



Date of Institution	Date of Judgement:	Age:
02/03/21	06/06/25	4 Y, 4 M, 3 D
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CNR No-UPKJ010006772021

In The Court of Sessions Judge, Kannauj

Presiding Officer- Shri Chandroday Kumar (HJS)-UP06553

Session Trial Number-146 of 2021

State of Uttar Pradesh ... Prosecution
Versus

- 1. Jitendra alias Sukhveer,
- 2. Satendra,
- 3. Upendra,
- Sons of Radhakrishna,
- 4. Radhakrishna, son of Late Bholanath, and
- 5. Smt. Kamla, wife of Jitendra alias Sukhveer.

All residents of village Haraipur, Police Station Thathiya, District Kannauj
... Accused.

Crime Number-47/2020
Under Sections 147, 148, 304/149, 323/149, 504
IPC
Police Station- Thathiya,
District- Kannauj.

Prosecution Counsel: Shri Tarun Chandra, DGC (Criminal),
Defence Counsel: Shri Chotelal, Advocate.

JUDGMENT

INTRODUCTION

The individuals accused—Jitendra alias Sukhveer, Satendra, Upendra, Radhakrishna, and Smt. Kamla—have been charged with and tried for offences punishable under Sections 147, 148, 304/149, 323/149, and 504 of the Indian Penal Code (IPC).

FACTS

2. According to the prosecution's story, the brief facts related to the case are as follows: On February 05, 2020, the complainant, Geeta Devi, submitted an application to the in-charge of the Thathiya Police Station in Kannauj District. She reported that on 05.02.2020 at around 06:30 PM, Jitendra, Satendra, and Upendra, sons of Radhakrishna and residents of the

same village, abused the complainant and her husband over a property dispute. When they were asked to stop using abusive language, they forcibly assaulted the complainant with sticks, rods, kicks and punches, causing her multiple injuries. The complainant requested that her complaint be registered and that legal action be taken.

NCR

3. Based on the application, a Non Cognizable Offence (NCR) No.-16/2020 was registered at the Police Station in Thathiya, District Kannauj, under Sections 323, 504 of the Indian Penal Code (IPC) against the accused Jitendra, Statendra and Upendra, on February 05, 2020, at 22:38.

Injury Reports

4. On February 05, 2020, Dr. Rajan Sharma, at the Community Health Centre Tirwa, conducted a medical examination of the *injured Pramesh*. The following injuries were found on his body:

Injury No. 1: A lacerated wound measuring 6 x 0.7 cm was present on the left side of the head, 9.5 cm above the left ear pinna, extending to the depth of the muscles. Fresh blood clots were present in the wound. X-ray and further treatment were advised under medical supervision.

Injury No. 2: Freshly clotted blood was present in both nasal nostrils.

Injury No. 3: A Lacerated wound measuring 1.5 x 0.3 cm was present on the upper side of the index finger of the left hand. Freshly clotted blood was present on it.

Injury No. 4: A lacerated wound measuring 1 x 0.2 cm was present near the nail of the index finger of the left hand. Freshly clotted blood was present on it.

Doctor's opinion: All the above-mentioned injuries found on the victim's body were caused by a hard, blunt object. Except for Injury No. 1, all other injuries were simple, and all were fresh. The victim was referred to the District Hospital for X-ray and further treatment regarding Injury No. 1.

5. On the same day, i.e., February 5, 2020, Dr. Rajan Sharma, at the Community Health Centre Tirwa, conducted a medical examination of the *injured/complainant, Smt. Geeta Devi*, wherein the injury was found on her body:

A lacerated wound measuring 3 x 0.5 cm was present on the right side of the head, 10 cm above the right ear. The wound was deep up to the muscles. Freshly clotted blood was present on it.

Doctor's Opinion: The injury was caused to the victim by a hard, blunt object. The injury was simple and fresh.

6. On February 09, 2020, the complainant, Geeta Devi, submitted a written Tahrir (Exhibit Ka-1) to the in-charge of the Thathiya Police Station

in Kannauj District. She reported that on **February 05, 2020, at approximately 06:30 PM, Jitendra, Satendra, and Upendra, sons of Radhakrishna and residents of the same village, began abusing the complainant, her husband, Ankit**, in connection with a family partition dispute. When Parmesh (the complainant's paternal uncle-in-law) came to intervene and protect them, the accused persons assaulted him with sticks and rods. Due to the injuries sustained, Parmesh died on February 06, 2020, at 11:45 PM during treatment at Hallet Hospital, Kanpur Nagar. The place of occurrence was the courtyard outside Parmesh's residence. The complainant requested that necessary action be taken against them.

7. Based on the Tahrir, the N.C.R. No 16/2020 was amended and Case Crime No. 47 of 2020 was registered under sections 304, 323, 504 of the Indian Penal Code(IPC) against the accused individuals, Jitendra, Satendra and Upendra.

8. At the same time, the same extract was entered into General Diary (GD) No. 36. The investigation of this case was assigned to Inspector Santosh Kumar Dubey, in charge of Thathiya Police Station, Kannauj.

INQUEST

9. On February 07, 2020, SI Subhash Chandra visited the mortuary at Hallet Hospital, Kanpur Nagar, and conducted an inquest regarding the death of Pramesh. After the inquest proceedings, the report (Panchayatnama Exhibit Ka-2) was prepared. The Panchayatnama mentioned the cause of death as injuries sustained. To determine the exact cause of death, a postmortem was suggested. Accordingly, a letter to the CMO (Exhibit Ka-6), a sample seal (Exhibit Ka-7), a photo of the corpse (Exhibit Ka-8), and a challan of the corpse (Exhibit Ka-9) were prepared.

MEDICAL EXAMINATION

10. On the same day, i.e. February 07, 2020, Dr Rajesh Kumar Verma conducted the post-mortem of Pramesh between 12:20 P.M. and 01:05 P.M. and prepared the post-mortem report, Exhibit Ka-3. The findings of the postmortem are as follows:

General Examination: The deceased was 168 cm tall with a medium build. Rigour mortis was present in both the upper and lower parts of the body. It had resolved in the neck. Postmortem staining was observed on the back of the body, including the back and both hips, as well as other dependent parts. A bandage was present all around the skull. A cannula (IV line) was inserted into the hand. The mouth and eyes were closed.

Antemortem Injuries:

1. A stitched wound with four sutures was present on the left side of the skull, 5 cm above the ear, involving the parietal, temporal, and occipital bones.

2. An abraded contusion measuring 4 cm × 2 cm was present on the left upper arm, between the elbow and shoulder joint.
3. A lacerated wound measuring 2 × 1 cm was present on the left index finger.
4. An abraded contusion measuring 3 × 2 cm was present on the lower part of the left ankle joint.
5. An abraded contusion measuring 4 × 2 cm was present on the medial side of the right ankle joint.

Internal Examination: Three bones of the skull were found fractured as described above. The meninges of the brain were torn and congested. The brain weighed approximately 1250 grams and was lacerated and congested, with approximately 180 ml of clotted blood present. There were 15–16 teeth. Both lungs were congested. The heart weighed 280 grams; the left chamber was empty, and the right chamber was filled with blood. The stomach weighed 170 grams and contained approximately 100 ml of watery fluid. The small intestine contained some gas, and the large intestine contained both gas and faecal matter. The liver weighed 1300 grams and was congested. The spleen weighed 200 grams and was congested. The gall bladder was partially filled. The kidneys weighed 150 grams and 140 grams, respectively, and both were congested.

In the Doctor's opinion, the cause of death of the deceased appears to be coma resulting from head injuries sustained before death. All injuries appear to have been caused by a hard and blunt object.

INVESTIGATION

11. The IO, Santosh Kumar Dubey, visited the scene, prepared the site map Exhibit Ka-13, collected inquest and postmortem reports, and recorded witnesses' statements. Upon completing the investigation, the IO submitted a charge sheet against the accused, Jitendra alias Sukhveer, Satendra, Upendra Radhakrishna and Smt. Kamla, under sections 147, 148, 149, 304, 323, and 504 of the IPC, in the Court of the Chief Judicial Magistrate (CJM), Kannauj.

COGNISANCE AND COMMITTAL

12. The learned CJM, Kannauj, took cognisance of the matter and, upon determining the case to be triable by the Court of Sessions, committed the case to the Court of Sessions, following compliance with section 207 of the Code of Criminal Procedure (CrPC).

CHARGES

13. This court registered the case as Session Trial Number 146 of 2021 and framed the charge against the accused, Jitendra alias Sukhveer, Satendra, Upendra Radhakrishna and Smt. Kamla, under sections 147, 148, 304/149, 323/149 and 504 of the IPC. The accused pleaded innocence and claimed to be tried.

14. The prosecution examined the following witnesses to substantiate the charges against the accused:

Witness of facts:

PW1, Smt. Geeta Devi, the first informant, an injured eyewitness,
PW2, Paras, witness,
PW3, Guddi Devi, wife of the deceased,
PW4, Hari Babu, hostile witness,
PW5, Ankit, eyewitness, and
PW7, Naresh Chandra, witness.

Formal witnesses:

PW6, Dr Rajesh Kumar Verma, conducted the post-mortem of the deceased,
PW8, Dr Rajan Sharma, conducted the medical examination of the injured/deceased Parmesh,
PW9, SI Subhash Chandra, prepared Panchayatnama, Letter to CMO for postmortem, Sample Seal, Photo Corpse, and Challan Corpse.
PW10, SI Baburam, proved Amended (Tarmimi) G.D.,
PW11, Constable Kaushal Kumar Bajpai, proved the N.C.R. and G.D., and
PW12, SI Santosh Kumar Dubey, IO, prepared the site map and submitted the chargesheets.

15. The prosecution produced the following papers under documentary evidence:

Exhibit Ka-1, Tahrir; proved by PW1,
Exhibit Ka-2, Panchayatnama; proved by PW4,
Exhibit Ka-3, Postmortem report; proved by PW6,
Exhibit Ka-4, Medical examination of injured Parmesh; proved by PW8,
Exhibit Ka-5, Medical examination of injured Geeta Devi; proved by PW8,
Exhibit Ka-6, Letter to CMO for postmortem; proved by PW9,
Exhibit Ka-7, Sample Seal; proved by PW9,
Exhibit Ka-8, Photo Corpse; proved by PW9,
Exhibit Ka-9, Challan Corpse; proved by PW9,
Exhibit Ka-10, Tarmimi G.D.; proved by PW10,
Exhibit Ka-11, NCR; proved by PW11,
Exhibit Ka-12, G.D. No 55; proved by PW11,
Exhibit Ka-13, Site Map; proved by PW12,
Exhibit Ka-14, Recovery place of two sticks and an iron rod; proved by PW12,
Exhibit Ka-15, Recovery memo; proved by PW12,
Exhibit Ka-16, Chargesheet; proved by PW12, and
Exhibit Ka-17, Chargesheet against the remaining accused, Radhakrishna and Smt. Kamla; proved by PW12.

DEFENCE VERSION

16. During the examination conducted under Section 313 of the Criminal Procedure Code, the accused individuals stated that they did not quarrel with the deceased. The dispute and altercation were actually between the complainant, Geeta Devi, and her husband, Ankit, on one side, and Parmesh and his family members on the other. They mutually settled the matter, but after due consideration, a false report was lodged on 9 February 2020, i.e., four days after the incident.

17. No oral evidence has been produced in defence

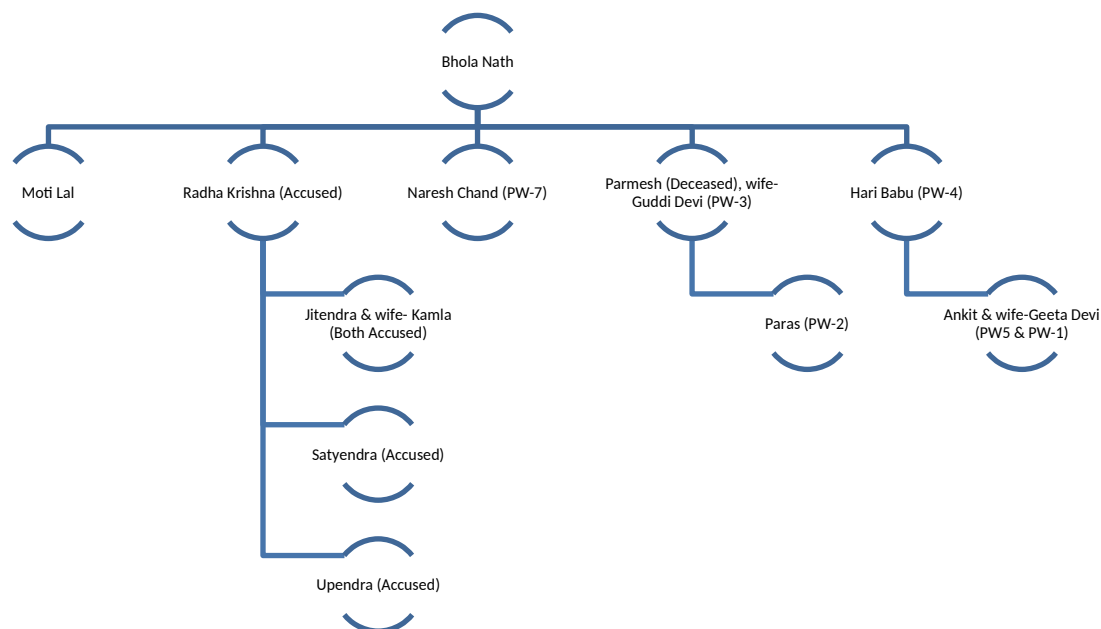
ARGUMENTS

18. I heard the arguments of the learned District Government Counsel (DGC) (Criminal) and learned counsel for the defence. I went through the evidence and materials available on the record with due diligence.

Appreciation of Evidence

19. **Prosecution Evidence:** The prosecution’s case rests on both ocular evidence (eyewitness testimony) and medical evidence, as well as circumstantial and supporting evidence gathered during the investigation. The salient aspects of the evidence are summarised and analysed as follows:

20. **Eye-Witness/Complainant’s Testimony:** Smt. Geeta Devi (PW-1), supporting the prosecution's story in examination-in-chief, deposed that she was nervous due to the injuries. In a hurry and anxious, she got her father-in-law’s brother, Hari Babu (PW-4), to write an application. That application was not written correctly. As such, she disowned her tehrir for FIR. Notably, the witness is not illiterate, as she admits. In the cross-examination, she stated the genealogy of both sides as follows:



21. She admitted that the division between them had happened. If a partition had occurred, no property dispute would have remained, which means that *there was no motive for the incident*. Though the absence of motive a sine qua non is non-fatal to the prosecution, it is also true that without a motive, assault is least probable. **In the NCR, only three people, Jitendra, Satyendra, and Upendra, were named. She accepted that two**

more names of the same family, Radha Krishn and his wife Kamla, were introduced as accused in the box only. The addition of Radha Krishna and his wife, Kamla, creates serious doubts about the credibility of this witness. Additionally, the explanation for the delay in lodging the FIR, citing that she had fainted, is unacceptable in the facts and circumstances of the case. She had no such grievous injury as would cause the witness to faint. That means her statement under Section 161 of the CrPC and her testimony before the court, introducing two new accused, are *an afterthought, and her claim of faintness undermines her credibility*. On the one hand, she states that she remained faint from the occurrence place to the police station until lodging the FIR, and on the other hand, she claims that she travelled from the occurrence place to the police station by tempo and then to Tirwa Medical College. These statements are self-contradictory. According to the site plan, the occurrence took place in front of the deceased's house, whereas this witness states that it took place in front of her house; hence, *the place of occurrence is shifting, which creates doubts about the prosecution's story*. The witness also said that they had no contact or conversation with Radha Krishna, which suggests that there was enmity between them. Enmity is a double-edged sword. Non-disclosure of the kind of enmity in the FIR or statements implies that the accused may falsely be involved. The witness has stated *that it was nighttime, around six-thirty. That is why she could not see who else had come. If she could not see the people reached on the spot, how could she identify the accused and the weapon is a million-dollar question*. The witness denied that the site plan was prepared at her behest and any statement to the police after 06.02.2020 is factually incorrect. In these circumstances, the suggestion that due to a fall, the deceased sustained a fatal head injury and the accused were roped in falsely has force. **Despite being an injured witness, in the overall assessment, the credibility of the witness is shaken regarding the deadly blow by the accused to the deceased.**

22. **Uninjured and Interested Witness (PW-2):** Paras (PW-2), the son of the deceased, stated that *he reached the crime scene about half an hour later*. His uncle, Naresh Chandra, and his mother, Guddi Devi, accompanied him to the crime scene. When he reached the crime scene, his father, Geeta Devi, and brother, Ankit, were there. No one else was there. *He told Daroga Ji whatever his mother and Geeta Devi told him. This fight was not happening with his father and the accused. Instead, it was happening with Geeta Devi and Ankit. He had stated in his statement that Geeta Devi had many injuries*. But it is not true. She had a single injury, while Ankit had none. It is suggested that he did not see the incident with his own eyes, and he testified based on what Geeta Devi, Haribabu and Ankit said. I find force in the suggestion that *he did not witness the incident*.

23. **Uninjured and Interested Witness PW3, Guddi Devi,** stated that she was not present when the accused fought with Ankit. *When Geeta was fighting with the accused, she was at her home, a short distance away. She reached there a little after the fight*. When she arrived at the crime scene, a crowd was already gathered there. **She will not be able to identify the**

villagers in the crowd due to the darkness. She did not ask the people present in the crowd why Ankit was fighting. Daroga Ji did come because they had been paid money. **She is giving the statement today, as Geeta told her.** It is apparent that this witness could not have seen the incident, as he reached the spot after it had happened. The deceased sustained injury due to a fall or a blow, but the cause remains unresolved from his testimony.

24. **Uninjured and Interested Witness PW-4, Hari Babu,** stated that his father had two marriages. Motilal was from the first wife, and the second wife had four brothers: Radhakrishna, he, Nareshchandra and Parmesh. They all live separately. There was some discord between Parmesh and Radhakrishna regarding the division of land. It was around 6:30 p.m. on February 5, 2020. He was in the village- Usri. When he returned to his village, he discovered that his daughter-in-law, Geeta Devi, had a dispute with someone from the village over some issue involving the children. Due to this, when a crowd gathered, **brother Parmesh got injured after falling on the road while trying to intervene.** After which he died during treatment in Hallet Hospital, Kanpur. He had written the application for filing the report at the request of the villagers, which Geeta had given to the police station to write a report. **Jitendra, Satendra and Upendra did not kill their brother Parmesh by beating him, and neither Radha Krishna nor Kamla had any role in this incident because Radha Krishna was in the village of Usri at the time of the incident.** The witness is hostile. There is nothing noticeable in the prosecution's cross-examination that suggests he is lying. Defence's fall theory finds force from his evidence.

25. **Uninjured and Interested Witness (PW-5): Ankit** stated that his father, Hari Babu, has four brothers. Radhakrishna, Haribabu, Parmesh, and Naresh. All four of them have separate houses. The land of his father's four brothers is divided, and they farm separately. Before this incident, his relations with his uncle Radha Krishna and his son were not good. His relations with the accused have been bad since 2018. Neither has he talked to the accused since 2018. Neither do the accused talk to us. This is true. An internal rivalry between the accused and others has existed since 2018. *It is correct to say that due to this internal rivalry, he is testifying against the accused today.* He further deposed that Haribabu and Raddhakrishna were not present, as they had gone for marketing. They came on hue and cry. He also acknowledges that the fight occurred between him and his wife and the accused. It is illogical that any party would kill the person intervening in a battle between two parties. The witness has introduced the iron rod as a weapon; however, the prosecution's case mainly relies on the use of wooden sticks and batons. The witness deposed that a lathi was hit on his back, and he was slapped, but there is no injury report, which casts doubt on his presence. If Radhakrishna was not involved as he went for marketing, why did he name him in the examination-in-chief? The testimony of this witness is tainted. The witness is not wholly reliable, especially about the killing of Parmesh. There is a high degree of possibility that the deceased sustained

injuries in a fall on the RCC road edge during an intervention in a fight between others.

26. The presence of **PW-7, Naresh Chand, Uninjured and Interested Witness**, is also highly doubtful. He stated that the farmland was divided among all the brothers. There was no dispute among the brothers regarding the division of the house and farm land. Everyone started living in their respective houses happily. **He was at home on the day of the incident, but was not at the spot. He went out after hearing the noise. He was not present there at the time of the incident. He admits that it was dark.** When he reached there, there was a crowd. He does not know where the accused went. He saw sticks in the hands of all the accused. **There was indeed an RCC road where the incident occurred.** From his testimony, it is clear that he arrived at the scene after the incident. If he was not present, how could he claim the deadly blow was given by the accused? It may be possible that the deceased sustained injuries in a fall due to a push by the accused individual or Ankit and Geeta Devi while he intervened.

27. Considering the testimonies of all the witnesses, it is highly doubtful that the accused inflicted a fatal blow to the deceased. There is a high chance that the deceased sustained injuries due to a fall on the edge of the RCC road during the scuffle, and witnesses are exaggerating the things due to enmity. The medical evidence also suggests that the deceased sustained injury due to a fall on the edge, as the wound was only 0.7 cm wide, while a lathi or 1-inch wide pipe would cause a wider wound. However, the prosecution succeeded in proving that the accused, Jitendra alias Sukhveer, Satendra, and Upendra, committed the offence under Section 323 of the Indian Penal Code (IPC), read with Section 34 of the IPC, for causing injury to Geeta Devi. Hence, the accused, Jitendra alias Sukhveer, Satendra, and Upendra, are convicted under Section 323 of the Indian Penal Code (IPC), read with Section 34 of the IPC. They are on bail. Their bail bond are cancelled and sureties are discharged. Convicts are taken into custody and sent to jail. Accused Radhakrishna and Kamla Devi are acquitted of all charges, as they were falsely implicated due to enmity, following due deliberation. Scheduled for June 6, 2025, for hearing on the quantum of punishment.

Date: June 3, 2025

(Chandroday Kumar)
Sessions Judge,
Kannauj

June 06, 2025

Jitendra alias Sukhveer, Satendra and Upendra, the convicts, along with their legal counsel, appeared in court. I have heard regarding the quantum of punishment.

The convicts, Jitendra alias Sukhveer (age 38), Satendra (age 35), and Upendra (age 27), have stated that this is their first offence and that they

have no prior or subsequent criminal history. They are family men and sole breadwinners, bearing responsibilities toward their families.

The learned District Government Counsel (Criminal) submitted that the convicts, who were responsible for voluntarily causing injuries to the complainant Geeta Devi, should receive the maximum punishment to convey a stern message to society.

After carefully evaluating all mitigating and aggravating factors, as well as the relevant facts and circumstances surrounding the case, I am of the considered view that a conviction under Section 323 of the Indian Penal Code (IPC) justifies a sentence of nine months of simple imprisonment for the individuals Jitendra alias Sukhveer, Satendra, and Upendra. Furthermore, I impose a fine of Rs. 1,000 (One thousand rupees) on each individual to serve the interests of justice duly.

ORDER

Upon being convicted under Section 323 of the Indian Penal Code (IPC) in Case Crime No. 47 of 2020, Police Station Thathiya, District Kannauj, the convicts—Jitendra alias Sukhveer, Satendra, and Upendra—are each sentenced to nine months of simple imprisonment and a fine of Rs. 1,000 each (one thousand rupees). If any of the convicts default on the payment of the fine, they will serve an additional seven days of imprisonment.

The time already spent in jail shall be deducted from their sentences. A conviction warrant shall be prepared, and the convicts shall be sent to prison to serve their sentences.

A copy of this judgment shall be provided to the convicts free of charge. The records shall be consigned to the record room in accordance with legal rules.

Date: June 06, 2025

(Chandroday Kumar)
Sessions Judge,
Kannauj

I signed, dated, and pronounced this judgment in open court today.

Date: June 06, 2025

(Chandroday Kumar)
Sessions Judge,
Kannauj.