



HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL APPEAL No. - 1524 of 1988

Final AFR

Reserved On 22.04.2026

Delivered On 21.07.2026

Babu and others

.....Appellant(s)

Versus

State of U.P.

.....Respondent

Counsel for Appellant(s)	: Archana Chauhan, Sanjeev Kumar Khare, P.N. Mishra
Counsel for Respondent(s)	: A.G.A.

Court No. - 88

HON'BLE SANJIV KUMAR, J.

1. This criminal appeal has been filed, under Section 374(2) Code of Criminal Procedure, 1973 (in short Cr.P.C.), by appellants Babu, Puttu, Halkey, Bhajan Lal, Baijnath, Ramanand, Smt. Badi Bahu @ Kanchan Devi, Smt. Ram Dulari, Smt. Sanjhli Bahu wife of Puttu, Smt. Sanjhli Bahu wife of Bhajan Lal, Smt. Manjhli Bahu wife of Baijnath and Smt. Manjhli Bahu wife of Zalim, against the impugned judgment and order dated 14.06.1988, passed by Sri S.S. Gupta, Additional Sessions Judge/ Special Judge (E.C. Act), Lalitpur, in Sessions Trial No.55 of 1986,

under Section 147 Indian Penal Code, 1860 (in short IPC) and sentenced them to undergo rigorous imprisonment for a period of three months; sentenced to undergo rigorous imprisonment for a period of three months for offence punishable under Section 323/149 IPC; sentenced them to undergo rigorous imprisonment of six months offence punishable under Section 324/149 IPC and, instead of sentencing them at once, they were released on probation for good conduct for a period of one year by giving them the benefit of Section 4 of Probation of Offenders Act, 1968.

3. During the pendency of this appeal, the appellant Nos.1- Babu, appellant no.2- Puttu, appellant no.3- Halkey, appellant no.5- Baijnath, appellant no.8- Smt. Ram Dulari and appellant no.9- Smt. Sanjhli Bahu wife of Puttu have died and *vide* order dated 04.11.2025 this appeal stands **abated** against above aforesaid appellants. Now this appeal survives for appellant no.4- Bhajan Lal, appellant no.6- Ramanand, appellant no.7- Smt. Badi Bahu alias Kanchan Devi, appellant no.10- Smt. Sanjhli Bahu wife of Bhajan Lal, appellant no.11- Smt. Manjhli Bahu wife of Baijnath and appellant no.12- Smt. Manjhli Bahu wife of Zalim.

4. Brief facts of the prosecution case are that Mannu Lal son of Kunji Lal Yadav, resident of Village- Basatguwa, Police Station- Bar, District- Lalitpur, lodged an FIR on 20.09.1984 at 17:35, at Police Station- Bar, by submitting a written application (Ext.-Ka.1), stating that on 28.12.1981, a registered sale deed was executed in favour of himself and his four brothers by Kalle son of Dallu grand-son of Makkhan Kaacchi, regarding 6.45 acre land of Nazarbagh Kunwa. After few months Kalle died, then Babu, Zalim etc. Alongwith their brothers filed an objection against the aforesaid registered sale deed. The above case was decided in

informant and his four brothers came into possession of the aforesaid land and are cultivating the same. They had sown crop of maze, groundnut and ginger. Today, i.e. 20.09.1984, his maze crop was standing over the land then accused Zalim, Bhagirath, Puttu, Babu, Halke, Bhajan Lal, Baijnath, Ramanand, Smt. Manjhali Bahu wife of Baijnath, Smt. Badu Bahu @ Kanchan Devi, Smt. Ram Dulari, Smt. Manjhali wife of Jalim, Smt. Sanjhli wife of Puttu and Smt. Sanjhli wife of Bhajan Lal, started forcefully harvesting the crop, thereupon the first informant, his elder brother Jagat Singh; Sukhdayal, Rati Ram, Lakkhi @ Lakhan Singh reached there at about 11:00 a.m. and objected. Zalim and others claimed the land their own, and said that you can do whatever you can, but we will cultivate it. Baijnath, Kacchi hit a *lathi* blow over his head and when his brothers Sukh Dayal and others tried to rescue him then Baijnath and others, in furtherance of their common intention, started committing *maarpeet* with *lathi* and sickle. They raised alarm, thereupon the co-villagers Harlal Yadav, Ram Chandey Yadav, Sujan Yadav reached and saved them. Due to the above *maarpeet* he and Jagat Singh, Sukh Dayal, Rati Ram and Lakkhi @ Lakhan Singh sustained injuries. They ran towards village but saw some police constables, so due to their fear, they ran away leaving there seriously injured Lakkhi. The constables took Lakkhi, Zalim and others on a truck to the police station-Bar. When his younger brother Meghraj came home from Jhansi, then he narrated the entire story.

5. Upon this information FIR under Sections 147, 323 and 324 IPC was lodged and the investigation was entrusted to SHO Narendra Pal Singh. He recorded the statements of first informant and other witnesses, visited the place of occurrence and prepared its site-plan. The injured were medically examined and after investigation he has filed charge

prosecution papers were furnished to them under Section 207 Cr.P.C. and thereafter the case being cross-case of Case Crime No.189 of 1984, was committed to Sessions court by the Chief Judicial Magistrate, Lalitpur, *vide* order dated 30.07.1986. The accused appeared before the learned Sessions Court where, charges under Sections- 147, 323 read with 149 and 324 read with 149 IPC were framed against them. The accused pleaded not guilty and claimed to be tried.

7. The prosecution examined eight witnesses, to wit, P.W.1 Mannu Lal; P.W. 2 Lakkhi; P.W.3 Meghraj; P.W.4 Dr. K.C. Gupta; P.W. 5 Dr. N.L. Mahajan; P.W. 6 Babulal; P.W.7 Sujan; P.W.8 Narendra Pal Singh, to prove its case.

8. P.W. 1 Mannu Lal, is the eye-witness of the alleged incident and he has supported the prosecution case. He has stated that at the time of incident he was present there and was harvesting this maze crop. There he saw the accused, harvesting his maze crop. He objected to it and said that the crop was sown by him then why you are harvesting it, thereupon they resorted and started committing *maarpeet* with *lathi* and sickle. Then they snatched *lathi* and sickle from the accused persons and saved themselves and in the process the accused also sustained injuries. The witnesses reached at the spot and saved them. In this incident, he himself, Jagat Singh, Sukh Dayal, Rati Ram and Lakkhi @ Lakhan Singh sustained injuries. After committing *maarpeet* the accused fled from the spot. On their way back, they saw some policemen, then they fled from there leaving injured Lakkhi there. This witness is also the first informant and has proved the *tehrir*, (Ext.Ka.1), and has said that all the injured were taken to the doctor for treatment. He has admitted that a cross-case is pending against them upon report lodged by accused Babu

in their right of self-defence, the accused also sustained injuries. The police took him and the injured persons of the other party to the Police Station. From the Police Station he was taken to Lalitpur Hospital. He sustained injury over his left palm from sickle. He stated that the accused tried to hit sickle over his head but he tried to defend and thus, sustained injuries over his hand.

10. P.W.3 Meghraj, is not the eye-witness of the alleged incident. He has scribed the *tehrir* (Ext.Ka.1), which he has written down on the dictation of first informant. He has said that he was at the shop, where he heard about the incident. He reached the village at about 03:00 p.m. After 3-4 days, he went to the police station, on his own, and met the Investigating Officer. He is also an accused in the cross-case.

11. P.W. 4 Dr. K.C. Gupta, is the expert witness, who has prepared injury report of Lakkhi on 20.09.1984 and found following injuries over his body:-

(i) Incised wound 5 cm x 1.5 cm x bone deep over back side of left forearm. The margins were clear cut and everted. Fresh bleeding was present.

(ii) Incised wound 4 cm x 1 cm x bone deep, 1.5 cm below the injury no.1. The margins were clear cut, everted and fresh bleeding was present.

In the opinion of the doctor both the injures were kept under observation and X-Ray was advised. The injuries could have been caused by sharp edged weapon such as sickle. He has said that if some person tries to hit sickle over the head of the injured then while saving oneself with hand,

The doctor has said that on the same day he has examined Bhagirath at 04:40 p.m. and found following injuries:-

(i) Contusion 12 cm x 10 cm over the left of skull. 1.5 cm x ¼ cm x muscle deep x 1 cm ahead of left ear. Fresh bleeding was present.

(ii) Lacerated wound 1 cm x 1/4 cm x muscle deep over left ear (pinna). Fresh bleeding was present.

(iii) Contusion 5 cm x 3 cm over right side of chest above rib cage red in colour.

(iv) Contusion 5 cm x 3 cm over front side of nose.

(v) Contusion 11 cm x 8 cm over left upper part of back.

(vi) Complaint of pain from ear.

In the opinion of doctor injury nos. 1 and 5 was kept under observation and was advised X-Ray. The injured was admitted in hospital and was unconscious. Rest of the injuries were simple in nature and could have been caused by hard and blunt object. The injuries were fresh.

13. Further, the doctor has said that at about 05:15 p.m. he examined Puttu and found following injuries over his body:-

(i) Lacerated wound 7 cm x 0.5 cm to the left side of head 8 cm above ear. Fresh bleeding was present.

(ii) Lacerated wound 2.5 cm x 0.5 cm x 4.5 cm x muscle deep below injury no.1 over left side of head at occipital bone. Fresh bleeding was present.

(v) Contusion 5 cm x 4 cm over left part of left forearm.

(vi) Contusion 3 cm x 1 cm with abrasion over left side of back over scapula region.

In the opinion of the doctor injury no.1, 2, 3 and 4 were kept under observation and X-Ray of head was advised. Rest of the injuries were simple in nature and were caused by hard and blunt object and were fresh in nature. The injured was admitted in hospital. The witness has proved both the injury reports as Ext. Kha.1 and Ext. Kha.2. He has said that these injuries could have been caused on 20.09.1984 at 11:00 a.m. with *lathis* and injuries to injured Bhagirath were sufficient to cause his death. The injured Bhagirath died due to the aforesaid injuries on 20.09.1984 at 06:45 p.m., regarding which he had informed the Police Station- Kotwali. He has also said that the injured Bhagirath was unconscious and in that condition he was medically examined.

14. P.W. 5 Dr. N.L. Mahajan, is also an expert witness. He has said that on 20.09.1984 he was posted as Incharge Medical Officer at PHC Baar and on that day he has examined Ratiram and found no injury over his body.

15. The same day at about 06:45 p.m. he examined Sukh Dayal and found following injuries:-

(i) Lacerated wound 2 cm x ¼ cm x ¼ cm over temporal area away from temple bone. The margins were irregular and clotted blood was found present.

In his opinion the doctor, the injury was simple in nature and was caused by hard and blunt object and was about 12 hours old.

(ii) Contusion 0.5 cm x 1 cm over right palm below the index finger.

(iii) Abrasion 1 cm x ¼ cm to the back of palm, 2.5 cm above the wrist.

In the opinion of the doctor the injuries were simple in nature and was caused by hard and blunt object and was about 12 hours old.

17. On the same day, he examined Mannu Lal and found following injuries over his body:-

(i) Lacerated wound 4 cm x 1.05 cm x 0.5 cm on the inner side of hand, 6 cm above the wrist joint. The margins were irregular and clotted blood was present.

(ii) Lacerated wound 3 cm x 0.5 cm x 0.5 cm over middle line of head, in frontal area 7 cm above the root of nose.

(iii) Lacerated wound over head 3 cm x 0.5 cm x 0.5 cm over left temporal area 5 cm above temple.

(iv) Abraded contusion over the back right of scapula region 7 cm x 1 cm x 0.5 cm reddish in colour.

Injuries were simple in nature and were caused by hard and blunt object. The injury was 12 hours old.

In the opinion of the doctor all the injuries to the above injured could have been caused by *lathi* on 20.09.1984 at about 11:00 a.m. Injury nos. 2 and 3, caused to injured Munna Lal were on vital part, therefore, were dangerous in nature. Injury over head of Sukh Dayal was too deep which

chik FIR and entered its gist in G.D. No.22 at time 17:25, which the witness has proved as Ext.Ka.7 and Ext.Ka.8, respectively.

19. In cross-examination he has said that the same day Babu and others had lodged an FIR under Section 147, 148, 149 and 302 IPC against 15 accused and he had scribed the chik FIR of the aforesaid case. The witness has proved chik FIR as Ext. Kha-14 and its G.D. No.14, time 14:40 as Ext. Kha.15.

20. P.W.7, Sujan is the eye-witness of the alleged incident. He has supported the prosecution case and has said that he was going towards his well from his house alongwith Har Lal, Ram Chandra Yadav, then upon hearing hue and cry over a quarrel, he reached at the spot. He saw accused committing *maarpeet* with *lathi* and sickle with Mannu Lal, Sukh Dayal, Jagat Singh, Lakkhi and Ratiram. Mannu Lal also wielded *lathi* and in self defence all the persons sustained injuries. Babu Lal, Ram Chandra Yadav, Jagat Singh's wife and Brij Lal's wife did not sustain any injury. The dispute had occurred due to harvesting maze crop. The above witness is the accused in the cross-case and has denied that Zalim and Bhagirath were lying in injured condition. He has said that he did not see any blood oozing out from their wounds. Both the parties were beating each other.

21. P.W.8 S.I. Narendra Pal Singh, is the Investigating Officer of the case. He has stated about the investigation carried out by him and has said that he inspected the place of occurrence and prepared its site-plan which he has proved as Ext. Ka.9. He has also said that after investigation he filed charge-sheet which was proved as Ext.Ka.10.

22. In cross examination he has said that on the same day accused

He had recorded statement of Sujan after about three months because earlier he was not available. He did not found any *lathi* etc., from the place of occurrence.

23. After the closure of prosecution evidence, the statements of accused were recorded under Section 313 Cr.P.C. in which they denied the prosecution case. It is admitted that in the village there is one Kalle son of Dallu and another person also by the name of Kalle son of Dallu but one Kalle's grand father is Maakhan and another Kalle's grandfather is Bhagante and they are Mahanate's relatives. They have admitted that proceedings under Section 145 Cr.P.C. was initiated but the possession over the disputed land belongs to them. They were harvesting the crop when they were beaten. They did not beat the first informant's party. The witnesses have deposed against them due to enmity. It is also submitted that there two persons were killed from their side and due to enmity and to save themselves the witnesses are deposing against them.

24. The defence has examined D.W. 1 Hannu who has said that he is the eye-witness of the alleged incident. He has said that upon hearing hue and cry he reached at the spot and saw accused harvesting the maze crop and were being beaten by Mannu, Sukh Dayal, Meghraj, Jagat Singh, Kalyan, Nanhu, Bhaiya Lal, Harlal, Sujan, Sitaram, Rajaram, Rati Ram, Lakkhi, Gebu, Halke. Lakkhi were carrying axe. Jagat Singh was carrying *ballam* and the rest were having *lathis*. Mehraj and Lakkhi assaulted axe upon Zalim. Jagat Singh struck *ballam* from the side of *lathi* and rest used *lathis*. The women Smt. Majhali Bahu wife of Baijnath, Smt. Badi Bahu @ Kanchan Devi, Smt.. Ram Dulari, Smt. Majhali Bahu wife of Jalim, Smt. Sajhali Bahu wife of Puttu and Smt. Sajhali Bahu wife of Bhajan Lal, were beaten with *lathis*. Zalim's wife

25. After considering the evidence and arguments on behalf of both the parties, the learned trial court came to the conclusion that the prosecution case is proved beyond reasonable doubt. The plea of exercise of right of private defence of appellants was not accepted and accordingly, the appellants were convicted and sentenced to the term as indicated above.

26. Heard Shri Sanjeev Kumar Khare, learned Senior Advocate, assisted by Ms. Archana Chauhan, learned Counsel for the appellants and Shri Rajesh Kumar Rao, learned A.G.A on behalf of the State and perused the material on record.

27. Learned Counsel for the appellants has submitted that there are major contradictions in statement of prosecution witnesses which raises serious doubt over the prosecution case. It is also submitted that the disputed field belongs to appellants and it is the first informant's party which was aggressor and started committing *maarpeet* with them and in that process they killed Zalim and Bhagirath and also caused injuries to others. Then the appellants party wielded *lathi* in their self defence. Thus the learned trial court failed to appreciate the evidence on record correctly and reached at the wrong conclusion of guilt of the appellants.

28. Per contra, learned A.G.A. has submitted that the prosecution case is proved beyond reasonable doubt. Ocular evidence is supported by medical evidence. There are no major contradictions to disbelieve the prosecution witnesses. Admittedly, the injuries were sustained by the first informant's party from the assault committed by the appellants. It is the appellants who were aggressor as they started harvesting crop which belongs to the first informant and upon protest they started beating the

been murdered in the said incident. Beside, some others from appellant's side also sustained injuries and it is the first informant's side, which was aggressor and the accused exercised their right of private defence of person in which the first informant's party sustained injuries. With regard to the cross-case P.W.1 Mannu Lal has admitted that he is accused in the cross-case which is pending against him. P.W.2 Lakkhi the injured witness. P.W.3 Meghraj and P.W.7 Sujan have also stated the same that they are accused in the cross-case. P.W.6 Constable Babu Lal has scribed chik FIR of the present case and he has stated that on the same day, he has also scribed FIR of the cross-case. P.W.8 S.I. Narendra Pal Singh, is the Investigating Officer of this case and he has stated that upon FIR lodged by Babu in Case crime No. 89 of 1981, under Sections- 147, 148, 149 and 302 IPC, he investigated the cross-case and filed charge-sheet against 15 persons, to wit, Babu s/o Kalley, Puttu s/o Kalley, Halkey s/o Moti Kachi, Bhajan Lal s/o Moti Kachi, Baijnath s/o Moti Kachi, Ramanand s/o Punnu, Smt. Ram Dulari w/o Jugraj, Smt. Manjhali Bahu w/o Jalim, Smt. Manjhali Bahu w/o Baijnath, Smt. Sanjhali Bahu w/o Puttu, Smt. Sanjhali Bahu w/o Bhajan Lal, Smt. Badi Bahu @ Kanchan Devi w/o Jassu. Even D.W.1 Hannu, the witness produced by the defence has also stated that both the parties assaulted each other. In view of the above, it is established that the matter relates to cross-case and as it is defence case that the first informant's party also sustained injuries while the accused exercised their right of private defence of person. Therefore, the date, time and place of the alleged incident is not in dispute.

30. It is also not in dispute that at the time of incident the appellant's party was harvesting the Maze crop over the disputed land. Now the first question which arises for consideration is which party was aggressor and

pending between both the parties with regard to disputed land. The defence case is that Maze crop was sown by the accused side. There is no clear evidence to prove which party had sown the crop over the disputed land, so which party was the owner or which party has sown the crop is not clear, but it is not in dispute that the accused were harvesting the crop when the incident started. Now when it is not established by the prosecution that the disputed land or the crop belongs to the informant's side, then their right of private defence of property, does not arise in this case.

31. Now the question arises which party started the assault upon the other, in other words which party was the aggressor. In this regard, also the evidence on record is not very clear. On the one hand, the prosecution witnesses say, that when they objected the appellants of harvesting the crop then the appellants resorted and started beating the first informant's side then in their right of private defence they snatched *lathi* and sickle from the appellant's side and wielded *lathi* in their self defence. On the other hand, the defence evidence shows that it is the first informant's side which started beating the appellant's side then in exercise of right of their private defence of person they wielded *lathi* and sickle which caused injuries to the first informant's side. So, when it is not clear from evidence which party was the aggressor, then it would be deemed that it was a free fight. In case of free fight each person/ party is responsible for its act.

32. The appellants admit the injuries sustained by the first informant's side which is corroborated by medical evidence, in the form of injury reports and the statement of the treating doctor. Therefore, it is not in dispute that first informant's side sustained injuries in the said incident

Smt. Badi Bahu @ Kanchan Devi, Smt. Sanjhali Bahu wife of Bhajan Lal, Smt. Manjhli Bahu wife of Baijnath and Smt. Manjhali Bahu wife of Zalim are concerned, so their participation in the said incident is not established. Though, these witnesses have said that they saw them present at the spot, but P.W.1 Mannu Lal has not said, in clear words, that they had participated in the assault. P.W.2 Lakkhi, the injured witness, has also said that the women present there did not pick up the *lathi* and he did not see that they committed any *maarpeet*. P.W.7 Sujan, has also said that the women were present there, but he did not see them causing any assault. None of the women assaulted to anyone, and it was both the parties who were assaulting each other. Thus, there is no clear evidence that appellants Smt. Badi Bahu @ Kanchan Devi, Smt. Sanjhali Bahu wife of Bhajan Lal, Smt. Manjhli Bahu wife of Baijnath and Smt. Manjhali Bahu wife of Zalim, participated in the crime. There is also no evidence that they shared any common object with other co-accused. Therefore, they deserve to get the benefit of doubt.

34. So far as the surviving appellants Bhajan Lal and Ramanand are concerned, there is specific evidence against them that they have participated in the said crime and committed assault upon the first informant's side. Therefore, prosecution has been able to prove its case beyond reasonable doubt against them. Thus, the learned trial court has not appreciated the evidence on record correctly and reached at the wrong conclusion of the guilt of **Smt. Badi Bahu @ Kanchan Devi, Smt. Sanjhali Bahu wife of Bhajan Lal, Smt. Manjhli Bahu wife of Baijnath and Smt. Manjhali Bahu wife of Zalim** and so far as the appellants Bhajan Lal and Ramanand are concerned, they have been rightly convicted by the learned trial court.

them, is **set aside** and they are **acquitted** of the offence under Section 147 and 323, 324 read with 34 IPC.

36. The appellants, to wit, **Smt. Badi Bahu @ Kanchan Devi, Smt. Sanjhali Bahu wife of Bhajan Lal, Smt. Manjhali Bahu wife of Baijnath and Smt. Manjhali Bahu wife of Zalim** are on bail. They need not surrender. Their personal bonds and surety bonds are cancelled and sureties are discharged of their liabilities.

37. And, with regard to appellant nos. 4 Bhajan Lal and 6 Ramanand, this appeal is **dismissed** and the impugned judgment and order against them is **upheld** and the conviction and sentence of the appellant nos. 4 **Bhajan Lal** and **appellant no.6 Ramanand**, is **affirmed**. Appellants Bhajan Lal and Ramanand are on bail. They are directed to appear before the learned Trial Court within one month from today and instead of serving the sentence, they shall execute the bonds as directed by the learned Trial Court for maintaining good behavior, upon their being released on probation to maintain good conduct for a period of one year, by giving them the benefit of Section 4 of Probation of Offenders Act, 1968.

38. Let a copy of this order be sent to the Trial Court concerned alongwith the Trial Court record for information and necessary compliance.

(Sanjiv Kumar,J.)

July 21, 2026
AdityaG