2026 INSC 1266

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1000/2015

PRABHU SINGH ...APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH ...RESPONDENT(S)

O R D E R

This Criminal Appeal is directed against the judgment dated 20th April 2015 delivered by the High Court of Judicature at Allahabad in Criminal Appeal No. 730 of 1991 by which the conviction of Prabhu Singh under section 302 r/w section 34 of the Indian Penal Code has been confirmed by the High Court.

2. The main ground of challenge raised by the appellant to the judgment of conviction is that the prosecution story of murder of Gajram Singh by gunshot injury is not supported by the medical evidence inasmuch as the post-mortem doctor found eight incised wounds and one lacerated wound but no fire-arm injury on the dead body of Gajram Singh.

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3. The prosecution case, in brief, is that Diwan Singh fired at Gajram Singh with a country-made pistol when he was going to his agricultural field along with his wife Smt. Makhmala and the daughters Veena and Radha. It is stated that Prabhu Singh and one unidentified person also came out from the sugarcane field and caused multiple stab injuries to Gajram Singh who had fallen down on the ground after sustaining the fire-arm injury. According to the prosecution, the incident took place around 03:00 PM on 15th November 1986 and the First Information Report was registered at 05:15 PM vide Crime No. 101 of 1986 on the same day. In the trial the prosecution examined five witnesses out of whom PW5 Chandra Devi deposed in the Court that she was not a witness to the occurrence. She denied to have given any statement to the Investigating Officer and was declared hostile at the request of the prosecution. PW1 and PW2 were projected as eyewitness who supported the prosecution case but at the same time they have consistently spoken also about firing at Gajram Singh by Diwan Singh. PW1 deposed in the Court that her husband was shot in his head by Diwan Singh and he died on the spot. She stood by her previous statement and further stated in the cross-examination that Diwan Singh fired one shot at her husband. PW2 also stated in her examination-in-chief that Diwan Singh opened fire at her father

which hit him on his forehead. In the cross-examination, PW2 further confirmed that Diwan Singh opened fire at her father with a country-made pistol which was about half a hand in length.

4. However, Dr. J.K. Jain who was posted as Medical Officer at Katwar P.H.C. and conducted the autopsy on 17th November 1986 observed the following ante-mortem injuries on the dead body of Gajram Singh:

> "1. Lacerated wound 6 cm x 2-1/2 cm muscle deep on the left side forehead, 20 cm above the eyebrow, bleeding present.
> 2. Incised wound 7 cm x 2-1/2 cm chest cavity deep on the left side chest, 3 cm inner to nipple at 8 O'clock position.
> 3. Incised wound 2 cm x 1 cm chest cavity deep on the left side of chest, 2 cm below the nipple at 5 O'clock position.
> 4. Incised wound 3 cm x 1-1/2 cm chest cavity deep on the left side chest, 5 cm below the nipple at 6 O'clock position.
> 5. Incised wound 2 cm x 1 cm cavity deep on the left side abdomen.
> 6. Incised wound 2 cm x 1-1/2 cm muscle deep on the back left side in the scapular region 2 cm away from injury no. 5.
> 7. Incised wound 3-1/2 cm x 1-1/2 cm muscle cavity deep on the back left side, 1 cm away from midline.
> 8. Incised wound 1 cm x 1-1/2 cm x muscle deep on the left side back lower part, 4 cm below the injury no. 7.
> 9. Incised wound 2-1/2 cm x 1 cm muscle deep on the back left side lower part, 1 cm away from the midline."

5. As PW3, Dr. J.K. Jain rendered his opinion as to cause of death being shock and haemorrhage due to chest injuries. He further stated in the Court that the Injury No. 1 may be caused by a blunt weapon and other injuries were caused by a sharp weapon.

6. The trial Court, however, held that the testimony of PW1 Smt. Makhmala and PW2 Kumari Veena was corroborated by the medical evidence and there was no possibility of false implication of

Diwan Singh and Prabhu Singh; Diwan Singh passed away during pendency of Criminal Appeal before the High Court. The trial Judge referred to the decisions in "*State of U.P. v. Paras Nath Singh & Ors.*"[1] and "*Macchi Singh & Ors. v. State of Punjab*"[2] to believe the testimony of interested witnesses observing that the friends and relatives of the victim would not shield the real culprit and implicate the innocent person. The defence setup by the accused persons that (i) the first information report was ante-dated, (ii) the evidence of PW1 and PW2 was inadmissible because their statements were not recorded by the Investigating Officer, and (iii) that there is sharp inconsistency and contradiction between ocular evidence and medical evidence, was not accepted by the trial Judge who held that the Injury No. 1 which was a lacerated wound of the size of 6 cm x 2 ½ cm, muscle deep on the left of forehead, could be caused by a gunshot. The opinion of PW3 Dr. J.K. Jain was ignored by the trial Judge on the ground that he did not provide any reason why the Injury No.1 could not have been caused by a fire-arm. The trial Judge rather held that the location and size of the Injury No.1 show that it could be very well caused by a fire-arm. The trial Judge referred to the decisions in "*State of U.P. v. Krishna Gopal & Anr.*"[3], "*Solanki Chimanbhai*

[1] State of U.P. v. Paras Nath Singh & Ors. : (1973) 3 SCC 647
[2] Macchi Singh & Ors. v. State of Punjab : AIR 1983 SC 957
[3] State of U.P. v. Krishna Gopal & Anr. : AIR 1988 SC 2154

Ukabhai v. State of Gujarat"[4] and "*Pattipati Venkaiah v. State of Andhra Pradesh*"[5] and fortified his decision that the testimony of PW1 and PW2 should be preferred to medical evidence.

7. In "*Krishnegowda & Ors. v. State of Karnataka*"[6] this Court held that the accused person is entitled to benefit of doubt where there is a clear inconsistency between medical and ocular evidence and the prosecution case suffers from clear contradictions and lapses on the part of the Investigating Officer. In our opinion what the trial Judge has missed out is that the medical evidence can be ignored where there is a possibility of an explanation to the inconsistency with the ocular evidence. However, where the eyewitness account and the medical evidence are completely opposite to each other and there is no possibility of accepting the testimony of eyewitness then the Court is bound to hold that the prosecution failed to establish the charge beyond reasonable doubt.

8. The High Court also held that if the witnesses are reliable then merely on the basis of opinion of the doctor with regard to one of the injuries caused on the forehead of Gajram Singh their presence cannot be disbelieved. It further held that the post-mortem doctor did not provide any specific reason why the Injury No. 1 which

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[4] Solanki Chimanbhai Ukabhai v. State of Gujarat : (1983) SCC (Crl.) 379
[5] Pattipati Venkaiah v. State of Andhra Pradesh : (1985) SCC (Crl.) 464
[6] Krishnegowda & Ors. v. State of Karnataka : (2017) 13 SCC 98

caused fracture of the frontal bone was not caused by bullet. The High Court, in our considered view, committed a serious error in law and overlooked a fundamental rule in criminal trial that it was the duty of the public prosecutor to cross-examine and seek explanation from the post-mortem doctor as to cause of the Injury No. 1. It is important particularly because this was not the case of the prosecution that a bullet was removed from or found stuck in the forehead of the deceased. This was also not a case of the prosecution that a fired bullet was found around the place of occurrence and the same was found matching with the crime weapon. No entry or exit wound was found by the post-mortem doctor and it was a muscle deep lacerated wound of the size of 6 cm x 2 ½ cm which was found over the deceased's forehead.

9. It is trite law that when the prosecution puts forward a specific case it is required to prove its case on all material points beyond reasonable doubt and a failure thereof would entitle the accused to benefit of doubt. There is no mathematical formula to find the truth and the prosecution case depends on the quality of evidence brought before the Court. The veracity of the prosecution case when it is at variance with medical evidence is tested by removing the chaff from the grain in the prosecution evidence. The duty of the prosecution is to clear the suspicious cloud which

clogged the truth. No offender should go scot-free but the offender gets benefit of doubt if the prosecution fails to clear the dust. In "*Himachal Pradesh Administration v. Shri Om Prakash*"[7] this Court observed that the accused is entitled to reasonable doubt – the doubt which a rational thinking man will reasonably, honestly and consciously entertain. Yet again in "*K. Gopal Reddy vs. State of Andhra Pradesh*"[8] this Court held that an accused is entitled to benefit of doubt if the evidence reasonably favors him.

10. It has always been considered a duty of the prosecution to prove by expert evidence that the injuries were likely to be caused or at least possible by the weapon used in the crime. There is a gap, a huge gap, in the prosecution case on a most fundamental point but the Courts below took the textbook view that ocular evidence shall take precedence over medical evidence and discarded the defence of the appellant by relying on PW1 and PW2. But then these witnesses have also stated in the Court at more than one place that Diwan Singh had fired shot at Gajram Singh and he died on the spot. The Court may refuse to act on medical opinion if it is demonstratively unreliable but the Court cannot substitute its own view to the opinion of the medical man. This is also a notable feature of the case

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[7] *Himachal Pradesh Administration v. Shri Om Prakash* : (1972) 1 SCC 249
[8] *K. Gopal Reddy vs. State of Andhra Pradesh* : (1979) 1 SCC 355

that PW3 who is the independent witness did not support the prosecution case and the Investigating Officer conducted a casual investigation and did not endeavour to find the truth. Radha, the other daughter of the deceased, was withheld and not examined by the prosecution. The weapons used in the crime were not recovered and the third assailant remained unidentified. On the face of the records, there is a lingering doubt on participation of the appellant in the crime and the prosecution failed to explain the lurking contradictions in its story.

11. In summation, the appellant's conviction for murder of Gajram Singh is liable to be set aside. The judgment and order dated 10th April 1991 passed against the appellant in S.T. No. 265 of 1987 and the judgment dated 20th April 2015 in Criminal Appeal No. 730 of 1991 are set aside. The appellant shall be released forthwith, if not required in connection to any other case.

12. This Criminal Appeal is allowed.

....., J.
(PRASHANT KUMAR MISHRA)

....., J.
(SHREE CHANDRASHEKHAR)

NEW DELHI;
NOVEMBER 25, 2026.