



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

D.B. Criminal Appeal No. 314/2000

CNR: RJHC010003772000 | URN: CRLA / 621U / 2000

State of Rajasthan

----Appellant

Versus

1. Smt. Puran Kunwar S/o Sohan Singh Rajput Resident of Sukhwara, P.S. Dabok (Udaipur). (Abated)
2. Abhay Singh S/o Sohan Singh Rajput, Resident of Sukhwara, P.S. Dabok (Udaipur).

----Respondents

For Appellant(s)	:	Mr. Sharwan Singh Rathore, Dy.G.A.
For Respondent(s)	:	Mr. Shambhoo Singh Rathore along with Mr. Harshvardhan Singh & Mr. Dushyant Singh

**HON'BLE MR. JUSTICE MUNNURI LAXMAN
HON'BLE MR. JUSTICE CHANDRA PRAKASH SHRIMALI**

Order

28/10/2026

1. The respondent No. 1-Puran Kanwar has died during the pendency of the appeal, and the present appeal stands abated and dismissed against respondent No. 1, as ordered by the Coordinate Division Bench of this Court vide order dated 04.03.2020.
2. The present appeal has been preferred against the judgment of acquittal dated 15.04.2000, whereby the respondents, who faced trial for the offences punishable under Sections 302 and 341 read with Section 34 of the IPC, were acquitted.
3. The present appeal is at the instance of the State.



4. Concisely, the case of the prosecution is that on 13.07.1999, at about 9 AM, Tej Singh (PW-2), along with his brother, i.e., the deceased Kishore Singh, left their house on a Hero Puch motorcycle to proceed to the company where they were working. At about 9:15 AM, they reached a nearby tar road, where the accused Abhay Singh and co-accused Puran Kanwar, who is the mother of Abhay Singh, suddenly came onto the road and stopped the vehicle. Abhay Singh took out a sharp knife from his possession and stabbed the deceased, Kishore Singh, on the chest, while the co-accused Puran Kanwar held the handle of the vehicle. Thereafter, they both fled the scene. The attack was allegedly motivated by a dispute between co-accused Puran Kanwar and deceased Kishore Singh relating to their children.

5. Upon receiving telephonic information from an unknown person, PW-12 (Chagan Lal), the Investigating Officer, made an go-entry under Exhibit P-30 and proceeded to the scene of the offence. At the scene of the offence, PW-12 recorded the oral report of PW-2 (Tej Singh), which was reduced to writing under Ex. P/4, and obtained PW-2's signature. On the basis of such report, FIR was issued under Ex. P/4. PW-12 conducted the panchnama of the scene of the offence and also took photographs of the scene, along with the dead body and the motorcycle, and later shifted the body of the deceased to the hospital for postmortem. The postmortem report is marked Ex. P/30. As per the postmortem report, the death of the deceased was attributed to the injury found on his chest.

6. During further investigation, accused Abhay Singh was arrested, and he made a disclosure statement under Ex. P/2,





which led to the recovery of the blood-soaked clothes worn by accused Abhay Singh at the time of the offence, as well as the knife used to commit the offence, from his house. These articles were recovered under Ex. P/2 in the presence of PW-1 (Ram Singh) and another witness. The site plan of the place of recovery was also prepared under Ex. P/3.

7. Subsequently, co-accused Puran Kanwar was also arrested, and the clothes worn by her at the time of the commission of the offence were also recovered under Ex. P/9. The recovery was made in the presence of PW-4 (Bhanwar Singh) and Devi Singh at the police station on 13.07.1999 at about 4:30 PM.

7A. Further, during the course of investigation, the clothes of the deceased, the clothes of both the accused, and the recovered weapon were sent to the Forensic Science Laboratory (FSL). The FSL report was marked Ex. P/29, which revealed that the blood group found on the clothes of the accused and the recovered weapon matched the blood group (Group B) found on the clothes of the deceased. After collecting all the evidence, the charge sheet was filed.

8. The trial court framed the charge under Section 302 was framed against accused Abhay Singh, and the charge against co-accused Puran Kanwar was framed under Section 302/34 of the IPC.

9. The prosecution, in support of its case, examined PW-1 to PW-12 and relied upon Exhibits P/1 to P/32. The accused-respondents were examined under Section 313 of the Cr.P.C. with regard to the incriminating evidence. The accused-respondents



denied the incriminating evidence and did not adduce any defence evidence.

10. The trial court, after hearing the prosecution as well as the defence counsel and appreciating the evidence on record, found that the prosecution had failed to prove its case against the accused-respondents beyond reasonable doubt and, consequently, acquitted them of the charges framed. Aggrieved by the order of acquittal, the present appeal has been filed.

11. Heard the arguments advanced by learned Public Prosecutor as well as the learned counsel for the accused-respondents.

12. Learned learned Public Prosecutor submitted that the trial court had misappreciated the evidence of the eyewitness, i.e., PW-2 (Tej Singh), and that his evidence was discarded on the basis of flimsy contradictions and improvements. His presence along with the deceased was not discredited, and there were no material contradictions in his testimony. It was also submitted that, in addition to the testimony of PW-2, the eyewitness, the recovery under Ex. P/27 was also on record and such incriminating material establishes the participation of the accused-respondents in the commission of the offence, as the bloodstains found on their clothes matched the blood group of the deceased, and the recovered weapon also contained the deceased's blood group.

13. In addition to the above evidence, it was also contended that PW-3 supported the presence of the eyewitness. In view of this evidence, the trial court ought to have convicted the accused-respondents. Therefore, the impugned judgment was required to be reversed, and the accused-respondents were required to be convicted.



14. Learned learned counsel appearing on behalf of the accused-respondent No. 2 submitted that the trial court had correctly appreciated the evidence of PW-2, who was the direct eyewitness, and had doubted his evidence on various grounds. The grounds relied upon by the trial court to disbelieve PW-2's evidence warranted no interference. Even if an alternative view was possible, the appellate court could not disturb the acquittal merely because two views were possible.

15. We have considered the contentions and the evidence on record. We have examined the judgment of the trial court. The trial court discarded the evidence of PW-2, who was the eyewitness, on the ground that the motive was not completely proved. In the absence of motive, the prosecution's case that the accused had murdered the deceased was considered weaker. However, the trial court overlooked the fact that motive has little significance when there is a direct eyewitness account. Motive is relevant when the evidence is circumstantial; in such cases, motive becomes one of the circumstances. The present case is not based on circumstantial evidence but on a direct eyewitness account. Thus, motive could not have been taken as a ground to disbelieve the testimony of PW-2.

16. The other ground given by the trial judge for discarding the evidence of PW-2 is that, according to the FIR, he had mentioned Man Singh (PW-6) as one of the eyewitnesses, whereas Man Singh did not support the claim that he was also an eyewitness. Since Man Singh did not support the evidence of Tej Singh, the testimony of Tej Singh was considered doubtful. The trial court, while giving this finding, overlooked the fact that the credibility of



a witness must be tested through the cross-examination of that witness. There were no material contradictions in his evidence. Since the other eyewitness had turned hostile, the testimony of PW-2 could not be discarded on that ground alone. In this regard also, the trial court committed an error.

17. The other ground relied upon by the trial court for discarding the evidence of PW-2 is that no injury was found on Tej Singh and, as such, his presence was doubted. The trial court overlooked the fact that the deceased and Tej Singh were travelling together on the motorcycle, which was suddenly stopped, and a single blow was suddenly inflicted on the chest of the deceased. There were no multiple attacks. Had there been multiple attacks, PW-2 could have intervened to save his brother. As there was only a single blow, he had no opportunity to intervene. There was no attack directed at PW-2 by either of the accused. Therefore, the absence of an injury on PW-2 was immaterial and did not warrant doubting his evidence.

18. Another ground relied upon by the trial court is that, according to the FIR, the vehicle fell down after the attack, whereas the photograph showed it parked upright. This cannot be a valid ground to disbelieve the testimony of the eyewitness. Even if the vehicle had fallen down, there was every chance of placing it upright to avoid leakage and damage to the vehicle. This, by itself, was not a ground to discredit the evidence of PW-2. There is no cross-examination of witness on this aspect.

19. Another ground relied upon by the trial court was that Man Singh had no fields near the scene of the offence and, as such, his presence could not be expected. The fact remains that the offence



occurred on a public road and not on private land where the presence of a person could be linked to nearby fields. Therefore, this ground was also untenable.

20. The last ground given by the trial court for discarding the evidence of PW-2 is that, according to PW-12, he received telephonic information about the incident from an unknown person, which was recorded under Ex. P/20, and he immediately rushed to the scene. In Ex. P/20, the name of the assailant was not mentioned. The trial court reasoned that the person who had given the information should have verified the identity of the assailant if someone had been present at the scene. Since the caller had not mentioned the name of the assailant during the telephonic conversation, the presence of the witness was doubted. This was also an error because the information was cryptic and had been received from an unknown person. Merely because an unknown person had given cryptic telephonic information regarding the incident, that person could not be expected to provide full details of the assailant, particularly when the caller was not an eyewitness. Nor could it be expected that the caller would verify the details from the person on whose lap the deceased's body was lying. This ground was also highly untenable.

21. We have examined the evidence of the witness. The cross-examination of PW-2 clearly shows that the defence itself suggested that the two brothers were travelling on a vehicle. In view of this suggestion, PW-2's claim that he was travelling with the deceased could not be doubted on that ground. Apart from that, the evidence of PW-3 also supported the fact that PW-2 was





present when they reached the spot. This further corroborates the presence of PW-2 at the site.

22. Apart from this, the recoveries made from both the accused showed that their clothes contained bloodstains and that the blood group indicated by those stains matched that of the deceased, i.e., Group B. The recovery of the clothes was proved through the respective witnesses, PW-1 and PW-4. Accused Abhay Singh made a disclosure statement under Ex. P/26 and P/31, which led to the recovery of the bloodstained clothes worn by him and the weapon. This disclosure statement was proved by PW-12, the Investigating Officer, and the recovery made pursuant to the disclosure statement was also supported by PW-1. This constituted additional corroborative material to establish that the respondents were the assailants of the deceased.

23. On appreciating the above evidence, we find that there is only one conclusion: the respondents were responsible for the murder of the deceased. We find that the prosecution has proved the charges beyond reasonable doubt. Further, no two views are reasonably possible on the basis of the entire evidence on record. We find that the impugned judgment is required to be reversed.

24. In the result, the present appeal is **allowed**, and respondent No. 2-Abhay Singh is convicted of the offence punishable under Section 302 of the IPC. Since we are inclined to sentence the accused to the minimum sentence prescribed for the offence punishable under Section 302 of the IPC, we are of the view that hearing the accused on the question of sentence would be a waste of time. Such a view has also been laid down by the Apex Court in the case of **Ram Deo Chauhan v. State of Assam**, reported in



(2001) 5 SCC 714. Consequently, respondent No. 2-Abhay Singh is sentenced to undergo life imprisonment. He is also directed to pay a fine of Rs. 500/-, failing which he shall undergo simple imprisonment for six months. The period of detention undergone before and after trial shall be set off against the sentence, in accordance with law. Respondent No. 2 is directed to surrender before the concerned trial court to serve the sentence within a period of one month from today, failing which the trial court shall take steps to secure the custody of respondent No. 2 by taking appropriate measures in accordance with law.

25. Pending applications, if any, also stand disposed of.

(CHANDRA PRAKASH SHRIMALI),J

(MUNNURI LAXMAN),J

Crt_4 (2099)
S-B/11
Bhumika Pillai