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IN THE COURT OF SESSIONS JUDGE, AMBEDKAR NAGAR

Sessions Trial Number: 145 of 2019

State of Uttar Pradesh

.....Prosecution

Versus

Umashankar Yadav

.....Accused

Presiding Officer: Sri Chandrodav Kumar, HJS, JO Code UP6553

Prosecution Counsel: Sri Govind Srivastav, DGC (Criminal)

Defence Counsel: Sri Krishna Kawanl, Advocate

Case Particulars	Details
Case Number	Sessions Trial No. 145/2019
Primary Offense	Section 304 IPC (Culpable Homicide not amounting to Murder)
Crime Number	169 of 2019, P/S Malipur, Ambedkar Nagar
Victim (Deceased)	Aryan Pandey, aged 5 years
Accused	Umashankar Yadav
Investigation Officers	SI Munnilal Choudhary (PW-6), SI Shivkumar Singh (PW-7)
Date of Incident	August 15-16, 2019
Location of Death	Shrajan Hospital, Jaunpur

Witness Number	Name of Witness	Designation / Role
PW-1	Vinod Pandey	Complainant (Vadi Mukadma) / Author of Ext. K-1
PW-2	Soni Pandey	Prosecution's Witness of Facts
PW-3	Shashi Prakash Pandey	Prosecution's Witness of Facts
PW-4	Alok Kumar Pandey	Prosecution's Witness of Facts
PW-5	Dr. Ashish Kumar	Medical Officer (PMR) / Author of Ext. K-2
PW-6	S.I. Munnilal Chaudhary	Sub-Inspector (Police) (IO)
PW-7	S.I. Shivkumar Singh	Sub-Inspector (Police) (IO)

Exhibit Number	Description of Document
Ext. K-1	Written Complaint / Tehrir
Ext. K-2	Post-Mortem Report of the Deceased

Exhibit Number	Description of Document
Ext. K-3	Letter to the Chief Medical Officer (CMO)
Ext. K-4	Inquest Report (Panchayatnama)
Ext. K-5	Police Form No. 13 (Challan for Post-Mortem)
Ext. K-6	Specimen Seal
Ext. K-7	Photograph of the Deceased (Photo Nash)
Ext. K-8	Letter from SHO Malipur for conducting Post-Mortem
Ext. K-9	General Diary (G.D.) Entry
Ext. K-10	Letter to the Chief Medical Officer (CMO)
Ext. K-11	Letter to the Reserve Inspector (RI)
Ext. K-12	Site Plan (Naksha Nazri)
Ext. K-13	Chik First Information Report (FIR)
Ext. K-14	G.D. Entry regarding Registration of Case
Ext. K-15	Charge Sheet

JUDGMENT

I. Factual Matrix and Prosecution Narrative

1. The case at hand involves a profound tragedy – the death of a five-year-old child, Aryan Pandey, whose life was cut short following what was ostensibly a routine medical procedure for a fractured limb. The prosecution’s case, as set out in the First Information Report (FIR) and the subsequent charge sheet, posits a narrative of medical negligence, unauthorised practice, and a subsequent cover-up. On August 15, 2019, the deceased child sustained an injury to his leg while playing. His parents, Vinod Kumar Pandey (PW-1) and Soni Pandey (PW-2), brought him to the Janseva Skin and Bone Clinic near the Malipur railway crossing in Ambedkar Nagar district.
2. The prosecution alleges that the accused, Umashankar Yadav, represented himself as a qualified medical practitioner at the said clinic. Upon examination, the accused informed the parents that the child’s leg was fractured and required the surgical insertion of a rod. A financial arrangement was made under which the complainant paid the accused ₹20,000 (INR) for the surgery. However, the accused stated that the operation would not be conducted at the Malipur clinic but at an affiliated facility – Shrajan Hospital in Jaunpur – under the care of one Dr Sanjay Singh. On August 16, 2019, the child was transported to Jaunpur in a vehicle provided by the accused.
3. According to the testimony of the parents and relatives, the child was conscious and active during the journey. Upon arrival at Shrajan Hospital, the child was taken for surgery, which lasted approximately ninety minutes. Following the procedure, the child failed to regain consciousness. The medical staff at Shrajan Hospital, including the primary surgeon Dr Sanjay Singh, reportedly gave evasive answers to the anxious parents, suggesting the child would wake up in due course. When the child’s condition worsened, they were directed to another hospital. The child was brought to the Isha Hospital in Jaunpur, where the medical staff declared the child dead on arrival.
4. The most egregious aspect of the narrative involves the aftermath of the death. It is alleged that the accused, Umashankar Yadav, and the surgical team from Shrajan Hospital abandoned the grieving parents and the corpse of the child near an overbridge in Jaunpur before fleeing. The family eventually managed to return to Malipur with the body and lodged a formal complaint. The investigation followed, resulting in the arrest of Umashankar

Yadav and his prosecution under Section 304 of the Indian Penal Code (IPC).

5. I have heard the learned DGC (Criminal) and counsel for the defence, and I have perused the record meticulously.

II. Legal Framework and Points for Determination

6. The accused stands charged under Section 304 IPC, which pertains to culpable homicide not amounting to murder. This section is invoked when an act is done with the intention of causing death, or causing such bodily injury as is likely to cause death, or with the knowledge that the act is likely to cause death. In the context of medical practice, such charges are typically scrutinised under the lens of criminal negligence, often evaluated alongside [Section 304A IPC](#) (death by medical negligence).
7. The legal standards for medical negligence in India are dictated by the landmark judgment of the Hon'ble Supreme Court in [Jacob Mathew vs State of Punjab & Anr on 5 August 2005, AIR 2005 SUPREME COURT 3180](#). The Court established that to fasten criminal liability, the negligence must be "gross" or "reckless," far exceeding the standard required for civil liability. A doctor cannot be held criminally liable for a mere error of judgment or an accident that occurs despite following accepted medical practices.
8. For the adjudication of this trial, the Court has framed the following points for determination:
 1. Whether the prosecution has established that the accused, Umashankar Yadav, held himself out as a medical professional and induced the complainant to undergo a surgical procedure that was ultimately fatal.
 2. Whether the death of Aryan Pandey was caused by gross medical negligence, specifically the administration of anaesthesia on a "full stomach" in violation of established medical protocols.
 3. Whether the investigation conducted by SI Munnial Choudhary and SI Shivkumar Singh was fair, impartial, and compliant with the principles of natural justice and the Code of Criminal Procedure.
 4. Whether there is evidence to suggest that the investigating agency deliberately shielded the primary surgeon, Dr Sanjay Singh, and the anaesthetist involved in the surgery, while scapegoating the current accused for ulterior motives.

5. Whether the accused is entitled to an acquittal based on the evidentiary gaps and the failure of the prosecution to link him directly to the surgical act that caused the death.

III. Detailed Appreciation of Evidence

9. The prosecution examined seven witnesses to substantiate its claims. The evaluation of their testimonies is pivotal in identifying the contradictions and investigative failures that plague this case.

A. Testimony of the Complainant and Primary Witnesses (PW-1 to PW-4)

10. Vinod Kumar Pandey (PW-1), the father of the deceased, provided the foundational narrative. He testified that the accused, Umashankar, identified himself as a doctor at the Janseva Clinic and diagnosed the fracture. He confirmed the payment of 20,000 INR and the subsequent referral to Jaunpur. However, in his cross-examination, PW-1 made a critical admission: he stated that he had never seen Umashankar Yadav perform a surgery and that at Shrajan Hospital, it was Dr Sanjay Singh who took the child into the operating theatre. This admission creates an immediate disconnect between the accused and the lethal act.
11. Soni Pandey (PW-2), the mother, corroborated the active state of the child before the surgery. She highlighted that the child was "playing and conscious" until he was taken for the operation. Her testimony focuses on the failure of the child to wake up after the administration of anaesthesia. She identified the presence of Dr Sanjay Singh but noted that Umashankar Yadav remained outside the operating room during the actual procedure.
12. Shashi Prakash Pandey (PW-3) and Alok Kumar Pandey (PW-4) provided detailed accounts of the physical condition of the child post-surgery. PW-3 described seeing "swelling" and "froth" (foam) coming from the child's mouth. This observation is a crucial medical indicator of pulmonary aspiration. PW-4 added that the accused, Umashankar Yadav, had taken "100% guarantee" for the child's recovery, yet abandoned them when the child expired. Minor contradictions are bound to occur in every testimony due to the lapse of time or to non-essential facts, unless it is a case of parroting. In the case at hand, there are no material contradictions in the witnesses' testimony regarding the facts, and the witnesses' testimony on the core issues remains intact.

B. Medical Evidence and the Autopsy Findings (PW-5)

13.No poisoning found in FSL report. The testimony of PW-5, Dr Ashish Kumar, who performed the post-mortem (PMR) (Exhibit K-2), is perhaps the most significant in terms of forensic evidence. He observed that both lungs were "congested" and that there was froth present in the mouth and nose. Most importantly, the stomach examination revealed the presence of "semi-solid food".

Autopsy Observation	Forensic Implication	Source Reference
Froth at mouth/nose	Suggestive of pulmonary oedema or aspiration	PMR
Congested Lungs	Consistent with chemical pneumonitis	PMR
Semi-solid food in the stomach	Violation of NPO (fasting) protocols	PMR
No external injuries	Death caused by internal/anaesthetic factors	PMR

14.Postmortem doctor's admission in cross-examination that he did not see any plaster or signs of surgery on the deceased's leg is surprising. He did not even mention in his postmortem the broken bones in the leg or vigo precession, while the inquest report and all the witnesses of facts clearly mention both things. This shows that the postmortem doctor favoured the treating doctor. It can safely be inferred that the treating doctor was powerful and influential.

15.No doubt, the crime leaves its marks. It is well settled that falsus in uno falsus in omnibus does not apply in India. PM Dr Ashish Kumar's findings point directly to a failure in preoperative management. In medical jurisprudence, the presence of semi-solid food in the stomach of a patient undergoing general anaesthesia is a primary risk factor for Mendelson Syndrome—a condition where gastric contents are aspirated into the lungs, leading to rapid respiratory failure and death.

C. Critique of the Investigation (PW-6 and PW-7)

16.The testimonies of the investigating officers, SI Munnilal Choudhary (PW-6) and SI Shivkumar Singh (PW-7), reveal a staggering degree of negligence and selectivity.

- 17.SI Munnial Choudhary (PW-6) admitted during cross-examination that he did not visit Shrajan Hospital in Jaunpur, the actual scene of the crime. He did not prepare a site plan of the operating theatre, nor did he seize the medical records or anaesthesia charts from the Jaunpur facility. He claimed that his transfer prevented him from completing these tasks, yet he found time to arrest Umashankar.
- 18.SI Shivkumar Singh (PW-7), who took over the investigation, admitted that he recorded statements from independent witnesses who identified Dr Sanjay Singh as the surgeon and noted that the death occurred during his operation. Despite this knowledge, PW-7 proceeded with an "incomplete" or "partial" charge sheet against Umashankar, while the investigation against Dr Sanjay Singh remained mysteriously stagnant.
- 19.The IOs failed to answer why they did not verify the professional credentials of Umashankar Yadav. The defence argues that Umashankar was merely a low-level staff member or cleaner, a claim that the IOs did not bother to investigate by questioning building owners or neighbours. The failure to investigate the hospital in Jaunpur, where the fatal act occurred, indicates a deliberate attempt to keep the more influential Dr Sanjay Singh out of the immediate criminal proceedings.

IV. Medical Jurisprudence: Anaesthesia and the Fatal "Full Stomach"

- 20.The medical heart of this case lies in the administration of anaesthesia to a pediatric patient with a "full stomach." The evidence suggests that Aryan Pandey died due to pulmonary aspiration of gastric contents, a complication that is almost entirely preventable with proper medical adherence.

A. Mendelson Syndrome and Pulmonary Aspiration

- 21.[Mendelson Syndrome](#), first identified by Curtis Lester Mendelson in 1946, is a form of chemical pneumonitis caused by the aspiration of gastric contents during anaesthesia. It occurs when the laryngeal protective reflexes are abolished by anaesthetic agents, allowing acidic stomach fluids to enter the respiratory tract.
- 22.Medical literature highlights that specific physiological conditions increase this risk, including the "full stomach" status. For a child like the deceased, the presence of semi-solid food in the stomach at the time of anaesthesia/surgery is a "red flag" contraindication for [General Anaesthesia](#) (GA) unless life-saving emergency measures are taken to secure the airway.

Fasting Guideline (ISA)	Description	Requirement for Aryan Pandey
Clear Liquids	Water, black coffee, tea	2 hours prior to induction
Breast Milk	Pediatric specific	4 hours prior to induction
Light Meal	Rice, dal, poha	6 hours prior to induction
Heavy Meal	Fatty or fried foods	8-10 hours prior to induction

23. In the present case, the autopsy revealed "semi-solid food". This implies that either the child was fed shortly before the operation or the surgical team at Shrajan Hospital failed to verify the child's NPO (Nil Per Os) status. Administering anaesthesia in such a state, without the use of a cuffed endotracheal tube or rapid sequence intubation, is a gross departure from established medical protocol standards.

B. The Duty of the Anaesthetist and Surgeon

24. The responsibility for ensuring the patient is fit for anaesthesia rests with the anaesthetist and the primary surgeon. The Supreme Court in [*V. Kishan Rao vs Nikhil Super Speciality Hospital & Anr on 8 March 2010, \(2010\) 5 SCC 513*](#), observed that a duty of care exists in deciding what treatment to give and in its administration.

25. The failure to monitor the child's vital signs and the subsequent "frothing" and "swelling" described by the family are classic signs of aspiration during preparation for the operation. In the case of [*Nurse Rajbir Kaur*](#) at AIIMS Delhi, 2017, the Delhi Medical Council suspended doctors because a junior resident improperly administered anaesthesia to a patient considered to have a "full stomach," leading to death. The parallels to the current case are striking. The person who administered the anaesthesia and the surgeon who authorised it are the primary actors in this negligent homicide.

V. Analysis of Investigative Lapses and Ulterior Motives

26. A criminal investigation is not a mere formality but a quest for the truth. The investigation in this case, however, appears to have been a quest to insulate the wealthy and influential while sacrificing a convenient scapegoat.

A. Tainted Investigation and the "Kishanbhai" Precedent

27. In [*State of Gujarat vs Kishanbhai on 7 January 2014*](#), 2014 AIR SCW 557, the Hon'ble Supreme Court lamented the "shoddy investigation" that often leads to the acquittal of real culprits and the suffering of the innocent. The Court mandated that investigating officers must be held accountable for "culpable lapses" or "sheer negligence".

28. In the case at hand, the IOs committed several "fatal defects" similar to those identified in *Kishanbhai* :

1. **Failure to examine the goldsmith/surgeon:** The person who performed the surgery (Dr Sanjay Singh) was not interrogated as a primary suspect.
2. **Missing links in evidence:** The IOs did not collect the "anaesthesia notes" or "operation theatre register" from Shrajan Hospital, which would have identified the exact cause of death and the roles of the staff.
3. **Inconsistent witness testimonies:** The IOs ignored the parents' statements that Dr Sanjay Singh was the surgeon, focusing instead on the referral made by Umashankar.

B. Ulterior Motives and the Protection of the Real Culprit

29. The investigation reveals a distinct "ulterior motive." Dr Sanjay Singh, an orthopaedic surgeon running a hospital in Jaunpur, belongs to a higher social and financial stratum than Umashankar Yadav. The decision to charge-sheet Umashankar under Section 304 IPC while only issuing a notice to Dr Sanjay Singh under Section 41A CrPC – despite the fact that the death occurred under the latter's knife – is a textbook example of a biased investigation.

30. The Hon'ble Supreme Court in [*Babubhai vs State Of Gujarat & Ors on 26 August 2010*](#), 2010 AIR SCW 5126, (2010), held that an investigation must be free from objectionable features or infirmities that lead to a grievance of unfairness. By failing to visit the actual scene of the crime and by failing to identify the anaesthetist, the IOs have trammelled upon the personal liberty of the current accused while allowing the real perpetrator to escape the dragnet of justice.

C. Violation of UP Police Regulations

31. The conduct of SI Munnial Choudhary and SI Shivkumar Singh is a direct violation of the [UP Police Regulations](#), particularly [Chapter XXXII](#), which governs the conduct of investigations.

Regulation 486 emphasises that investigations must be carried out with the "reason to believe" the charge is true, based on evidence, not on the convenience of the agency.

32. Furthermore, Paragraph 493 of the Regulations establishes that the department must take the findings of the Court as final. This Court finds that the IOs committed "professional misconduct" by failing to perform the basic duties of their office—namely, securing the crime scene and identifying the primary offender.

VI. Conclusion and Findings of the Court

33. After a comprehensive evaluation of the oral and documentary evidence, this Court arrives at the following conclusions:

1. **Failure to Link the Accused to the Act:** The prosecution has failed to prove that Umashankar Yadav performed any medical or surgical act on the deceased child. Dr Sanjay Singh performed the surgery at a different hospital. Even if the accused made a referral, a referral itself, absent criminal conspiracy (which was not investigated), does not attract the elements of Section 304 IPC.
2. **Gross Negligence of the Surgical Team:** The medical evidence (autopsy report) clearly establishes that the child died due to complications arising from the administration of anaesthesia on a "full stomach." This is a case of "gross medical negligence" under the *Jacob Mathew* guidelines, but the culprits (the surgeon and anaesthetist) were not brought to trial.
3. **Malicious Investigation:** The investigation was perfunctory, biased, and aimed at shielding Dr Sanjay Singh. The IOs failed to visit the crime scene in Jaunpur and ignored the primary evidence regarding the actual surgery.
4. **Benefit of Doubt:** The defence has successfully shown that Umashankar Yadav may have been an employee rather than a practising doctor, and the prosecution failed to rebut this with official records. The benefit of this substantial doubt must accrue to the accused.

34. The justice system cannot be used as a tool for the police to settle accounts or to protect the influential at the cost of the poor. To convict Umashankar Yadav for a surgery he did not perform, while the police shield the surgeon who performed it, would be a gross miscarriage of justice. Judges should not be passive observers; they must act with courage and impartiality in the face

of administrative or political pressures; otherwise, time is not far from becoming a parroting institution. Similarly, other officials are expected to be unbiased with respect to caste, creed, religion, profession, and economic status. They should uphold the law in its true sense, free from any external pressures or greed.

VII. Order and Directives to the Superintendent of Police

35. In view of the foregoing findings, this Court passes the following order:

A. Acquittal of the Accused

The accused, **Umashankar Yadav**, is hereby **ACQUITTED** of the charges levelled against him under Section 304 of the Indian Penal Code. The prosecution has failed to establish the accused's guilt beyond a reasonable doubt. The accused is on bail. His bail bonds and personal bonds are hereby discharged.

B. Directives to the Superintendent of Police, Ambedkar Nagar

This Court takes serious exception to the manner in which SI Munnilal Choudhary (PW-6) and SI Shivkumar Singh (PW-7) have conducted this investigation. Their actions have resulted in the incarceration of a person for an act he did not commit, while the real culprits remain at large.

1. **Action for Perfunctory Investigation:** The Superintendent of Police (SP), Ambedkar Nagar, is directed to initiate a formal departmental inquiry against PW-6 and PW-7 for "culpable lapses" in the investigation, as per the mandate of the Supreme Court in *State of Gujarat v. Kishanbhai (Supra)*.
2. **Inquiry into Ulterior Motive:** The inquiry must specifically investigate why the operating theatre and medical records of Shrajan Hospital, Jaunpur, were not seized and why Dr Sanjay Singh was not charge-sheeted alongside the current accused.
3. **Penal Action:** The SP shall evaluate whether the conduct of the IOs warrants prosecution under [Section 211 IPC](#) (False charge of offence made with intent to injure) or [Section 218 IPC](#) (Public servant framing incorrect record to save person from punishment).
4. **Further Investigation:** Under [Section 173\(8\) CrPC](#), the SP is directed to ensure that a fresh, fair investigation is conducted into the role of Dr Sanjay Singh and the anaesthetist involved in the death of Aryan Pandey. The PMR doctor's

responsibilities will also be examined. Justice for the deceased child must be pursued against the actual medical practitioners whose negligence was revealed in the autopsy.

5. **Medical Safety Awareness:** The SP shall ensure that the police personnel are sensitised regarding the Jacob Mathew guidelines to prevent the harassment of innocent paramedics while ensuring that cases of "gross negligence" – like anaesthesia on a full stomach – are investigated with scientific rigour.
6. **Compliance Report:** A report on the actions taken by the SP in compliance with these directions must be submitted to this Court within **sixty days** from the date of this order.

C. General Observations on Anaesthesia Safety

36. This Court emphasises, for the benefit of the medical and legal fraternity, that anaesthesia **must never be administered to a person with a full stomach** in elective procedures. The presence of "semi-solid food" in the child's stomach during autopsy is a definitive marker of medical malpractice in this case. Surgeons and anaesthetists who violate NPO (Nil Per Os/Nothing by Mouth) protocols engage in life-threatening behaviour that crosses the threshold of civil error into criminal rashness.

D. Referral for the Victim Compensation Scheme

37. Taking into account the loss of parents and the death of their only child, the case is referred to the Secretary of the District Legal Services Authority in Ambedkar Nagar for consideration under the Victim Compensation Scheme. This directive does not preclude filing a tort law compensation claim in a civil case.

Let a copy of this judgment be sent to the Superintendent of Police, Ambedkar Nagar, the District Magistrate, Ambedkar Nagar, the Chief Medical Officer, Ambedkar Nagar and the Secretary, District Legal Services Authority, Ambedkar Nagar for immediate information and compliance.

This judgment is signed, dated and pronounced by me in open court today.

Date: 16-03-2026

(Chandroday Kumar)
Sessions Judge
Ambedkar Nagar