



2026:UHC:3269-DB

Reserved on: 21.04.2026

Delivered on: 29.04.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Jail Appeal No.124 of 2023

Neeraj SinghAppellant

Versus

State of UttarakhandRespondent

Present:-

Mr. D. C. S. Rawat, learned *Amicus Curiae* for the appellant.

Mr. Pankaj Joshi, learned A.G.A. for the State.

Coram:Hon'ble Ravindra Maithani, J.

Hon'ble Siddhartha Sah, J.

(Per: Hon'ble Siddhartha Sah, J.)

The present Criminal Jail Appeal has been preferred on behalf of the accused/appellant against the judgment and order dated 09.08.2023 passed by the learned Sessions Judge, Pithoragarh in Sessions Trial No.06 of 2021, State of Uttarakhand vs. Neeraj Singh (arising out of Case Crime No.01 of 2020, under Sections 302, 457, 380, 411 of IPC and Section 5/27(1) of the Arms Act, Police Station Patti Aamthal, District Pithoragarh), whereby the accused/appellant has been sentenced as under:-

Sl. No.	Conviction	Sentence	Fine	Sentence in lieu of fine
1.	302 IPC	Life imprisonment.	₹ 50,000/-	Additional Five Years R.I.
2.	457 IPC	14 years R.I.	₹ 10,000/-	Additional Three Years R.I.
3.	380 IPC	07 years R.I.	₹ 10,000/-	Additional One Year R.I.
4.	411 IPC	03 years R.I.	₹ 5,000/-	Additional Six Months R.I.
5.	5 r/w 27(1) of the Arms Act	07 years imprisonment	₹ 5,000/-	Additional One Year imprisonment

Aforesaid sentences were directed to run concurrently.

2. The present case started on the basis of FIR that was lodged before the Patti Patwari Thal, Tehsil Thal, District Pithoragarh, by the informant, Ganga Singh S/o Late Karam Singh, R/o Village Machhikhet, (Tok Banri), Patti Thal, Tehsil Thal, District Pithoragarh with the allegations that on 19.09.2020 at about 9:30 p.m., the informant was watching news on the Television in his room, at that time, he heard the sound of a bullet. On hearing the sound and on the shouting of daughter-in-law, Smt. Saraswati Devi, he came out, by which time, his nephew, Pushkar Singh S/o Late Jagat Singh, was seen fallen on the ground with a grievous firearm injury on his back, from which blood was profusely oozing out. On hearing the voices of crying, the nearby villagers came running to the place of incident. It was doubted that the bullet might have been fired from the roof top. At that time, we 2 - 3 persons went to the terrace but did not see anybody there. There was brightness in the courtyard (Angan), due to which they did not see anybody running. At that time, the informant went with the emergency light to the adjacent Goth (cattle room) then saw the appellant Neeraj Singh S/o Bhopal Singh of this Village sitting with gun in his hand. The informant came running out to save his life and at that time, the appellant ran away from the Goth (cattle room) with the gun. Therefore, it was requested that proper action be taken. On the basis of the report dated 20.09.2020, Chik FIR was registered at Rajaswa Up-Nirikshak (Revenue Sub-Inspector) Thal/Aamthal, District Pithoragarh as Case Crime No.1 of 2020 under Section 302 IPC and Section 25 of the Arms Act against the accused/appellant.

3. Another report dated 19.09.2020 was lodged with Patti Patwari Thal, Tehsil Thal, District Pithoragarh by one Rajendra Singh S/o late Jagat Singh R/o Machikhet, Tehsil Thal, District Pithoragarh with the allegation that he is an arms holder. His gun's number is

recorded as DBBL-97677. In the evening of 18.09.2020 when he returned to his room, he found that his gun, which was kept near his bed, and the cartridges, kept in a locked almirah, had been taken away by someone by breaking open the lock. Therefore, it was prayed that a First Information Report be registered for his missing gun and cartridges.

4. The inquest report was prepared on 20.09.2020 at about 9:00 a.m. by the Rajaswa Up-Nirikshak (Revenue Sub-Inspector), Aamthal/Thal, wherein the informant Ganga Singh on inquiry had reiterated the FIR version to the Patti Patwari. As per the opinion of the Panch witnesses, the death of the deceased Pushkar Singh was caused due to the gunshot fired by Neeraj Singh.

5. That it is the case of the prosecution that the accused/appellant was arrested on 20.09.2020 from a bathroom near Nagmal Temple, Old Thal, by the Station House Officer, Mr. Hem Chandra Pant along with a double barrel gun bearing No. 97677 and a bag containing 19 live cartridges. Memo of arrest and recovery of double barrel gun and 19 live cartridges was duly prepared.

6. The post-mortem examination on the dead body of the deceased, Pushkar Singh, was conducted on 21.09.2020 at about 12:30 p.m. at B.D. Pandey District Hospital, Pithoragarh. As per the post-mortem report, the ante-mortem firearm injury was found in the form of a lacerated wound measuring 3 cm × 2 cm, 12 cm deep with inverted skin margin present over medial aspect of the back of the chest, 2 cm medial to left lower angle of scapula obliquely placed upon. On internal examination, there is presence of number of pellets, wads, and blood clots. On internal examination, left atrium was found torn

and two pellets were present there. Time of death was about 36 to 48 hours. As per the post-mortem report, the cause of death is due to shock and haemorrhage as a result of ante-mortem firearm injury.

7. During the course of investigation, the Rajaswa Up-Nirikshak (Revenue Sub-Inspector), Aamthal/Thal collected blood-stained soil (floor of the Angan) and plain soil (cement of floor) from the place of incident and prepared recovery memo dated 20.09.2020. The Rajaswa Up-Nirikshak (Revenue Sub-Inspector), Aamthal/Thal also prepared a memo of recovery of empty cartridge shell from the place of incident. The Rajaswa Up-Nirikshak (Revenue Sub-Inspector), Aamthal/Thal also prepared sample seal of the white cloth, in which the deceased, Pushkar Singh was wrapped. Sample seal dated 20.09.2020 of the case material - soil stained, floor cement particles, plain gravel (Bajri) particles, double barrel gun and 19 cartridges, was prepared.

8. A letter dated 20.09.2020 was addressed to the Chief Medical Officer, B.D. Pandey District Hospital, Pithoragarh, requesting for the medical examination of the body of the deceased. The other necessary form dated 20.09.2020 was forwarded along with the sample seal of the white cloth for the purpose of conducting the post-mortem examination. The site plan of the place of incident was prepared by the Rajaswa Up-Nirikshak (Revenue Sub-Inspector), Aamthal/Thal on 20.09.2020. Another site plan dated 08.12.2020 was also prepared by Rajaswa Up-Nirikshak (Revenue Sub-Inspector), Aamthal/Thal. Letter dated 25.11.2020 of Rajaswa Up-Nirikshak (Revenue Sub-Inspector), Aamthal/Thal, was submitted in the court of learned Chief Judicial Magistrate, Pithoragarh, through the Assistant Prosecution Officer for forwarding the case material for examination by the Forensic Science

Laboratory, Dehradun. The Chief Judicial Magistrate, Pithoragarh, vide order dated 25.11.2020, endorsed the said letter and directed the Investigating Officer to proceed with the investigation in accordance with law. Thereafter, the relevant case materials were forwarded to the Director, Forensic Science Laboratory, Dehradun, vide letter dated 25.11.2020. The Forensic Science Laboratory, Dehradun submitted the report dated 04.12.2020 opining that crime 12 bore cartridge case marked C-1 had been fired from the right barrel of the gun marked A-1. Vide another examination report dated 25.03.2021, the Forensic Science Laboratory, Dehradun opined that it could not be possible to conclusively link the recovered pellets and wads under reference with DBBL gun and marked as A-1. Though the pellets and wads are integral parts of any 12-bore cartridge. But the Forensic Science Laboratory, Dehradun, in its report dated 09.04.2021, opined that pieces of cemented floor in parcel marked as 'Q-1' and pieces of cemented floor in parcel marked as 'S1' are similar. Another FSL examination report dated 19.03.2021 concluded that the DNA profiles obtained from the undershirt, half pant and underwear of the deceased, Pushkar Singh, as well as from the pellets and wad and FTA card, collected during post-mortem are from the same human male source.

9. On the basis of material collected during investigation, the Rajaswa Up-Nirikshak (Revenue Sub-Inspector), Aamthal/Thal submitted a charge-sheet against the accused/appellant in the court under Sections 302, 380, 411, 457 of IPC and Section 25 of the Arms Act. Charges were framed against the accused/appellant under Sections 302, 457, 380, 411 of IPC and Section 25 of the Arms Act on 10.03.2021 by the learned Sessions Judge, Pithoragarh. The accused/appellant denied the charges and sought trial.

10. During the trial, the informant, Ganga Singh was examined as PW1. He deposed that on the night of 19.09.2020, while he was hearing news on the television in his room, at that time around 9:30 p.m., he heard the sound of a gunshot. Immediately thereafter, his daughter-in-law, Smt. Saraswati Devi, was shouting loudly that Neeraj Singh had shot the bullet. Upon coming out, he found his nephew, Pushkar Singh, lying on the ground with a firearm injury on his back, from which blood was profusely oozing. For saving him, he called the 108 ambulance service and upon hearing the crying and shouting, many people of the village came on the spot. He asked his daughter-in-law Smt. Saraswati Devi, regarding the direction in which the accused/appellant had fled, he along with others searched for Neeraj Singh. During the search, when they went towards the Goth (cattle room), then they saw the accused/appellant, Neeraj Singh, sitting inside the Goth (cattle room) holding a gun in his hand. Upon noticing them, the accused/appellant allegedly pointed the gun towards them and fled from the spot.

11. PW-1 further deposed that when the incident involving the accused/appellant, Neeraj Singh, came to the knowledge of the people of the village, they started searching for the licensed gun in the village. During such search, it was found that the licensed double barrel gun belonging to Rajendra Singh was missing from his house. Rajendra Singh, aged about 72 years, was present at his home due to illness. It was alleged that the accused/appellant had stolen the said gun along with 20 live cartridges. The witness further stated that after the incident, the accused/appellant was hiding in a Goth (cattle room) belonging to one Himuli Devi. The witness also deposed that the accused/appellant present in the court, is a resident of the same village and community and he used to engage in obscene acts. It was

further stated that the deceased, Pushkar Singh, who was Gram Pradhan at the relevant time, used to scold the accused/appellant, Neeraj Singh for such obscene acts. About one month prior to the incident, the accused/appellant had thrown stones at the door of the kitchen of the deceased, Pushkar Singh and had abused and threatened the deceased, Pushkar Singh that he will not leave him alive, he has defamed him before the people.

12. PW1 further deposed that the place of incident is situated in front of the house of his nephew in Village Machhikhet, (Tok Banri), Patti Thal, Tehsil Thal, District Pithoragarh. The report of this incident was given by him to the Patti Patwari Thal, Tehsil Thal, District Pithoragarh on 20.09.2020 at about 8:00 a.m., which is on record and bears his signatures, which he identifies and it is marked as Exhibit A-1. He further stated that in his presence, the Patwari has taken out blood-stained soil, plain extract of cemented floor and blood-stained sample from the spot and prepared recovery memo, which bears his signatures and was duly identified by him. The Patwari found an empty cartridge shell from the place of incident and its recovery memo was prepared on the spot, which was signed and identified by him. He further stated that the Patwari also prepared the inquest report (Panchayatnama) and appointed him as one of the Panch witnesses, wherein he is mentioned as Panch No.1 and has identified his signatures on it. According to the witness, after the Panchnama, the accused/appellant was hiding in a newly constructed toilet adjacent to Nagimal Devta Temple, situated one kilometre away from his residence.

13. In his cross-examination, the PW1, Ganga Singh stated that on 19.09.2020, while he was watching television in his room, his wife was sleeping due to illness and his daughter-in-law was in another

house. He had not seen the incident with his own eyes; the incident was narrated to him by his daughter-in-law, Smt. Saraswati Devi. He further stated that he had informed the Patwari that his daughter-in-law had told him that the accused/appellant, Neeraj Singh, had fired the bullet; however, if the said statement has not been recorded by Patwari, he cannot tell the reason for the same. He further stated that he came out of his room upon hearing the voice of his daughter-in-law and called the 108 ambulance service after about 10 minutes. The witness further deposed that several villagers, namely Pooran Singh, Krishan Singh, Kalawati Devi, Chandra Devi etc., had come in the courtyard (Aangan). He had given the statement to the Patwari that he had asked his daughter-in-law about the direction in which the accused/appellant had fled; however, the same was not recorded in his statement, for which he could not tell any reason. He denied the suggestion that he had not seen the accused/appellant sitting in the Goth (cattle room). He does not know when and who had stolen the gun of Rajendra Singh. At about 10:30 p.m. on 19.09.2020, Rajendra Singh had told him that his gun had been stolen by the accused/appellant, Neeraj Singh. He had given the statement to the Patwari that the accused/appellant, Neeraj Singh does obscene acts in the village. The deceased, Pushkar Singh, who was Gram Pradhan at the relevant time, used to scold the accused/appellant, Neeraj Singh for the obscene acts. This witness reiterated that the accused/appellant used to indulge in obscene acts in the village and that the deceased, being Pradhan, used to scold him. He further stated that about one month prior to the incident, the accused/appellant had pelted stones at the house of the deceased, abused and threatened him that he will not leave him alive; he has defamed him before the people.

If these statements were not recorded by the Patwari, he cannot tell the reason.

14. The witness further stated that he had written the report at the place of occurrence. On 20.09.2020 at about 3-4 in the morning, the Patwari had reached his courtyard, he had given the report to him at that time. He denied the suggestion that the memo of cement and soil was not prepared in his presence. He denied the suggestion that empty cartridge was not recovered in his presence by Patwari. He also stated that the inquest report (Panchayatnama) was prepared between 8:00 to 9:00 a.m. He also denied the suggestion that Patwari had called him to the Headquarter and obtained all the signatures. He also denied the suggestion that accused/appellant was called under the pretext of inquiry from home and arrested. He had given the statement to Patwari that between the deceased, Pushkar Singh and accused/appellant, Neeraj Singh in his personal knowledge, there was no type of enmity. He is the real uncle of Pushkar Singh. He denied the suggestion that being the uncle, he is giving false evidence against the accused/appellant.

15. Smt. Saraswati Devi W/o the deceased, Pushkar Singh, was examined as PW-2. In her deposition, she stated that on 19.09.2020 at about 9:30 p.m., when after meal coming out for bathroom. The witness identified the accused/appellant in the court and stated that the accused/appellant present in the court had shot bullet at the back of her husband. She further stated that upon coming out, she saw the accused/appellant hiding below the stairs. As soon as she came out, the accused/appellant fired the bullet. At that time, she was behind her husband. The accused/appellant ran away from there after firing at her husband and hid in the Goth (cattle room) of Himuli

Devi. Upon being hit by the bullet, her husband fell face down towards the floor. She told her husband to have courage; she pressed the bullet wound with her hand; her husband collapsed on the spot; she brought water and attempted to give him water, but he was in a critical condition and she started crying loudly. Upon hearing her cries, maternal uncle-in-law Ganga Singh reached the spot, and thereafter the ladies of village came to her house and took her above. Maternal uncle-in-law Ganga Singh called the ambulance thereafter. The entire process took place in my maternal uncle's presence; her husband was village Pradhan and both of our sons were in job, therefore, the accused/appellant used to be jealous. The deceased used to restrain the accused/appellant from indulging in objectionable acts, including misbehaviour with women of the village. Due to this, the accused/appellant bore enmity towards us. She further stated that prior to the incident, the accused/appellant had also pelted stones at their house; her husband had scolded the appellant.

16. She also stated that the accused/appellant had stolen the gun from the house of Rajendra Singh and used the same to shoot her husband in front of their house. On the next day, i.e., 20.09.2020, the Patwari came to the spot, and the report was submitted by Ganga Singh.

17. PW-2, Smt. Saraswati Devi was cross-examined by the learned counsel for the accused/appellant. In her cross-examination, PW-2 stated that she had informed Ganga Singh at about 9:30 p.m. on 19.09.2020 that the accused/appellant had fired at her husband. She stated that there are 8 stairs in her house and that the accused/appellant was hiding beneath those stairs.

18. She further stated that dinner in the village is usually taken between 8:00 p.m. to 8:30 p.m. She confirmed that her husband had fallen face down after being shot, she immediately took care of him. She could not specify the exact time taken by Ganga Singh to reach the spot but stated that he arrived within a five minutes after her raising alarm. Other villagers gathered within about 10 minutes. She expressed lack of knowledge regarding the exact time when Ganga Singh lodged the report. She admitted that neither the Patwari nor the Kanungo reached the spot during the night of the incident.

19. She also reiterated that the accused/appellant had enmity with her family for about 1-2 years and used to misbehave with women of the village, though she admitted that she had no knowledge of any formal complaint made against him. She further stated that 2-3 months prior to the incident, the accused/appellant had pelted stones at their house, she does not remember the date. Her husband had not submitted any report in police Patwari of pelting stones; herself stated that the deceased scolded the accused/appellant.

20. She denied the suggestion that she had not seen the accused/appellant firing the shot at her husband or that he had been falsely implicated. She also denied the suggestion that the accused/appellant had not pelted stones at their house. She stated that the accused/appellant was arrested on the next day from near a temple close to the village by the Patwari and Kanungo. She further denied the suggestion that the accused/appellant was falsely arrested under pressure or that he had not been hiding in the nearby Goth (cattle room).

21. PW-2 further deposed that the subsequent proceedings were carried out as informed by Ganga Singh, and that whatever things she had narrated to him were incorporated by him in the report submitted to the Patwari. She denied the suggestion that she was deposing falsely against the accused/appellant.

22. Rajendra Singh was examined as PW-3. He deposed that on 19.09.2020, he was unwell and sleeping at his house, when he came to know that his brother, Pushkar Singh, had been shot by the accused/appellant present in Court. Upon receiving such information, he searched for his double barrel gun, which was kept in another room, but found it missing. He further stated that the cartridges, which were kept in an almirah, were also missing and the almirah was found broken.

23. He stated that he had given the information of theft of his gun and 20 live cartridges to Revenue Department Team on 19.09.2020. His written report is on record (Paper No. 05A/14), bearing his signatures, which he identifies. He further alleged that the accused/appellant present in the court had stolen his gun and cartridges from his house, and committed the murder of his brother. The witness further stated that he is a heart patient, at that time he was also suffering from illness (typhoid), due to which he had become physically weak and his hearing ability was also affected, due to which reason, he could not tell the date clearly. He also stated that his statement had been recorded twice during investigation.

24. During examination of PW3 Rajendra Singh two sealed bundles containing details of case were opened in the court. Upon opening the big bundle, a double barrel gun was taken out, which the

witness identified as the same gun allegedly stolen from his house and used in committing murder of his brother, Pushkar Singh. The said gun was marked as Material Exhibit M.O.-1 and the white cloth as material Exhibit M.O.-2. and in addition to this, another bundle was opened and a used plastic cartridge shell was taken out, which was stated to have been recovered from the place where the accused/appellant was allegedly hiding; however, the witness stated that such recovery was not effected in his presence.

25. In his cross-examination, PW-3 stated that he had received information regarding the incident from his grandson, Sachin aged about 19-20 years over telephone, informing him that the accused/appellant had shot Pushkar Singh. He was unable to clearly state the exact time of receiving such information, though he indicated it was in the evening.

26. He further stated that he had submitted his report in the morning near the house of the deceased, though he did not know who had written the report. He further stated that he had given the report on the same day when the Patwari and Kanungo had come to the spot and that no separate report was lodged thereafter. In the report, he had stated that his gun was stolen on 18.09.2020, he himself stated that he did not clearly remember whether the gun had been stolen on 18th or 19.09.2020.

27. He further stated that he was not aware of any prior enmity between the deceased and the accused/appellant. He denied the suggestion that the Patwari and Kanungo had themselves taken the gun and cartridges from his house and had shown a fabricated recovery from the accused/appellant, PW3 Rajendra Singh could not

tell the date on which date the gun was stolen from his house. According to PW3 Rajendra Singh, the live cartridges, which were allegedly stolen, were not received by him, nor he could know where they are.

28. He denied the suggestion that the gun had been taken by the police personnel from his house or that the alleged recovery of the firearm from the accused/appellant was fabricated.

29. PW-4 Smt. Dimple Dangi is a neighbour of the deceased who deposed having proceeded to spot where Pushkar Singh Dangi was lying on the ground. Smt. Saraswati Devi told her about Neeraj Singh having shot bullet at Pushkar Singh. When her father-in-law checked Pushkar Singh he had died. Then the accused/appellant was searched, who was hiding in the Goth (cattle room) of Himuli Devi. He ran outside with gun. In her cross-examination, she denied the suggestion that she did not see the accused/appellant coming out of the house of Himuli Devi with gun in his hand. She admitted Smt. Saraswati Devi to be her Jethani and deceased Pushkar Singh her Jeth. She also denied the suggestion that the deceased being the Jeth she has wrongly stated about the accused/appellant coming out of the house of Himuli Devi. She also denied the suggestion that she is giving false evidence on the advice of her father-in-law Ganga Singh.

30. PW-5 Shri Nain Singh is a labourer, who deposed having found the accused/appellant hiding inside the bathroom of the temple and he closed the door of the bathroom since Neeraj Singh told him that he had shot bullet at Pushkar Singh and he was having gun. He informed the Pradhan about Neeraj Singh being there and to call the Patwari. Then villagers and Patwari came there and later police also

came who took away Neeraj Singh and gun. In his cross-examination, the PW-5 stated that there was no written documentation in front of him. Police may have caught the gun from Neeraj Singh. He was in the field below. After coming, police halted for one and half hour. The Patwari & police had enquired from him in the temple, thereafter Patwari & police did not enquire from him. He also stated that the gun was not recovered from Neeraj Singh in his presence. There was no documentation of recovery of gun in front of him. He had seen Neeraj Singh at 12:00-1:00 in the day.

31. PW-6 is Dr. Lal Singh Bora, Senior Surgeon, B.D. Pandey District Hospital, Pithoragarh who conducted post-mortem examination of Pushkar Singh. He deposed that on the examination of chest and ribs, there were many pellets present in the left chest (front), in the right lungs there were two pellets. During the post-mortem examination he sealed many pellets in a jar, two envelopes-in one blood sample & in another two X-rays, one bundle containing clothes of deceased were given in the custody of the Patwari. In his opinion the cause of death of deceased was due to shock on account of excessive bleeding which is possible from ante-mortem fire arm injury. He proved the sample seal of the material given in the custody of the Patwari after sealing and the sample seal was marked as Exhibit P-3. He also proved the post- mortem report which was marked as Exhibit P-4. In his cross-examination, he stated that death is also possible in the morning of 19.09.2020.

32. PW-7 Police Inspector Hem Chandra Pant who was posted as SHO Berinag on 20.09.2020 deposed having gone to Naminal Devta Mandir, Purana Thal where the accused/appellant was hiding in a bathroom. He alongwith the police team, Patwari & Ex-Pradhan

Laxman Singh reached near the bathroom in the premises of temple and told the accused/appellant, Neeraj Singh to surrender. That person believed them and opened the door having one double barrel gun & a bag containing cartridges. On search of the bag there were 19 live cartridges. The accused/appellant was arrested at 12:05 hours.

33. The recovered double barrel gun was kept in white cloth and cartridges were kept in the same bag and sealed and sample seal was prepared. Memo was prepared on the spot bearing his signatures and he identified his signatures and was marked as Exhibit 5. On the spot gun was sealed by IO & prepared sample seal. In his cross-examination, he stated that they had proceeded from the Thana at 9:00 o'clock whose entry would be in G.D. Copy of G.D. is not on record. He denied the suggestion that Neeraj Singh had not told him that he had stolen the gun from the house of Rajendra Singh and shot at Pushkar Singh yesterday night. He denied the suggestion that the memo was prepared in the Thana and all had signed in the Thana. He also denied the suggestion that the gun and cartridges were brought from house of Rajendra Singh and fabricated false recovery was shown from the accused/appellant. He also denied the suggestion that the accused/appellant was not arrested from near Naminal Devta Mandir, Purana Thal. He denied the suggestion that no gun or cartridges/shell was recovered in front of him.

34. PW-8 Shri Govind Singh is a witness of the inquest report & deposed having gone to the place of incident when Rajendra Singh had telephonically informed him about someone having fired bullet at Pushkar Singh. He identified his signatures on the inquest report. In his cross-examination he stated not seeing Neeraj Singh in the Goth

(cattle room) of Himuli Devi. He denied the suggestion having seen the accused/appellant running away with gun.

35. PW-9 Bipin Chandra Pathak was posted as Rajaswa Up Nirikshak, Patti Chauki Thal. In September 2020 he was attached to District Headquarter Pithoragarh for police work training due to which he had given the charge to senior Rajaswa Up Nirikshak Pushkar Ram Sanguri who was Rajaswa Up Nirikshak of adjacent Patti Aamthal.

36. According to PW9 Bipin Chandra Pathak, Shri Pushkar Ram Sangudi had recorded the Chik FIR regarding the incident committed by accused/appellant, Neeraj Singh; Shri Pushkar Ram Sangudi has died on 15.01.2021. According to PW3 Rajendra Singh, Shri Pushkar Ram Sangudi has worked with him and he has seen him reading, writing and signing. The Chik FIR recorded by Shri Pushkar Ram Sangudi has been signed by him, which is marked as Exhibit P-6. After registering the case, Shri Pushkar Ram Sangudi recorded the statements of informant, Ganga Singh on 20.09.2020 and the accused/appellant was arrested by the joint team of the police. Arrest memo and recovery of double barrel gun is in the file as Exhibit P-5 and at place B is the signature of Shri Pushkar Ram Sangudi. On the pointing out of the witnesses on 20.09.2020, the Rajaswa Up-Nirikshak, Shri Pushkar Ram Sangudi, went to the place of occurrence and prepared the site plan, which is on record. The said site plan bears the signatures of Shri Pushkar Ram Sangudi, the same has been marked as Exhibit P-7.

37. PW3 Rajendra Singh further stated that on 20.09.2020 itself, Shri Pushkar Ram Sangudi collected blood-stained soil and cement from the site and prepared its memo, which is signed by Shri

Pushkar Ram Sangudi and it is marked as Exhibit P-8. Further, on the same day, Rajaswa Up-Nirikshak Shri Pushkar Ram Sangudi prepared the recovery memo of the empty cartridge shell, which is on record and signed by Shri Pushkar Ram Sangudi, which is marked as Exhibit P-9. The blood-stained soil, live cartridges and empty cartridge shell were sealed at the spot, and a sample seal was prepared. The same is on record, bears the signatures of Shri Pushkar Ram Sangudi, and the same has been marked as Exhibit P-10 and Exhibit P-11.

38. On 20.09.2020, an application was submitted before the Chief Medical Officer for conducting the post-mortem examination and for preserving the pellets found in the body of the deceased, along with the clothes of the deceased, which is on record, bears the signatures of Shri Pushkar Ram Sangudi, and has been marked as Exhibit P-12. On that day, Rajaswa Up-Nirikshak, Shri Pushkar Ram Sangudi prepared the Panchayatnama of the deceased. The said Panchayatnama is on record, bears his signatures, and has been marked as Exhibit P-13. Further, on that day itself, Shri Pushkar Ram Sangudi prepared the photo-nash and Challan of the dead body, and also sealed the blood-stained clothes of the deceased and prepared a sample seal thereof, which are on record, bear signatures of Shri Pushkar Ram Sangudi, and have been marked as Exhibit P-14, Exhibit P-15, and Exhibit P-16.

39. During the course of investigation, Shri Pushkar Ram Sangudi also recorded the statements of the witnesses. After completion of his training, he presented himself at the original Patti Thana, Kshetra Thal and in compliance with the order of Nayab Tehsildar, he took over the investigation of the present case on 24.10.2020. On that day, he received entire relevant documents, case diary and case material. He further deposed that on 30.10.2020, he

recorded the statements of Sher Singh, a witness to the inquest report. On 25.11.2020, he appeared before the Court of the Chief Judicial Magistrate, Pithoragarh, and submitted an application for sending the case material to the Forensic Science Laboratory (FSL). The said application is on record, bears his signatures, which he identified, and has been marked as Exhibit P-17.

40. He further stated that, as a special messenger, he proceeded to FSL, Dehradun on 26.11.2020 and he submitted the materials of the case in the FSL on 27.11.2020 vide Receipt No. 1911/2020. The format of forwarding letter which also contains the noting of the receipt, is on record, bears his signatures, which he identified, and has been marked as Exhibit P-18. On 17.12.2020, he recorded the statements of Dr. Lal Singh Bora, Senior Surgeon and witness of post-mortem. On 08.12.2020, he also recorded further statements of the informant Ganga Singh and eye-witness Smt. Saraswati Devi and on their pointing out, went to the place of incident and prepared site plan, which is on record, bears his signatures, which he identified, and has been marked as Exhibit P-19. On the same day, he also recorded the statements of witnesses Dimple Karki and Himuli Devi.

41. He further stated that on 17.12.2020, he recorded the statements of other witnesses having found sufficient evidence against the accused/appellant; he submitted the charge-sheet before the court on the same day. The charge-sheet is on record, bears his signatures, which he identified, and has been marked as Exhibit P-20.

42. During cross-examination, PW-9 Bipin Chandra Pathak stated that the earlier Investigating Officer, Shri Pushkar Ram Sangudi

did not prepare any document in his presence, nor were statements of any witnesses recorded in his presence. He denied the suggestion that the site plan of the place of occurrence was prepared in his office. He also denied the suggestion that signatures of witnesses were obtained in his office in a false manner.

43. He admitted that prior to 24.10.2020, no proceedings or inquiry took place in his presence. He stated that he could not say which documents were prepared earlier or at whose instance they were prepared. He further stated that he recorded the statement of the previous Investigating Officer on the second day after taking over the investigation but could not tell the exact time.

44. He stated that he did not make Jagmohan Dwivedi a witness, nor did he take his statement; he might have recorded the statement of Sher Singh, he does not remember. He further stated that he went to FSL, Dehradun on 26.11.2020, does not remember the time; he took a bus to Dehradun. The bus reaches there the next morning at around 6:00 AM, and deposited the case material in FSL, Dehradun between 10:00 to 10:30 AM.

45. He denied the suggestion that he had not recorded the statement of Dr. Lal Singh Bora. He also denied the suggestion that he had never made any inquiry from Dimple Karki and Himuli Devi. He further denied the suggestion that he had not recorded statements of Pooran Singh, Govind Singh and Rajendra Singh. He also denied the suggestion that statements of Kumer Singh, Krishna Singh and Chandra were not recorded. He further denied that he had not recorded statements of Basanti Devi, Laxman Singh, Nain Singh and Constable Sanjeev Yadav. He also denied the suggestion that he

recorded statements of all witnesses while sitting in his office. He also denied the suggestion that, without conducting any investigation under the influence of the informant, he had submitted a wrong charge-sheet in the court. He further denied the suggestion that he is deposing falsely in order to implicate the accused/appellant under the influence of the informant.

46. After the completion of prosecution evidence, the statement of the accused/appellant was recorded under Section 313 of the Code of Criminal Procedure, wherein he denied the entire prosecution case and contended that he had wrongly been implicated and false & fabricated recovery of the gun and cartridges had been prepared, and that an incorrect charge-sheet had been filed against him. He also contended that he is innocent and has falsely been implicated in the present case.

47. Thereafter, the learned Trial Court heard the arguments advanced by the learned counsel for the parties and after going through the entire record, came to the conclusion that the accused/appellant, Neeraj Singh, had stolen a double-barrel gun and 20 live cartridges belonging to Rajendra Singh from his house on the night of 18.09.2020 and committed the murder of Pushkar Singh by firing bullet from the said gun at around 9:30 PM on 19.09.2020 and the gun from which the accused/appellant committed murder of Pushkar Singh and 19 live cartridges were recovered by the police from the possession of the accused/appellant on 20.09.2020 at 12:05 O' clock from near bathroom of Naminal Devta Mandir, Purana Thal and thus, concluded that the prosecution has been able to successfully prove the case beyond reasonable doubt against the accused/appellant under Sections 302, 380, 457, and 411 of the Indian Penal Code, as

well as under Section 5 read with Section 27(1) of the Arms Act. Accordingly, the accused/appellant was convicted under the said sections and sentenced accordingly, vide judgment and order dated 09.08.2023 passed by the learned Sessions Judge, Pithoragarh in Sessions Trial No.06 of 2021, 'State vs. Neeraj Singh'. The said judgment and order has been challenged by way of the present criminal jail appeal.

48. Heard learned counsel for the parties and perused the record.

49. Learned *Amicus Curiae* for the appellant argued that the accused/appellant is innocent and has been falsely implicated in the present case. The accused/appellant has not committed any crime and the incident has not occurred in the manner as portrayed by the prosecution.

50. At the outset, learned counsel drew the attention of the Court to the First Information Report (FIR) and submitted that there is no mention therein that Smt. Saraswati Devi W/o Pushkar Singh had witnessed the accused/appellant firing at the deceased, Pushkar Singh. Rather, the FIR reflects that there was only a suspicion that the shot may have been fired from the roof. It was further stated that two or three persons went to the terrace but did not find anyone there. The courtyard (angan) was illuminated, yet no person was seen fleeing from the spot.

51. The next submission of Mr. D.C.S. Rawat, learned *Amicus Curiae* for the accused/appellant is that the report regarding the theft of the gun from the house of Rajendra Singh, allegedly committed on 18.09.2020, does not name anyone. It was further submitted that

although the said report is dated 19.09.2020, it was received in the office of the Rajaswa Up-Nirikshak, Aamthal/Thal, only on 21.09.2020 at 7:30 AM. It was contended that this delay indicates that the report was subsequently fabricated to falsely implicate the accused/appellant.

52. It was further argued that in the site plan dated 20.09.2020, the presence of the accused/appellant is not shown. However, in the subsequent site plan prepared on 08.12.2020, the presence of the accused/appellant was introduced at a location marked as "G", which indicates material improvement in the prosecution case.

53. Learned *Amicus Curiae* for the accused/appellant also contended that although PW-2, Smt. Saraswati Devi, has stated that the accused/appellant fired the bullet, then FIR itself records uncertainty by stating that "हमें संदेशा हुआ कि गोली शायद छत से मारी गई" thereby creating a serious contradiction.

54. It was also argued that the alleged recovery of the double-barrel gun and cartridges is planted and that no such recovery was made from the possession of the accused/appellant. It was further contended that there is no independent witness of arrest and recovery of double barrel gun and cartridges. It was further contended that it is a sheer case of improvement by the prosecution.

55. *Per contra*, learned State Counsel, Mr. Pankaj Joshi, contended that the prosecution has proved its case beyond reasonable doubt and that no interference is warranted in the present appeal. It is submitted that the learned Trial Court has rightly appreciated the evidence on record and correctly convicted the accused/appellant.

56. However, learned State Counsel fairly conceded that the First Information Report does not specifically mention the presence of Smt. Saraswati Devi at the place of occurrence. He was also unable to offer any satisfactory explanation regarding the site plan wherein the place marked "I" indicates the position of Smt. Saraswati Devi, allegedly standing on the uppermost step at the time when the accused/appellant, Neeraj Singh fired bulled at the deceased, Pushkar Singh. However, the PW-2, Smt. Saraswati Devi in her statement has categorically stated that she was standing behind her husband when he came out and at that moment, the accused/appellant, Neeraj Singh fired the shot.

57. Learned State Counsel also argued that the prosecution witnesses are consistent in their version that the accused/appellant had hid himself in the Goth (cattle room) and thereafter, ran out and that he was seen in the emergency light, thereby supporting the prosecution case.

58. It was also argued on behalf of the State by learned A.G.A. that Late Pushkar Singh was the Gram Pradhan & he used to scold the accused/appellant not to harass the girls and ladies of the village hence, the accused/appellant had the motive to murder the deceased, Pushkar Singh.

59. On due consideration of the rival submissions of learned counsel for the parties, the outcome of the instant criminal jail appeal hinges primarily on three aspects of the case viz. – (a) as to the veracity of the statements of PW2, Smt. Saraswati Devi, in the light of the initial version of the FIR, wherein her presence is missing, (b) the introduction of the case by Rajendra Singh regarding the theft of a

double barrel gun and cartridges from his house and (c) the arrest of the accused/appellant and the alleged recovery of the double barrel gun and cartridges of Rajendra Singh from the accused/appellant.

60. If the FIR is closely examined, it states that on 19.09.2020 at 9:30 p.m., the informant heard the sound of bullet and the shouting of daughter-in-law and when he came out, he saw his nephew Pushkar Singh fallen on the ground. It was doubted that probably the bullet might have been fired from the roof top. If this allegation of the FIR is compared with the statements of Smt. Saraswati Devi, the PW2 then the statement of PW2 Saraswati Devi that Neeraj Singh had shot at her husband and she had seen it, is totally against the FIR version which though mentions about the shouting by daughter-in-law (PW2, Sarawati Devi) but at the same time, the FIR is silent about the PW2 having seen the accused/appellant firing bullet at the deceased, otherwise this aspect would have been narrated in the FIR itself. The contradictions between the FIR and the statements of PW2, Smt. Saraswati Devi is further evident from site plan dated 08.12.2020 where the presence of the PW2, Smt. Saraswati Devi is shown on the last upper step. Thus, there is total mismatch in the prosecution version regarding the gunshot by the accused/appellant on the deceased, Pushkar Singh.

61. The next aspect of the case is regarding the report lodged by Rajendra Singh about missing of his DBBL gun and 20 live cartridges. A perusal of the said report addressed to the Patti Patwari Thal, Tehsil Thal, District Pithoragarh would reveal that the same is stated 19.09.2020 and it alleges that the missing of gun and 20 cartridges from the evening of 18.09.2020 and although it is dated 19.09.2020, the same has been submitted with the Rajaswa Up-

Nirikshak, Aamthal/Thal only on 21.09.2020. A perusal of the report dated 19.09.2020 shows that by interpolation/change date of 19.09.2020, has been changed to 18.09.2020. The said report does not inspire confidence. Firstly, if the double barrel gun and cartridges were stolen in the evening of 18.09.2020 when Rajendra Singh had returned in the evening of 18.09.2020, then having noticed missing of his gun and breaking open of lock of the almirah, he ought to have reported the matter to Patti Patwari Thal, Tehsil Thal, District Pithoragarh on 19.09.2020 and not on 21.09.2020 as evident from the record. The theft report of the gun and cartridges being after the incident and also in the backdrop that the arrest of the accused/appellant having been shown alongwith the gun and 19 live cartridges on 20.09.2020, where there are no independent witnesses in spite of the presence of many persons on this point, draws an adverse inference against the prosecution that the theft report was only with an objective to co-relate the recovery of double barrel gun from the accused/appellant. So far as the arrest of the accused/appellant along with the double barrel gun and 19 live cartridges is concerned, the same does not inspire confidence in as much as there is no independent eye-witnesses and the recovery appears to be planted recovery as has been argued on behalf of the accused/appellant by the learned Amicus Curiae.

62. In view of the aforesaid facts and circumstances of the case and after minute scrutiny of the respective statements of the prosecution witnesses and the record and due consideration of the rival submissions of the learned counsel for the parties, the Court is of the considered opinion that the statements of PW1, PW2 and PW3 are having material inconsistencies regarding the gunshot by the accused/appellant on the deceased Pushkar Singh as has been discussed in detail in the preceding paragraphs and the prosecution

has failed to prove the charges against the accused/appellant beyond a shadow of doubt and thus, the accused/appellant is entitled to be acquitted of the charges under Sections 302, 457, 380, 411 and Section 5 r/w Section 27(1) of the Arms Act. The instant appeal deserves to be allowed.

63. The appeal is allowed.

64. The impugned judgment and order dated 09.08.2023 passed by the learned Sessions Judge, Pithoragarh in Sessions Trial No.06 of 2021, State of Uttarakhand vs. Neeraj Singh (arising out of Case Crime No.01 of 2020, under Sections 302, 457, 380, 411 of IPC and Section 5/27(1) of the Arms Act) is hereby set-aside.

65. The appellant is acquitted of the charge under Sections 302, 457, 380, 411 IPC and Section 5 read with Section 27(1) of the Arms Act, 1959.

66. Let the accused/appellant be released forthwith from the custody, if not required in any other case, after due compliance of Section 437-A of Cr.P.C. (corresponding Section 481 of BNSS) within three weeks from today.

67. Let a copy of this judgment along with the original records be sent to the trial court concerned.

(Siddhartha Sah, J.)
29.04.2026

(Ravindra Maithani, J.)
29.04.2026