya, has stated this false statement in his cross-examination. Thus, Subhash Dhar Dubey PW-5 has stated the above statement in his evidence with a view that by his above statement, all prosecution story would become suspicious and doubtful and shall fall to the ground, but from a perusal of the above statement of hostile prosecution witness Subhash Dhar Dubey PW-5, we find that accused-appellant Pradeep @ Aman Chaurasaiya is not entitled and eligible for any benefit from the statement of Subhash Dhar Dubey PW-5 about the manner in which the *tehreer* Exhibit Ka-1 was written at police station. Thus, from the above discussions, we are of the considered opinion that only on the statement of Subhash Dhar Dubey PW-5 in respect of the written report Exhibit-Ka-1 and few minor contradictions and inconsistencies in evidence of informant Munni Devi PW-1, it is not legal to reject the prosecution story and reliable, creditworthy evidence of informant Munni Devi PW-1.

29. In view of the above discussion, we find that accused-appellant would not get any benefit on this ground that Subhash Dhar Dubey PW-5 has stated that he has written *tehreer* Exhibit Ka-1 on the dictation of *Daroga Ji* because Subhash Dhar Dubey PW-5 has stated the above statement after becoming hostile and he has not supported the prosecution case. Thus, we find that when informant Munni Devi PW-1 was betrayed by her second husband accused-appellant Pradeep @ Aman Chaurasaiya, then the prosecution witnesses, such as Anita PW-2, Dharmendra Yadav PW-3, Gulecha PW-4, Subhash Dhar Dubey PW-5, all have also betrayed to Munni Devi and tried to ensure acquittal of the

30. Although, no other prosecution witnesses have supported the prosecution story except informant Munni Devi PW-1. However, at the time of incident, Munni Devi was present with accused-appellant and her deceased child Abhimanyu in the room where incident happened, meaning thereby that Munni Devi is a helpless and sole witness, who testified and proved the prosecution story in respect of her deceased child Abhimanyu. A mother of deceased child, such as Munni Devi PW-1 would not spare real culprit of the crime and would not falsely implicate his second husband Pradeep @ Aman Chaurasaiya, for whom she has deserted and left her first husband Mantu and his family. We find that from the evidence of sole witness, informant Munni Devi PW-1, there is an ample reliable evidence against accused-appellant in respect of his alleged commission of the crime. The evidence of informant Munni Devi PW-1 is trustworthy, reliable that inspires confidence as credible and truthfulness.

31. In the case of ***State of Rajasthan Vs. Smt. Kalki and Another reported in (1981) 2 SCC 752***, the Supreme Court has held on the point of interested witness in paragraphs 7 and 8, which are as under:

“7. As mentioned above the High Court has declined to rely on the evidence of P.W.1 on two grounds: (1) she was a "highly interested" witness because she "is the wife of the deceased", and (2) there were discrepancies in her evidence. With respect, in our opinion, both the grounds are invalid. For, in the circumstances of the case, she was the only and most natural witness; she was the only person present in the hut with the deceased at the time of the occurrence, and the only person who saw the occurrence. True, it is she is the wife of the deceased; but she cannot be called an 'interested' witness. She is related to the deceased. 'Related' is not equivalent to 'interested'. A witness may be called 'interested' only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a

errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of the occurrence, and the like. Material discrepancies are those which are not normal, and not expected of a normal person. As indicated above we have not found any material discrepancies in the evidence of the P. W. 1.”

32. In the case of ***Sucha Singh and Another Vs. State of Punjab (2003) 7 SCC 643***, the Supreme Court has held in paragraph-13 of the judgment that:

“Relation is not a factor to affect the credibility of a witness. It is more often than not that a relation would not conceal the actual culprit and make allegations against an innocent person. Foundation has to be laid if plea of false implication is made. In such cases, the court has to adopt a careful approach and analyse evidence to find out whether it is cogent and credible”.

33. Thus, in the light of the legal principles as laid down by the Supreme Court in the above cases, we find that although informant Munni Devi PW-1 is the sole and related witness in this case because she was mother of the deceased Abhimanyu, but this is also a fact that she is the wife of the accused-appellant Pradeep @ Aman Chaurasaiya, the evidence and testimony of informant are wholly reliable and trustworthy. She has fully supported and has given evidence against her husband Pradeep @ Aman Chaurasaiya, who killed her son Abhimanyu aged about two years, no woman of the Indian culture would falsely implicate her husband. Prosecution story has also find support and corroboration from the statements of Investigating Officer Ram Pal Yadav PW-8 in his cross-examination, he stated that evidence was found that in the room of incident, informant Munni Devi PW-1 and accused-appellant Pradeep @

learned trial Court has given cogent and reliable findings and reasoning based on the prosecution evidence such as informant Munni Devi PW-1. We find no infirmity, illegality or perversity in the judgment and order of conviction and sentence of the trial Court dated 27.05.2022. In view of this, we find that the judgment and order of conviction and sentence passed by the trial Court requires no interference by this Court. We also find that the judgment and order dated 27.05.2022 of conviction and sentence of trial Court is liable to be affirmed.

35. In the light of the above discussion, we are of the view that criminal appeal as filed by the accused-appellant Pradeep @ Aman Chaurasaiya is devoid of merit and hence liable to be **rejected**. We, therefore, **affirmed** the judgment and order of the trial Court dated 27.05.2022 as passed in Sessions Trial No. 40 of 2016 State Vs. Pradeep @ Aman Chaurasaiya in Crime No. 431 of 2015, under Section 302 IPC., Police Station Chiluwatal, District Gorakhpur.

36. The criminal appeal filed by accused-appellant Pradeep @ Aman Chaurasaiya is ***dismissed***, as being devoid of merit. The accused-appellant is in jail since 31.10.2015.

37. Let a copy of this judgment be transmitted to the learned Trial Court along with the lower Court records forthwith for necessary compliance.

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

July 01, 2026
NSC