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06-10-2018	25-06-2026	7 Y, 8 M, 19 D
Date of Argument	Date of Judgment	Age
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UPAN010042362018



IN THE COURT OF THE SESSIONS JUDGE, AMBEDKAR NAGAR

Presided by: Chandroday Kumar, H.J.S., JO Code: UP06553

Sessions Trial No.: 155 of 2018

Case Crime No.: 166/2018

Police Station: Tanda

District: Ambedkar Nagar

STATE OF UTTAR PRADESH

(Prosecution)

v.

1. RANJEET, S/o Magghu @ Mayaram
2. ABHINASH, S/o Patiram
3. ROHIT, S/o Harijeet

All residents of Raddan Ka Pura, Rampur Kala, P.S. Tanda, District Ambedkar Nagar.

(Accused Persons)

Appearances:

For Prosecution - Sri Govind Srivastav, DGC (Criminal)

For Defence - Sri Krishna Kawal and Prem Prakash Tripathi, Advocates.

JUDGMENT

I. INTRODUCTION AND PROCEDURAL HISTORY

1. The accused persons, namely Ranjeet, Abhinash, and Rohit, have stood trial for the commission of an offence punishable under Section 304 read with Section 34 of the Indian Penal Code (IPC). The prosecution case originated from a charge-sheet (Ex. Ka-6)

submitted by the Tanda Police following investigations into the death of one Savitanand Pandey.

2. Since the offence under Section 304 IPC is triable exclusively by the Court of Sessions, the learned Chief Judicial Magistrate, Ambedkar Nagar, committed the case to this Court on 26.09.2018. Formal charges were framed against all three accused under Section 304/34 IPC. The accused pleaded not guilty and claimed trial.

II. THE PROSECUTION STORY

3. According to the written report (Tehrir) submitted by the informant, Pradeep Kumar Pandey (PW-1), on 25.08.2018, his nephew Savitanand (the deceased) had gone to CHC Pakdi Bhojpur on 20.08.2018 at around 5:00 PM on a motorcycle, accompanied by Monu aka Ankit (PW-2).
4. At approximately 6:30 PM, the informant received news that Savitanand was lying in a near-death state by the roadside near Raddan Ka Pura. He was taken to the CHC Tanda, where he was declared dead. The informant alleged that after the funeral, PW-2 (Ankit) revealed that the accused persons, with the intent to rob, intercepted them, beat Savitanand with hockey sticks and kicks, and robbed him of ₹5,000.

III. POINTS FOR DETERMINATION

The core issues for consideration before this Court are:

- A. Was the death of Savitanand Pandey homicidal in nature or the result of a road accident?
- B. Whether the accused persons, in furtherance of a common intention, voluntarily caused such bodily injuries to the deceased as were likely to cause death?
- C. Whether the prosecution has proved its case beyond all reasonable doubt, specifically regarding the 5-day delay in lodging the FIR and two different stories of police and witnesses regarding motive, i.e., loot and molestation, respectively?

I have heard the arguments of learned DGC (Criminal) and learned Defence Counsel, and have gone through all the records with due diligence.

IV. APPRECIATION OF EVIDENCE

5. **The Inordinate Delay in the FIR:** The incident occurred on 20.08.2018. However, the FIR was lodged on 25.08.2018—a delay

of five days. While PW-1 (Informant) claims he was in shock, the record shows he is a practising advocate. PW-2 (Ankit) claims he told the informant about the incident the very next day (21.08.2018). Despite having an eyewitness account and being a member of the active legal profession, the informant waited for four more days before naming the accused. This delay suggests a period of "deliberation and consultation," which casts a shadow on the spontaneity of the version.

V. The Explanation Offered in the Present Case

6. According to the written report (Tehrir) and the testimony of the informant, **Pradeep Kumar Pandey (PW-1)**, the delay of five days (Incident: 20.08.2018; FIR: 25.08.2018) was explained by stating that the entire family was in a state of **shock and numbness** (*Sangya Shunya*) following the death of the deceased. The informant further testified that he was mentally disturbed and only submitted the application once he became "normal" after the funeral.

VI. Legal Ruling on "Shock" as an Explanation

7. The judiciary evaluates the explanation for delay based on the **spontaneity and plausibility** of the version. In cases where the informant is an active **practising advocate** (as is PW-1 in this case), the court applies a stricter standard of scrutiny:
8. **Capacity to Report:** An advocate is presumed to be aware of the legal necessity of prompt reporting. A 5-day delay for a legal professional is often viewed by courts as a period used for "deliberation and consultation" rather than genuine incapacitation.
9. **Availability of Eyewitnesses:** If an eyewitness (like PW-2, Ankit) was available and had communicated the facts to the informant shortly after the incident, the failure to report immediately makes the subsequent FIR suspicious.

VII. Relevant Case Law Precedents

10. The following landmark rulings govern the treatment of delayed FIRs under these circumstances:
Thulia Kali vs. State of Tamil Nadu (1973 AIR 501): The Hon'ble Supreme Court ruled that a delay in lodging the FIR renders the report bereft of the advantage of spontaneity. It introduces the danger of a "coloured version" or "concocted story" arising from afterthoughts and consultations. The Court held that an unexplained or unsatisfactorily explained delay is fatal to the prosecution's case.

11. *State of Himachal Pradesh vs. Gian Chand (AIR 2001 SUPREME COURT 2075)*: The Court held that while delay by itself is not always fatal, it "puts the court on its guard" to look for the possibility of a concocted story.
12. If the explanation (like shock or grief) is found to be a mere "cloak" to hide the time taken for fabrication, the benefit of the doubt must go to the accused. The Court emphasised that promptness in lodging the FIR is a safeguard against the "creeping in" of a false version. In the present facts, where the informant waited for the post-mortem results before naming specific individuals, the delay indicates a desire to "tailor" the prosecution story to fit the medical findings.

VIII. Conclusion on Findings

13. In the present case, the ruling is that the **explanation of "shock" is unsatisfactory** because:
1. The informant (PW-1) is a person of legal knowledge (Advocate).
 2. The eyewitness (PW-2) was available from day one but remained silent.
 3. The delay allowed the prosecution to align their story with the post-mortem report (Ex. Ka-9), which showed only a single injury – contradicting the claim of a multi-person assault with hockey sticks.

IX. Conflict Between Medical and Ocular Evidence

14. This is the most significant frailty in the prosecution's case.
- 1) **Ocular Version:** PW-2 (Ankit) and PW-3 (Avadh Bihari) testified that the three accused beat the deceased with **hockey sticks, kicks, and punches**.
 - 2) **Medical Version:** PW-6 (Dr Surjeet Singh), who conducted the post-mortem, found only **one single injury**: a swelling/bruise (6.0 cm x 5.0 cm) on the back of the head.
 - 3) **Expert Opinion:** During cross-examination, Dr Surjeet Singh explicitly stated that if a person falls from a moving vehicle and hits their head, such an injury is possible. He further confirmed there were **no other injuries** on the body.

X. Legal Principle

15. It is a settled law (Ref: *Lakhwinder Singh And Others vs State Of Punjab on 17 December, 2002: AIR 2003 SUPREME COURT 2577*) that where the expert evidence completely negates the ocular

testimony, making the oral version improbable, the benefit of the doubt must go to the accused. If three men attack a person with hockey sticks and kicks, it is medically impossible for the victim to sustain only one localised head injury.

XI. Unreliability of Eyewitnesses

16.PW-2 (Ankit): The testimony of PW2 is highly unreliable, riddled with material contradictions, and appears to be a heavily tutored afterthought aimed at creating a false narrative.

17.Unexplained Silences and Delayed Disclosures: Despite claiming to be an eyewitness to an assault of such a brutal magnitude, PW2 admitted that he fled the scene, went straight home, and completely failed to inform his own family, neighbours, or the police about the incident due to "fear". He did not even disclose the occurrence to the complainant (PW1) until the following day.

18.Lack of Independent Injuries: Although PW2 asserts that the accused persons actively chased him, he admittedly did not sustain a single scratch or injury during the entire episode, casting immense doubt on his alleged presence at the spot.

19.Contradictions Regarding Identification: PW2 explicitly stated in his cross-examination that he had never seen or known the accused persons prior to the date of the incident and that he later learned their names from village elders. This completely falsifies his primary assertion that he and the deceased had "recognised" the bandits at the time of the occurrence.

20.Material Deviations from Prior Statements: Furthermore, the Investigating Officer (PW5) directly demolished PW2's credibility by revealing that during the investigation, PW2 had stated they had consumed *Tadi* (an intoxicant) before heading out—a fact that completely aligns with the defence's theory of an accidental fall due to intoxication, but which PW2 conveniently denied on oath in court.

21.Absence from Post-Incident Formalities: His complete absence from the subsequent *Panchnama* (inquest proceedings) and the last rites of the deceased further cements the conclusion that he was artificially introduced as an eyewitness at a later stage to patch up the prosecution's crumbling case.

22.Examination of Relationship with Complainant and Deceased: An examination of the record conclusively establishes that PW2 is

not an independent witness but a closely associated relative of both the complainant (PW1) and the deceased.

23. In his cross-examination, PW2 explicitly admitted that he resides in the very same village as the complainant, Pradeep Kumar Pandey (PW1), and stated, "I am his *Pattidar*" - lineal relative/shares in familial land holding. Since the deceased, Savitanand Pandey, was the biological nephew of the complainant (PW1) and the son of the complainant's real brother, Pradyumna Kumar Pandey (PW4), PW2 naturally shares a close consanguineous/clan relationship (*Pattidari*) with the deceased as well.

24. This deep-rooted familial and structural relationship establishes that PW2 is an interested and partisan witness. His testimony was deliberately procured to stitch together a calculated, legally consulted narrative at the behest of his relative/advocate, PW1.

25. **PW-3 (Avadh Bihari):** The IO (PW-5) revealed that PW-3 had previously stated to the police that the deceased **stumbled and fell on the road**, sustaining a minor head injury. In court, PW-3 denied this, but the contradiction remains on record. Further, in the present case, the testimony of PW3 (Avadh Bihari) is highly unreliable and fails to inspire confidence as he falls squarely under the category of a "chance witness". A bare reading of his cross-examination reveals that he has no genuine or justified reason to be present at the scene of the incident. He claimed to have visited the Banjarahwa Rampur market to meet a tent house owner, whose name or shop name he could not even identify. Furthermore, the defence counsel has submitted a certified copy of Vakalatnama showing a pre-existing professional relationship with the complainant, PW1 (Pradeep Kumar Pandey), having been a regular client of PW1 before and after the alleged incident. This long-standing advocate-client relationship clearly establishes his deep interest in the complainant's cause and points toward a motivated attempt to tailor his testimony to suit the prosecution's narrative.

26. The legal position regarding the appreciation of a chance witness's evidence is well-settled by the Hon'ble Supreme Court. In the landmark rulings held as follows:

1. [Satbir v. Surat Singh](#) (1997) 4 SCC 192; [Harjinder Singh v. State of Gujarat](#) (2004) 11 SCC 253; [Acharaparambath Pradeepan & Anr. v. State of Kerala](#) (2006) 13 SCC 643; and [Sarvesh Narain Shukla v. Daroga Singh and Ors.](#) (2007)

13 SCC 360) - The evidence of a chance witness requires a very cautious and close scrutiny, and a chance witness must adequately explain his presence at the place of occurrence.

2. [Shankarlal v. State of Rajasthan](#) (2004) 10 SCC 632) - Deposition of a chance witness whose presence at the place of the incident remains doubtful should be discarded.
3. [Thangaiya v. State of Tamil Nadu](#) (2005) 9 SCC 650) - Conduct of the chance witness, subsequent to the incident, may also be taken into consideration, particularly as to whether he has informed anyone else in the village about the incident.
4. [Harjinder Singh @ Bhola vs State Of Punjab on 27 July, 2004](#) (AIR 2004 SUPREME COURT 3962), it was ruled that when the witnesses happen to be the chance witnesses and additionally being a close relative of the deceased, his testimony must be scrutinised with the utmost caution. In the case at hand, where PW3, a chance witness, shares a close prior association or relationship with the de facto complainant, his testimony must be scrutinised with the utmost caution. If the explanation for his presence at the place of occurrence is found to be artificial or unnatural, the court must reject such evidence as being a concoction to falsely implicate the accused.

27. Applying these principles, since PW3 could not substantiate the purpose of his presence at the spot beyond a reasonable doubt and is admittedly an active client of the advocate-complainant (PW1), his deposition cannot be termed independent or trustworthy, especially where this fact is not disclosed either by PW1 or PW2. Therefore, his evidence is liable to be rejected as a fabricated afterthought aimed at plugging the loopholes in the prosecution's case.

28. Fatal Absence of a Test Identification Parade (TIP): The complete failure of the investigative agency to conduct a Test Identification Parade (TIP) deals a fatal blow to the prosecution's attempt to establish the identity of the accused persons. It is a foundational principle of criminal law that when an accused is not previously known to the eyewitnesses, a TIP under Section 9 of the Indian Evidence Act (now Section 11 of the Bharatiya Sakshya Adhiniyam) must be conducted promptly to test the power of observation of the witnesses and validate their capability to identify the culprits. Both alleged eyewitnesses, PW2 (Ankit Pandey) and PW3 (Avadh Bihari), categorically admitted during their cross-examinations that they did not know or recognise the

accused persons prior to the date of the incident. PW2 explicitly stated that he had never seen them before and only learned their names later through village elders, while PW3 similarly conceded that he did not know the accused individuals personally. As per PW2, it was deceased who identified the assailants. As per PW3, it was PW2 who told him the names of the accused persons. Despite these vital admissions, the Investigating Officer (PW5) failed to arrange a statutory identification parade during the investigation. In the absence of a prior TIP, the identification of the accused by PW2 and PW3 for the first time in the dock before the Court is legally worthless, highly unsafe, and reduced to a mere farce. As settled by the Hon'ble Supreme Court of India in [Nazim vs The State Of Uttarakhand on 6 October, 2025](#): 2025 INSC 1184, dock identification without a corroborative TIP is an extremely weak piece of evidence when the accused are total strangers to the witnesses, thereby creating a substantial gap in the prosecution's case and giving the absolute benefit of the doubt to the accused.

29. Fatal Non-Recovery of the Alleged Stolen Property (Purse and Cash): The absolute failure of the prosecution to effectuate any recovery of the alleged stolen property deals a decisive blow to the credibility of the entire narrative. According to the version set forth in the written report (Exhibit K-1) and echoed by the purported eyewitnesses, the accused individuals allegedly intercepted the deceased with the primary intent of robbery and forcefully snatched his purse containing ₹5,000 in cash along with essential documents. However, despite the Investigating Officer (PW5) apprehending and arresting all three accused persons (Ranjeet, Abhinash, and Rohit) during the course of the investigation, not a single penny of the allegedly looted cash, nor the purse or the documents, was ever recovered from their possession or at their instance. This complete absence of any recovery under Section 27 of the Indian Evidence Act (now Section 23 of the Bharatiya Sakshya Adhiniyam) totally detaches the physical evidence from the oral claims of the prosecution. The missing link of the stolen property remains entirely unmitigated, indicating that the entire story of "loot and assault" was a highly deliberate, legally manufactured embellishment designed to convert a solitary, tragic vehicular accident into a case of culpable homicide.

XII. Failure to Seize Motorcycle

30. The motorcycle allegedly driven by the deceased was never seized or subjected to a technical examination by the IO. This is a gross

negligence in investigation, as a mechanical inspection could have confirmed or ruled out a road accident. It is also important to note that Pradumn Kumar Pandey, PW4, father of the deceased is Home Guard and serving at the same police station Tanda and it is suggested to the IO that the chargesheet was filed in his influence.

V. FINDINGS

31. The defence version – that the deceased was intoxicated and died due to a motorcycle accident – is strongly supported by the medical report showing a single head injury consistent with a fall and having *Taadi* admission of PW2.
32. The prosecution has failed to explain why the "robbery" and "murder" charges (Sections 394 and 302) initially mentioned in the *Tehrir* were dropped to Section 304 by the IO himself due to lack of evidence. This indicates that the initial story of loot was found to be false even by the police. According to the police, the deceased was injured by the accused as retaliation for the molestation of a girl, but there is no evidence on record supporting this claim. There are two conflicting narratives: one of looting claimed by the informant and witnesses, and the other of molestation claimed by the police.
33. **Conclusion:** There are glaring contradictions between the oral testimony of the "eyewitnesses" and the medical findings. The 5-day delay in the FIR, combined with the IO's testimony regarding the intoxicated state of the deceased and previous statements of witnesses suggesting an accident, creates a substantial "reasonable doubt."

VI. ORDER

- 1) In view of the foregoing discussion, the prosecution has failed to prove the charges under **Section 304/34 IPC** against the accused persons beyond a reasonable doubt. The evidence is insufficient to sustain a conviction.
- 2) Accordingly, the accused **Ranjeet, Abhinash, and Rohit** are hereby **ACQUITTED** of the charges levelled against them.
- 3) The accused are on bail. Their bail bonds are cancelled, and sureties are discharged, subject to the provisions of Section 437-A of the Cr.P.C.

Date: 25.06.2026

(Chandroday Kumar)
Sessions Judge,
Ambedkar Nagar.

In compliance with the mandate of the Hon'ble Supreme Court of India in *Manojbhai Jethabhai Parmar (Rohit) vs The State Of Gujarat (2025 INSC 1433)*, which requires trial courts to incorporate structured and uniform charts to enhance the legibility of criminal judgments, the evidence in this case is tabulated below:

I. CHART OF PROSECUTION WITNESSES (PW)

PW No.	Name of Witness	Category / Nature	Key Evidence / Role in Case
PW-1	Pradeep Kumar Pandey	Informant (Hearsay)	Lodged the Tehrir (Ex. Ka-1). Admitted he was not an eyewitness; derived information from others.
PW-2	Ankit @ Monu	Alleged Eyewitness	Accompanied the deceased. Claimed the accused beat the victim with hockey sticks/kicks. Admitted to being intoxicated (<i>Taadi</i>) in the previous statement.
PW-3	Avadh Bihari	Alleged Eyewitness	Claimed to see the assault. Contradicted by the IO, who stated PW-3 initially described the death as a fall/accident.
PW-4	Pradyumn Kumar Pandey	Corroborative	Father of the deceased. Reached the hospital after the incident. Not an eyewitness.
PW-5	Chandra Shekhar	Investigating Officer (IO)	Conducted the investigation, prepared site maps (Ex. Ka-3, Ka-4), and filed the Charge-sheet (Ex. Ka-6).
PW-6	Dr. Surjeet Singh	Medical Expert	Conducted Post-Mortem (Ex. Ka-9). Confirmed only one head injury; opined it could result from a fall from a vehicle.
PW-7	SI Nar Singh	Formal Witness	Conducted the Inquest (Panchnama) proceedings at the hospital.

II. CHART OF DOCUMENTARY EVIDENCE (EXHIBITS)

Ex. No.	Description of Document	Proved By	Significance / Findings
Ka-1	Written Report (Tehrir)	PW-1	Basis of the FIR; lodged with a 5-day delay.
Ka-2	Inquest Report (Panchnama)	PW-7	Recorded the state of the body; mentioned "accidental/unknown" cause initially.
Ka-3	Site Map (Police Form)	PW-5	Visual representation of the spot where the body was found.
Ka-4	Site Map (Investigative)	PW-5	A detailed map was prepared during the spot inspection.
Ka-5	Police Form No. 13	PW-7	Procedural document for sending the body for autopsy.
Ka-6	Charge-sheet	PW-5	Final report under Section 304/34 IPC.
Ka-7	Chik FIR (Copy)	PW-5	Formal registration of the criminal case.
Ka-8	G.D. Entry (Copy)	PW-5	Daily diary entry regarding the registration of the offence.
Ka-9	Post-Mortem Report	PW-6	Established the cause of death as "Coma due to Ante-mortem Head Injury."
Ka-10	Letter by RI	PW-6	Request for postmortem.
Ka-11 to 15	Photo Nash, Report to RI, Report to CMO, Sample of Seal, Police Form-13	PW-7	Administrative correspondence for the autopsy process.

III. CHART OF MATERIAL OBJECTS

No.	Description of Material Object	Production Status	Remarks / Court Observation
1	Hockey Sticks	Not Produced	Alleged weapon of offence; never seized by the IO or produced in Court.
2	Motorcycle (Pulsar)	Not Seized	The vehicle the deceased was riding. No technical inspection was conducted to rule out a road accident.
3	Stolen Cash (₹5,000) and Purse	Not Recovered	Alleged motive for the assault; no recovery made from the accused persons.

IV. SUMMARY OF MAJOR CONTRADICTIONS & OMISSIONS

- 1) **Medical vs. Ocular:** The medical report (Ex. Ka-9) shows a **single injury**, while eyewitnesses (PW-2, PW-3) claimed a group assault with sticks and kicks.
- 2) **Investigative Lapses:** The IO (PW-5) admitted that witnesses previously described the event as a fall from a motorcycle, which aligns with the defence's "accident" theory.
- 3) **Delay:** A 5-day unexplained delay in naming the accused by an informant who is a practising advocate (PW-1).

Date: 25.06.2026

(Chandroday Kumar)
Sessions Judge,
Ambedkar Nagar.

Chandroday Kumar

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