



2026:AHC-LKO:27552-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

Criminal Appeal No. - 522 of 1983

Ram Pratap

.....Appellant(s)

Versus

State of U.P.

.....Respondents(s)

Counsel for Appellant(s) : S/Shri K.P. Singh, Santosh Kumar Tripathi, Shiv
S.E. Chitambar
Counsel for Respondent(s) : Ld. Govt. Advocate, S/Shri Abhisek Awasthi,
Abhishek Ranjan, Purnendu Chakravarty

Along with:

- Criminal Appeal No. 529 of 1983:**
Ram Khelawan and another
Versus
State of U.P.
- Criminal Appeal No. 543 of 1983:**
Ramapati Misra and others
Versus
State of U.P.
- Criminal Appeal No. 544 of 1983:**
Ram Asrey and others
Versus
State of U.P.

Court No. – 10

AFR
Reserved On:09.02.2026
Delivered On: 20.04.2026

**HON'BLE RAJNISH KUMAR J.
HON'BLE ZAFEER AHMAD, J.**

(Per Hon'ble Zafeer Ahmad)

1. Heard, Sri Nagendra Mohan learned Senior counsel assisted by Sri Shiv S.E. Chitambar, learned counsel for the appellants, Sri Purnendu Chakravarty learned Senior counsel assisted by Sri

Pranjal Jain, learned counsel for the complainant and learned A.G.A. for the State. Perused the records.

2. The aforesaid criminal appeals arises out of the common judgment and order dated 18.07.1983 passed by IIIrd Additional District & Session Judge, Pratapgarh in Session Trial No. 227 of 1982 (*State v. Rama Pati Misra & Ors.*) arising out of case crime no. 146 of 1982, Police Station Badhrai, Sub-District Kunda, District Pratapgarh, whereby the appellants have been convicted and sentenced under Section 302 of Indian Penal Code (in short I.P.C.) r/w Section 149 I.P.C. for life imprisonment, under Section 325 I.P.C. r/w Section 149 I.P.C for one year of rigorous imprisonment, under Section 323 I.P.C r/w Section 149 I.P.C for six months rigorous imprisonment, under Section 201 I.P.C r/w 149 I.P.C for five years rigorous imprisonment. It has further been provided that appellant Ram Pratap has to undergo further sentence for one year rigorous imprisonment under Section 148 I.P.C..
3. Since all the aforesaid criminal appeals arise out of a common judgment and order dated 18.07.1983, as such same have been heard together and decided by a common order.

Prosecution Story in Nutshell:

4. The prosecution story, in brief, is that on 05.09.1982 complainant Shyam Shankar Tripathi s/o Surya Narayan r/o Gogaur, Police

Station Badhrai, District Pratapgarh submitted a written report stating therein that a land dispute was pending between the informant's uncle, Chandra Prakash Tiwari, son of Mewalal Tiwari, and Ramapati and Salik Ram Agayara of his village, on account of which the accused persons were harbouring enmity against the deceased. On 05.09.1982 at around 6:00 P.M., while the deceased was sitting at his door and talking to Salik Ram Pradhan and Pati Ram Upadhyay, Radhe Krishna s/o Ram Khelawan came and called him on the pretext that a peon from the Tehsil was calling for him. Thereafter when he reached the southern road near the house of Ram Khelawan, he was surrounded by Ramapati Mishra, Salik Ram Misra, Ram Khelawan, and Triveni Prasad Mishra (sons of Devata Din), Ram Khelawan (son of Suraj Din), Ram Asray Radhe Shyam, Radhey Mohan and Randhey Krishna (sons of Ram Khelawan), Mithlesh Kumar, Dharendra Kumar and Rakesh Kumar (sons of Salik Ram) and Om Prakash (son of Triveni Prasad), who caught hold of him and started assaulting him with lathis. On hearing the cries of the deceased, the complainant along with his father Suryanarayan, Dhruv Prakash, Satya Prakash, Salik Ram (*Pradhan*), Pati Ram Upadhyay, Jagan , Jagdev, his two aunts (*chachi*) and one paternal aunt (*bua*) reached the spot and attempted to intervene but the accused persons threatened

them of dire consequences and prevented them from rescuing the deceased. It is alleged that even the women, who tried to shield the deceased, were assaulted and forcibly pushed aside. It is further stated that Ram Pratap, brother-in-law of Ram Asrey, who was present at the spot with other associates, threatened the witnesses with firearms, due to which they could not come near. The accused persons continued to beat the deceased with lathis in the presence of the witnesses, as a result of which he succumbed to the injuries. It is also alleged that the accused persons attempted to conceal the dead body.

5. On the basis of the written report, an F.I.R was registered by Head Moharrir Irshad Ahmad and the corresponding GD entry was also made. The investigation of the case was entrusted to S.I. Raj Deo Yadav, who proceeded to the place of occurrence and reached there at around 1:45 A.M. on 06.09.1982. Upon arrival, the dead body was not found at the alleged place of occurrence; however, after a brief search, the same was recovered from the field of Gaya Prasad. Owing to insufficient light, the inquest proceedings could not be conducted at that time and a constable along with a chaukidar was deputed to guard the dead body. Thereafter, information was received that some of the accused persons were hiding in the house of Ram Khelawan, whereupon S.I. Shyam Mani Singh along with police personnel was deputed to keep

surveillance. On the morning of 06.09.1982 at about 6:00 A.M., the Investigating Officer conducted the inquest proceedings and prepared the *panchayatnama* (Ext. Ka-18), along with relevant papers including challan lash, photo lash, and sample seal, and sealed the dead body, which was sent for post-mortem to District Hospital, Pratapgarh in the custody of Constable Satyendra Yadav and Constable Kanhaiya Lal.

6. Upon completion of investigation, charge-sheet was submitted under Sections 147, 148, 149, 323, 325, 302 and 201 IPC against accused Ram Khelawan, Salik Ram, Triveni Prasad, Ram Asrey, Rakesh Kumar, Radhey Krishna, Dharendra Kumar, Ramapati, Radhey Mohan, Radhey Shyam, Mithilesh Kumar, Om Prakash and Ram Pratap. The trial court framed charges under Sections 148, 302/149, 325/149, 323/149 and 201/149 IPC against accused Ram Pratap, while separate charges under Sections 147, 302/149, 325/149, 323/149 and 201/149 IPC were framed against the remaining twelve (Ram Khelawan, Rakesh Kumar, Rmapati Misra, Salik Ram Misra, Triveni Prasad Misra, Mithilesh Kumar, Dharendra Kumar, Om Prakash, Ram Asray, Radhey Shyam, Radhey Mohan and Radehy Krishna) accused persons.
7. In order to prove its case, the prosecution examined Shyam Shankar Tripathi (P.W.-1), Jagannath @ Jagan (P.W.-2), Smt. Susheela Devi (P.W.-3), Dr. D.C. Srivastava (P.W.-4), Dr.

Sampurna Nand (P.W.-5), Constable Lallan Singh (P.W.-6), Constable Indra Bahadur Singh (P.W.-7), Constable Satyendra Yadav (P.W.-8) and S.I. Raj Deo Yadav (P.W.-9).

8. Following exhibits were produced and proved before the Trial Court by prosecution:

EXHIBITS	PARTICULAR
Ext. Ka 1	Written Report
Ext. Ka 2	Post Mortem Report of deceased Chandra Prakash Tewari
Ext. Ka 3	Injury Report of Sushila Devi
Ext. Ka 4	Injury Report of Savitri Devi
Ext. Ka 5	Injury Report of Krishna Kali
Ext. Ka 6	Copy of F.I.R and copy of Written Report
Ext. Ka 7	Copy of General Diary Entry
Ext. Ka 8	Recovery Memo of one country made pistol (<i>katta 12 bore</i>)
Ext. Ka 9	Copy of Report containing details of goods to be sent to Sadar Hospital with Constable Lallan Singh
Ext. Ka 10	Copy of Report containing details of return of Constable Lallan Singh after delivery of goods
Ext. Ka 11	Recovery Memo of blood stained grass from the route from which deceased body was dragged
Ext. Ka 12	Recovery Memo of bloodstained and plain soil, blood stained leaves of <i>urad</i> and <i>arhar</i> plants leaves near the body of deceased Chandra Prakash
Ext. Ka 13	Recovery Memo of House Search of Salikram s/o Devatadeen
Ext. Ka 14	Recovery Memo of House Search of Rama Pati s/o Devatadeen
Ext. Ka 15	Sample seal
Ext. Ka 16	Letter to CMO
Ext. Ka 17	Letter to CMO
Ext. Ka 18	<i>Panchayatnama</i>
Ext. Ka 19	Police Form No. 13
Ext. Ka 20	Sketch of Dead body (<i>photo naash</i>)
Ext. Ka 21	Copy of F.I.R
Ext. Ka 22	Recovery Memo of a license gun BSA A/946 SBBL and 10 cartridges of 5 and 5.2 number in a plastic bag from house of Ram Pratap

Ext. Ka 23	X-ray Report and Plate of the injury in hand of Sushila Devi
Ext. Ka 24	Receipt of animals kept in animal shed (<i>maveshikhaana</i>)
Ext. Ka 25	Recovery Memo of Blood Stained Shirt found in the garbage of house of Radhey Shyam and Radhey Mohan
Ext. Ka 26	Attachment order of accused Radhey Shyam
Ext. Ka 27	Attachment order of accused Radhey Mohan
Ext. Ka 28	Auction Memo of movable property of accused Radhey Shyam, Radhey Mohan s/o Ram Khelawan
Ext. Ka 29	Receipt of animals kept in animal shed (<i>maveshikhaana</i>)
Ext. Ka 30	Auction memo of movable property of accused Mithilesh Kumar
Ext. Ka 31	Receipt of animals kept in animal shed (<i>maveshikhaana</i>)
Ext. Ka 32	Arrest warrant of accused Rama Pati
Ext. Ka 33	Auction Memo of movable property of accused Rama Pati
Ext. Ka 34	Receipt of animals kept in animal shed (<i>maveshikhaana</i>)
Ext. Ka 35	Arrest warrant of accused Om Prakash
Ext. Ka 36	Attachment order of accused Om Prakash
Ext. Ka 37	Auction Memo of movable property of accused Om Prakash
Ext. Ka 38	Receipt of animals kept in animal shed (<i>maveshikhaana</i>)
Ext. Ka 39	Attachment order of accused Ram Pratap
Ext. Ka 40	Site Plan
Ext. Ka 41	Recovery memo of blood stained and plain soil taken into possession at the place of incident
Ext. Ka 42	Recovery Memo of blood stained doorframe (<i>beniya- chaukhat</i>) from house of Ram Khelawan
Ext. Ka 43	Recovery Memo of house search of accused Triveni Prasad
Ext. Ka 44	Copy of Report
Ext. Ka 45	Attachment order of accused Rama Pati
Ext. Ka 46	Attachment order of accused Ram Pratap
Ext. Ka 47	Charge sheet
Ext. Ka 48	Charge sheet
Ext. Ka 49	Copy of Munsif's Court order (<i>Satya Prakash v. Ramapati and Ors.</i>)
Ext. Ka 50	Copy of Decree (<i>Satya Prakash v. Ramapati and Ors.</i>)

Ext. Ka 51	Copy of application of Criminal Revision (Criminal Revision No. 87/1982, <i>Surya Naryan v. Salik Ram and Ors.</i>)
Ext. Ka 52	Copy of Munsif's Court order (<i>Ram Asray v. Satya Prakash</i>)
Ext. Ka 53	Report of SHO Badhrai
Ext. Ka 54	Copy of Execution Court Order
Ext. Ka 55	Copy of Order in appeal no. 1991/1057
Ext. Ka 56	Forensic Serology Report of Material Exhibits 1 to 8
Ext. Ka 57	Letter from Assistant Chemical Analyser to Chief Judicial Magistrate (Miscellaneous Form No. 5-F)
Ext. Ka 58	Auction Memo of movable property of accused Mithilesh Kumar

9. In order to prove its case, the defence examined D.K. Sahu (DW-1) and proved following exhibits in their defence:

EXHIBITS	PARTICULAR
Ext. Kha 1	Part of Jagannath's (PW-2) testimony
Ext. Kha 2	Part of Jagannath's (PW-2) testimony
Ext. Kha 2A	Part of Sushila Devi's (PW-3) testimony
Ext. Kha 3	Copy of Jagannath's (PW-2) testimony
Ext. Kha 5	Copy of Jagannath's (PW-2) testimony
Ext. Kha 6	Copy of Injury Report of Salikram
Ext. Kha 7	Copy of Injury Report of Ram Asrey
Ext. Kha 8	Copy of Injury Report of Triveni Prasad
Ext. Kha 9	Copy of Injury Report of Radhey Krishna
Ext. Kha 10	Copy of Injury Report of Ram Khelawan

10. Following material exhibits were produced and proved before the Trial Court:

MATERIAL EXHIBITS	PARTICULAR
Material Ext.-1	Plain earth from the place where the assault occurred
Material Ext.-2	Blood-stained earth from the place where the assault occurred
Material Ext.-3	Door frame (<i>Beniya</i>)
Material Ext.-4	Grass (the alleged route from which the deceased body was dragged from the eastern house of Ram

	Khelawan upto the Guru Prasad's field)
Material Ext.-5	Blood-stained earth from the field of Guru Prasad (place where the dead body was discovered)
Material Ext.-6	Plain earth from the field of Guru Prasad (Place where the dead body was discovered)
Material Ext.-7	Leaves from the agricultural field of Guru Prasad (Place where the dead body was discovered)
Material Ext.-8	Blood-stained white shirt
Material Ext.-9	Lungi (traditional cloth draped by men around their waist)
Material Ext.-10	Underwear

11. The statements of the accused persons were recorded under Section 313 Cr.P.C., wherein they denied the prosecution case and pleaded false implication on account of prior enmity. Accused Ram Pratap stated that accused Ram Khelawan is his relative and that the brother of Ram Pratap, namely Sheo Prasad, had earlier deposed against the deceased Chandra Prakash in a case relating to a sale deed, thereby indicating pre-existing enmity. The other accused persons, namely Radhey Krishna, Dharendra Kumar, Ram Asrey, Triveni Prasad, Salik Ram and Rakesh Kumar stated that they came to know about the incident only in the morning and when they reached near the dead body, the police personnel, particularly the Investigating Officer, subjected them to beating and pressurized them to disclose as to who had committed the murder, with a threat that otherwise the entire family would be falsely implicated in the case. Accused Ram Khelawan further stated that Radhey Krishna was not present at the place of occurrence and had gone to Allahabad for admission in B.A.

classes; Radhey Mohan was also at Allahabad in connection with his service and Radhey Shyam was accompanying him there. It was further stated that Mithilesh Kumar was at Banaras pursuing L.T. studies, Om Prakash was a student and was not present at the house at the relevant time due to flood conditions in the river, and that accused Ram Pratap himself was not present at the place of occurrence and was at his village at the relevant time. Accused Radhey Mohan specifically stated that he was not absconding and that he was serving at Allahabad, and upon gaining knowledge of the case, he voluntarily appeared before the Court.

12. In defence, the accused persons produced portions of the statements of prosecution witnesses, namely Jagan and Smt. Susheela Devi, as well as injury reports of Salik Ram, Ram Asrey, Triveni Prasad, Radhey Krishna and Ram Khelawan. They also filed certain documents comprising copies of judicial records to establish prior enmity with the complainant. Additionally, Dr. A.K. Sahoo was examined as D.W.-1 in defence.

13. For convenience and clarity, the accused-appellants shall hereinafter be referred to, as per their array before the Trial Court, namely: A1 – Ram Pratap; A2 – Ram Khelawan; A3 – Rakesh Kumar ; A4 – Ramapati Misra; A5 – Salik Ram Misra ; A6 – Triveni Prasad Misra; A7 – Mithilesh Kumar; A8 – Dhirendra

Kumar; A9 – Om Prakash; A10 – Ram Asray; A11 – Radhey Shyam; A12 – Radhey Mohan; and A13 – Radhey Krishna.

14. During the pendency of these appeals, it has been reported that accused-appellants A2 (Ram Khelawan), A5 (Salik Ram Misra), A6 (Triveni Prasad Misra), A9 (Om Prakash), A10 (Ram Asray) and A13 (Radhey Krishna) have died. Accordingly, the appeals on the behalf of the aforesaid accused-appellants stands abated. Thus, the appeal survives on behalf of A1 (Ram Pratap), A3 (Rakesh Kumar), A4 (Ramapati Misra), A7 (Mithilesh Kumar), A8 (Dhirendra Kumar), A11 (Radhey Shyam) and A12 (Radhey Mohan). It has also been brought on record that accused-appellant A3 (Rakesh Kumar) has been declared a juvenile at the time of occurrence.

Submissions made by learned counsel for the accused-appellants:-

15. Learned counsel for the accused-appellants has assailed the impugned judgment on the ground that the same is contrary to the evidence on record and suffers from serious legal and factual infirmities. It is contended that so far as accused-appellant A1 (Ram Pratap) is concerned, no overt act has been attributed to him in the commission of the offence. As per the prosecution case itself, his role is limited to that of an alleged instigator, and he is stated to have been present at the spot armed with a firearm. It is

submitted that in the absence of any specific act of assault, his conviction with the aid of Section 149 I.P.C. is unsustainable. It is further submitted that the testimony of PW-3 Smt. Sushila Devi creates doubt regarding the prosecution version, inasmuch as while the incident is alleged to have occurred in the evening, the dead body was recovered in the morning from the field of Guru Prasad. According to the learned counsel, this circumstance renders the place and manner of occurrence doubtful. Learned counsel has further contended that the F.I.R and other related documents are ante-timed and have been prepared after deliberation, as is evident from the inconsistencies between the version in the FIR and the testimonies of PW-1 and PW-2. It is submitted that such discrepancies go to the root of the prosecution case. It is also argued that there exist material contradictions between the ocular version and the medical evidence. According to the learned counsel, the nature of injuries as reflected in the post-mortem report does not fully support the manner of assault as alleged by the prosecution witnesses. It is further contended that although the prosecution case suggests that the dead body was dragged from the place of occurrence to the field where, it was recovered, but there is no clear medical evidence indicating injuries consistent with such dragging, thereby creating doubt in the prosecution story. Lastly, it is submitted that though several

blood-stained articles, soil and grass were allegedly recovered during investigation, no conclusive forensic analysis has been brought on record to establish that the blood found on such articles belonged to the deceased. This omission, according to the learned counsel, weakens the chain of circumstances sought to be established by the prosecution.

Submissions made by learned A.G.A :-

16. Per contra, learned A.G.A. has supported the impugned judgment and submitted that the prosecution has successfully established the guilt of the accused-appellants beyond reasonable doubt and no interference is warranted. It is contended that the presence and participation of the accused-appellants in the occurrence stand proved from the consistent and reliable testimonies of the prosecution witnesses, and so far as accused-appellant A1 is concerned, his liability is clearly attracted with the aid of Section 149 I.P.C., being a member of the unlawful assembly. It is further submitted that the alleged discrepancies regarding the time of occurrence and recovery of the dead body are minor in nature and do not affect the substratum of the prosecution case. The contention regarding ante-timing of the F.I.R. is also denied, it being submitted that the F.I.R. was promptly lodged and duly proved. It is further argued that there is no material contradiction between the ocular and medical evidence, rather the same are in

consonance with each other. The absence of specific injuries suggestive of dragging of the dead body, as well as the non-conducting of forensic examination of certain articles, are not fatal to the prosecution case, particularly when the ocular version is cogent and trustworthy.

Oral Testimonies:

In order to appreciate the issues arising in the present appeal, it is appropriate to examine, in brief, the oral evidence adduced by the prosecution.

17.PW-1 Shyam Shankar Tripathi, in his examination-in-chief, deposed that prior enmity existed between the parties. He further deposed that on the date of occurrence at about 6:00 P.M., the deceased Chandra Prakash was taken by A13 towards the house of A2, where the other accused persons were already present. He further deposed that when the deceased reached near the said place, the accused persons caught hold of him and dragged him towards the house of A2. Upon hearing his cries, PW-1 along with other family members and villagers reached the spot and saw the accused persons assaulting the deceased with lathis, while A1 was standing armed with a gun and threatening them from intervening. He further deposed that when the women of the family attempted to intervene, they were pushed aside and PW-3 sustained injury. He further deposed that due to fear, no one could intervene and the

accused continued the assault, resulting in the death of the deceased. He proved the written report (Ext. Ka-1) and further deposed that the dead body was subsequently recovered from the field of Guru Prasad.

18. During cross-examination, he admitted that he saw the accused persons present near the dead body while going to lodge the report, but he did not state that he had seen them removing the body. He also admitted that certain facts regarding the injury to Smt. Sushila Devi were not stated in the written report. He denied the suggestion of false implication and reiterated the presence of A1 at the spot armed with a firearm.

19. PW-2 Jagannath, a neighbour of the deceased, deposed that on the date of occurrence at about 6:00 P.M., while he was sitting at his door, he heard cries of the deceased shouting for help. Upon looking towards the place of occurrence near the house of A2, he saw about 12–13 accused persons, including A1, assaulting the deceased with lathis. He further deposed that A1 was armed with a gun and was threatening that anyone who came forward would be killed. He further deposed that upon hearing the cries, other witnesses including PW-1 and family members reached the spot, but due to threats extended by A1, no one could intervene. He further deposed that when the women attempted to rescue the deceased, they were pushed back by the accused persons.

20. During cross-examination, he deposed that his house is situated at a distance of about 80 steps from the place of occurrence and that the spot was visible from where he was sitting. He admitted that he had not seen the events prior to the cries and reached the occurrence only upon hearing the alarm. He further deposed that he had not seen the accused removing or concealing the dead body and denied the suggestion of false implication.

21. PW-3 Smt. Sushila Devi, wife of Dhruv Prakash, deposed that on the date of occurrence at about 6:00 P.M., upon hearing cries of the deceased, she, along with other family members, rushed outside and saw the accused persons taking the deceased towards the house of A2. She further deposed that the accused persons thereafter assaulted the deceased with lathis near the house of A2, while A1 was armed with a gun and was threatening that anyone who came forward would be shot. She further deposed that when she and other women attempted to intervene, A5 caught hold of her hand, twisted and assaulted it, due to which she fell down and sustained injuries, including fracture. She further deposed that the deceased died on the spot due to the assault and that she was medically examined subsequently, where her hand was X-rayed.

22. During cross-examination, she deposed that she had seen the accused persons taking the deceased prior to the assault and that all accused were armed with lathis. She admitted that though she

stated that the accused had taken away the dead body, she had not seen them concealing it. She also admitted certain omissions in her statement under Section 161 Cr.P.C. regarding the role of some accused. She denied the suggestion of false implication and maintained that she had sustained injuries in the same incident.

23.PW-4 Dr. D.C. Srivastava, Surgeon, District Hospital, Pratapgarh, deposed that on 07.09.1982 at about 12:30 P.M., he conducted the post-mortem examination of the deceased Chandra Prakash Tiwari and found the following ante-mortem injuries:

- **Injury No. 1:** Lacerated wound measuring 1½ "× ½"×scalp deep on the right side of the forehead, 1 inch above the eyebrow.
- **Injury No. 2:** Contusion measuring 2"× ¾ "×scalp deep on the left side of the face below the eyelid.
- **Injury No. 3:** Lacerated wound measuring ¾ "× ear lobule involving the entire thickness of the ear pinna, 1 inch above the ear lobule on the right ear.
- **Injury No. 4:** Lacerated wound measuring 2"×½"×scalp deep on the right side of the head, 1½" above the ear.
- **Injury No. 5:** Lacerated wound measuring 2"× ½"×scalp deep on the right side of the head, 4 inches above the corner.
- **Injury No. 6:** Lacerated wound measuring 1"X ½ " X cranial cavity deep on the right side of the head, exactly behind injury no. 4, and brain matter was oozing out from the wound.
- **Injury No. 7:** Lacerated wound measuring 2"×1"× cranial cavity deep on the back of the head towards the right; brain matter was oozing out from this wound.
- **Injury No. 8:** Lacerated wound measuring 1"× ½ "× scalp deep on the back of the head in the midline, exactly above the occipital.
- **Injury No. 9:** Several contusions on the left arm, on the front and outer side, 2 inches below the shoulder in an area of 5"×4".
- **Injury No. 10:** Lacerated wound measuring 1" × ½ "× muscle deep on the left arm, on the back side, exactly above the elbow.
- **Injury No. 11:** Lacerated wound measuring ½ "× ¼ "× skin deep on the front of the left ring finger on the last phalanx; the finger bone was fractured.
- **Injury No. 12:** Abrasion measuring 7"×3" on the left side of the lower part of the chest, 3" below the nipple.
- **Injury No. 14:** Abrasion measuring 5 "×3" on the right side of the lower chest and abdomen, 3 ½ " below the nipple.
- **Injury No. 15:** Contusion measuring 2 "× ¾" on the inner side of the right elbow.

- **Injury No. 16:** Several contusions on the left side of the back in an area measuring 1"×6", starting from the lower part of the shoulder blade, in downward directions.
- **Injury No. 17:** Contusion measuring 5 "×2 " on the right side of the back, 2 " below the lower edge of the shoulder blade.

He further deposed that on internal examination, multiple skull fractures were present beneath injury nos. 4 to 8, with brain matter oozing out. He opined that the cause of death was coma resulting from head injuries, and that the injuries were sufficient in the ordinary course of nature to cause death. He further stated that all injuries could have been caused by a lathi at about 6:00 P.M. on 05.09.1982. He proved the post-mortem report (Ext. Ka-2).

24.No cross-examination of PW-4 was conducted.

25.PW-5 Dr. Sampurnanand, Pathologist, District Hospital, Pratapgarh, deposed that on 07.09.1982 he was posted as Medical Officer at District Hospital, Pratapgarh. He stated that on the same day at about 10:10 A.M., he medically examined Smt. Sushila Devi and found a traumatic swelling measuring 3 inches × 1½ inches on the front and back of the right wrist, though there was no visible external mark of injury. He further deposed that Smt. Sushila Devi complained of pain in her back, though no visible injury was found there. He further deposed that the above injury was kept under observation and X-ray was advised. He further deposed that the duration of injury could not be ascertained due to absence of visible marks. He proved the Ext. Ka-3 and opined that

the above injury could be caused if the hand is forcibly caught, twisted or jerked.

26. During cross-examination, he deposed that he could not definitively comment on flexibility of bones at the age of 25–30 years, as the same would fall within the domain of a bone specialist. He further deposed that if the above stated injury had been caused by a blow of a *lathi* (stick) resulting in fracture, there would ordinarily be visible external signs. He further clarified that fracture in the above injury depends upon the force applied in catching and jerking the hand, and that such fracture could occur either by forceful twisting or even by comparatively lesser jerking force. He further deposed that he could not determine whether the injury was 24 hours or 3–4 days old. He denied the suggestion that he was deposing under tutoring or that such injury could not occur by a simple jerk.

27. P.W-6 Lallan Singh, Constable, deposed that on 20.10.1982 he was posted as Constable in Police Station, Badhrai and on the same day he brought the articles recovered in S.T. No 227/82, Case Crime No. 46/82, from Police Station, Badhrai to Sadar Hospital, Pratapgarh so that the same can be sent to Agra for chemical test. He confirmed that articles remained in a sealed condition and none was allowed to tamper with the same. He further deposed that on 14.02.83, the articles of the above case

after being produced before the court of CJM Pratapgarh were then deposited in Sadar Malkhana, Pratapgarh. He further deposed that after chemical testing, these goods came to the court of CJM from Agra.

28. No cross-examination of PW- 6 was conducted.

29.PW-7 Indra Bahadur Singh, Constable, Sadar Maal Khana Pratapgarh deposed that on 14.02.1983, he was posted as Assistant Malkhana Moharrir. He further deposed that the articles recovered in this case were brought and submitted CP Lallan Singh from Police Station Badhrai. He confirmed that articles remained in a sealed condition and none was allowed to tamper with the same.

30. No cross-examination of PW-7 was conducted.

31.P.W-8 Satyendra Yadav, CP 76, Police Station Badhrai, District Pratapgarh deposed that on 09.08.1982 he was posted as constable in Police Station Badhrai. He further deposed that in case no. 146/82 dated 06.09.82, he along with CP Kanhaiya Lal were handover the sealed dead body of deceased Chandra Prakash for the purpose of taking the same for post-mortem examination at Sadar Mal Hospital. He confirmed that the dead body remained in a sealed condition and none was allowed to tamper with the same. He further deposed that after the post mortem of the deceased was completed, he took a copy of the post mortem report in a sealed

envelope along with a sealed bundle containing clothes, etc. and submitted the same in the police station.

32.No cross-examination of PW-7 was conducted.

33.PW-9 Rajdev Yadav, Sub-Inspector, deposed that the FIR was lodged in his presence and the investigation was entrusted to him. He stated that after recording the statement of the complainant, he proceeded to the place of occurrence, where he did not find the dead body at the place of assault. Thereafter, upon receiving information, he reached the field of Guru Prasad, where the dead body was found. He conducted the inquest proceedings and proved the same (Ext. Ka-18) along with related documents. He further deposed that he inspected the place of occurrence and prepared the site plan (Ext. Ka-40). He collected blood-stained and plain soil from the place of occurrence (Ext. Ka-41), seized the blood-stained *benia* (door frame) from the house of A2 (Ext. Ka-42), collected blood-stained grass from the alleged dragging path (Ext. Ka-11), and also collected blood-stained and plain soil along with leaves from the field, where the dead body was found (Ext. Ka-12). He further proved recovery of a country-made pistol from A10 (Ext. Ka-8), seizure of gun of A1, and recovery of a blood-stained shirt from the house of A11 and A12 (Ext. Ka-25). He also proved seizure of the clothes of the deceased (Ext. Ka-9 and Ext. Ka-10). He further deposed that some of the accused

persons were arrested during investigation, while others absconded, whereupon attachment proceedings were initiated and properties of such absconding accused persons were attached on different dates.

34. During cross-examination, he admitted that although signs of dragging were noticed, he did not ascertain as to who had dragged the body and no direct evidence in that regard was collected. He further stated that certain statements recorded during investigation regarding dragging and concealment were not fully supported by witnesses in Court. He denied the suggestion that the investigation or recoveries were fabricated.

35. DW-1 A.K. Sahu, AMO District Jail Pratapgarh, deposed that on 06.09.1982 he was posted as Medical Officer in the District Jail and on the same day at around 5:05 PM he examined and recorded the injuries of A5 and also proved Exhibit Ka-6. He further deposed that on 07.09.1982 at around 8:05 AM he examined and recorded the injuries of A2, at around 8:20 AM the injuries of A6, at 8:35 AM the injuries of A13 and at around 10:30 AM the injuries of A2. Thus, proving Exhibit Kha-7 to Kha-10. He opined that such injury could occur by lathi blows and could have been inflicted at around 6:00 PM. He further deposed that injury to the above-mentioned people could have occurred on 06.09.1982 at

around 8:00 or 9:00 A.M. and such injury could have been caused if they were arrested in a violent manner.

36. No cross-examination of DW-1 was conducted.

Court Analysis:

Credibility and reliability of ocular evidence

37. The prosecution case rests substantially upon the ocular testimonies of PW-1 Shyam Shankar Tripathi, PW-2 Jagannath and PW-3 Smt. Sushila Devi. It is a well settled principle of criminal jurisprudence that conviction can be based solely on ocular evidence, provided the same is found to be cogent, reliable and trustworthy. The Court is required to assess such evidence on the touchstone of its intrinsic worth, consistency, probability and natural conduct of the witnesses. Minor discrepancies or omissions which do not go to the root of the matter are to be ignored, as they are but natural consequences of human fallibility.

38. In the present case, PW-1 and PW-2 are natural witnesses, whose presence at the place of occurrence at the relevant time stands duly established. PW-1 has given a vivid account of the incident, stating that the deceased was called out and thereafter surrounded and assaulted by the accused persons with lathis, while A1 stood armed with a firearm and extended threats to prevent intervention. PW-2, who is an independent witness, has corroborated the version of PW-1 and has categorically deposed that upon hearing

the cries, he reached the spot and saw the accused persons assaulting the deceased, while A1 was threatening the onlookers. Their testimonies are consistent on material particulars, namely the presence of the accused, the manner of assault and the role played by A1.

39.The argument of the appellant that these witnesses are interested or not wholly reliable does not merit acceptance. It is well settled that the evidence of a related witness cannot be discarded merely on the ground of relationship, if it is otherwise credible and trustworthy. In the present case, the testimony of PW-1 stands corroborated by PW-2, who is an independent witness and has no reason to falsely implicate the accused. The law does not require a particular number of witnesses to prove a fact, and the quality of evidence is of paramount importance.

40.The learned counsel for the accused-appellants has further contended that PW-2 Jagannath could not have witnessed the incident from his house inasmuch as, as per the site plan, there existed structures obstructing his view and therefore his presence as an eyewitness is doubtful. This Court has carefully examined the said contention in light of the site plan (Ext. Ka-40) as well as the evidence on record.

41.A perusal of the site plan and the deposition of PW-2 indicates that the place marked as point 'B', lies in direct line of sight of the

place of assault. The Trial Court, has recorded a finding that the place of occurrence was visible from the position of PW-2. This finding is borne out from the material on record and does not suffer from any perversity.

42. PW-2 has consistently stated in his testimony that upon hearing the cries, he looked towards the place marked as point B on the site plan and saw the accused persons taking the deceased towards the house of A2. His presence at his door at the relevant time is natural and has not been seriously disputed. Merely because certain portions of the area may have been partially obstructed does not render his entire testimony unreliable, particularly when the core of his version regarding the assault and presence of the accused remains intact and finds corroboration from other prosecution witnesses. In such cases, we are of the view that unless the defense proves a physical impossibility of observation, minor variations in visibility or vantage point shall not be fatal to the prosecution. Since the appellants have failed to establish any such impossibility in the present case, the ocular evidence remains unshaken.

43. Moreover, PW-3 Smt. Sushila Devi, being an injured witness, lends further assurance to the prosecution case. The testimony of an injured witness is accorded a higher degree of credibility, as such a witness is a natural witness to the occurrence and ordinarily

would not falsely implicate innocent persons. PW-3 has clearly deposed that she witnessed the accused persons assaulting the deceased and that when she intervened, she was also assaulted and sustained injuries. Her presence at the place of occurrence is thus beyond doubt and stands corroborated by the medical evidence relating to her injuries.

44. Upon careful scrutiny of the evidence of these witnesses, this Court finds that their testimonies are natural, consistent and inspire confidence. No material contradiction or infirmity has been brought on record which may render their evidence unreliable. The minor discrepancies pointed out by the defence are inconsequential and do not affect the substratum of the prosecution case.

45. Thus, the ocular evidence on record clearly establishes the presence and participation of the accused-appellants in the commission of the offence. The role of A1, though not of direct assault, is clearly brought out inasmuch as he was present armed with a firearm and facilitated the commission of the offence by extending threats, thereby attracting liability under Section 149 I.P.C. The evidence of PW-1, PW-2 and PW-3, therefore, forms a reliable and credible foundation for the prosecution case.

Charge under Section 201 I.P.C.

46. The learned counsel for the accused-appellants has contended that the conviction under Section 201 I.P.C. is unsustainable inasmuch as the prosecution has failed to establish that the accused persons had caused disappearance of evidence or had attempted to screen themselves from legal punishment.

47. For convenience Section 201 I.P.C. is being reproduced as under:

“201. Causing disappearance of evidence of offence, or giving false information to screen offender.—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

if a capital offence shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years' imprisonment and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.”

48. The Supreme Court, in ***Sukhram v. State of Maharashtra; (2007)***

7 SCC 502, has, in paragraph 18, explained the essential

ingredients required to constitute an offence under Section 201

I.P.C. as follows:

“(i) committal of an offence;
(ii) person charged with the offence under Section 201 must have the knowledge or reason to believe that an offence has been committed;
(iii) person charged with the said offence should have caused disappearance of evidence; and
(iv) the act should have been done with the intention of screening the offender from legal punishment or with that intention he should have given information respecting the offence, which he knew or believed to be false. It is plain that the intent to screen the offender committing an offence must be the primary and sole aim of the accused. It hardly needs any emphasis that in order to bring home an offence under Section 201 IPC, a mere suspicion is not sufficient. There must be on record cogent evidence to prove that the accused knew or had information sufficient to lead him to believe that the offence had been committed and that the accused has caused the evidence to disappear in order to screen the offender, known or unknown.”

49. Furthermore, in ***Palvinder Kaur v. State of Punjab; (1952) 2 SCC***

177 , the Supreme Court has cautioned that while considering a charge under Section 201 I.P.C., the Court must guard against basing its conclusions on suspicion, however strong, and that the prosecution must prove all necessary ingredients including the intention to screen the offender.

50. Applying the aforesaid settled principles to the facts of the present case, this Court finds that although the death of the deceased is established, the prosecution has failed to prove the crucial ingredient of “*causing disappearance of evidence*” by the accused persons.

51. PW-1 has deposed that after the incident, he went to lodge the report and on the way he saw the accused persons standing near the dead body. Significantly, he has not stated that he had seen the accused persons removing or dragging the dead body from the place of occurrence to the field, where it was ultimately found.
52. Similarly, PW-3 Smt. Sushila Devi has also deposed that when they reached, the accused persons were standing near the dead body. She too has not stated that she had witnessed the accused persons taking or shifting the body.
53. Thus, none of the material witnesses has seen the accused persons causing disappearance of evidence. There is no direct evidence nor any cogent circumstantial evidence to show that it was the accused who had removed the dead body from the place of occurrence.
54. Further, the post-mortem report does not indicate any injury which could be attributed to dragging of the dead body. In absence of any ocular or circumstantial evidence regarding removal of the body, this aspect assumes significance.
55. The mere fact that the dead body was found at a place different from the alleged place of occurrence is not sufficient to hold that the accused had caused disappearance of evidence, in the absence of proof of such act and the requisite intention to screen themselves.

56. In view of the law laid down in *Sukhram* (supra) and *Palvinder Kaur* (supra), it is clear that suspicion, however strong, cannot take the place of proof. The prosecution has failed to establish by cogent evidence that the accused persons had caused disappearance of evidence with the intention of screening themselves from punishment.

57. Accordingly, this Court is of the considered view that the charge under Section 201 I.P.C. is not made out against the accused-appellants, and the conviction recorded under the said provision is liable to be set aside

Role of accused-appellant A1 and applicability of Section 149 I.P.C.

58. Learned counsel for the accused-appellants has contended that so far as accused-appellant A1 (Ram Pratap) is concerned, no overt act of assault has been attributed to him and his role is confined merely to instigation; therefore, his conviction with the aid of Section 149 I.P.C. is unsustainable. Before examining the individual role of A1, it is necessary to first determine whether the prosecution has been able to establish the existence of an unlawful assembly within the meaning of Sections 141–149 I.P.C.

59. The Supreme Court, in *Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel*, (2018) 7 SCC 743, has elaborately explained the scheme of unlawful assembly. In paragraph 31 and 33, it has been held:

“31. The concept of an unlawful assembly as can be seen from Section 141 has two elements:

- (i) The assembly should consist of at least five persons; and*
- (ii) They should have a common object to commit an offence or achieve any one of the objects enumerated therein.”*

“33. The common object of assembly is normally to be gathered from the circumstances of each case such as the time and place of the gathering of the assembly, the conduct of the gathering as distinguished from the conduct of the individual members are indicative of the common object of the gathering. Assessing the common object of an assembly only on the basis of the overt acts committed by such individual members of the assembly, in our opinion is impermissible. For example, if more than five people gather together and attack another person with deadly weapons eventually resulting in the death of the victim, it is wrong to conclude that one or some of the members of such assembly did not share the common object with those who had inflicted the fatal injuries (as proved by medical evidence); merely on the ground that the injuries inflicted by such members are relatively less serious and non-fatal.”

60.In the present case, from the consistent testimonies of PW-1, PW-2 and PW-3, it stands clearly established that:

- a. as many as 12–13 accused persons assembled together,
- b. they surrounded the deceased,
- c. collectively caught hold of him,
- d. and assaulted him with lathis, while
- e. A1 stood armed with a firearm, preventing intervention.

61.The conduct of the accused persons clearly demonstrates that they were acting in concert and shared a common object to commit an offence, namely to assault the deceased.

62. Applying the above principle, the common object in the present case is evident from:

- a. the number of persons assembled,
- b. the manner of assault,
- c. the weapons carried, and
- d. the collective conduct during the occurrence.

63. Thus, the existence of an unlawful assembly stands fully established. Once the existence of unlawful assembly is established, the next question is the applicability of Section 149 I.P.C. It would be apposite to refer paragraph 28 and 34 of *Vinubhai* (supra) in this reference:

“28. Section 149 propounds a vicarious liability in two contingencies by declaring that (i) if a member of an unlawful assembly commits an offence in prosecution of the common object of that assembly, then every member of such unlawful assembly is guilty of the offence committed by the other members of the unlawful assembly, and (ii) even in cases where all the members of the unlawful assembly do not share the same common object to commit a particular offence, if they had the knowledge of the fact that some of the other members of the assembly are likely to commit that particular offence in prosecution of the common object.”

“34. For mulcting liability on the members of an unlawful assembly under Section 149, it is not necessary that every member of the unlawful assembly should commit the offence in prosecution of the common object of the assembly. Mere knowledge of the likelihood of commission of such an offence by the members of the assembly is sufficient. For example, if five or more members carrying AK 47 rifles collectively attack a victim and cause his death by gunshot injuries, the fact that one or two of the members of the assembly did not in fact fire their weapons does not mean that they did not have the knowledge of the fact that the offence of murder is likely to be committed.”

64. In the present case, the evidence on record clearly establishes that

A1:

- a. was present at the place of occurrence,

- b. was armed with a firearm (country made pistol),
- c. was threatening the witnesses, and
- d. facilitated the assault by preventing intervention.

Though A1 did not inflict any injury, his role was crucial in ensuring that the other accused persons could carry out the assault without resistance. In view of the law laid down in *Vinubhai* (supra), it is not necessary that A1 must have caused any injury. His presence and active facilitation clearly bring him within the fold of Section 149 I.P.C.

- 65.** Moreover, the charge under Section 147 I.P.C. (rioting) with respect to all the appellants is also fully made out. In paragraph 26 of *Vinubhai* (supra), it has been held:

“26. If force or violence is used by an unlawful assembly or any member thereof in prosecution of the common objective of such assembly, every member of such assembly is declared under Section 146 to be guilty of the offence of rioting punishable with two years' imprisonment under Section 147. To constitute the offence of rioting under Section 146, the use of force or violence need not necessarily result in the achievement of the common object. In other words, the employment of force or violence need not result in the commission of a crime or the achievement of any one of the five enumerated common objects under Section 141.”

- 66.** In the present case:

- a. the assembly consisted of more than five persons,
- b. force and violence were used,
- c. the act was committed in prosecution of the common object.

67. Therefore, all ingredients of Sections 141, 146 and 147 I.P.C. stand satisfied. In view of the aforesaid discussion, this Court holds that, the prosecution has successfully established the existence of an unlawful assembly; the accused persons, including A1, were members of such assembly; the offence was committed in prosecution of the common object; A1, though not an assailant, actively facilitated the offence and therefore, his liability under Section 149 I.P.C. is clearly attracted. The conviction of A1 cannot be faulted merely on the ground that no specific injury has been attributed to him.

Alleged Contradiction between Ocular and Medical Evidence

68. Learned counsel for the accused-appellants has urged that the testimony of PW-3 Smt. Sushila Devi is unreliable on account of an alleged inconsistency between her ocular version and the medical evidence, particularly with regard to the injury sustained by her wrist. It is contended that while PW-3 has stated that her hand was forcefully caught and twisted, the absence of visible external injury at the initial stage renders her version doubtful.

69. This Court has carefully examined the said submission in the light of the evidence on record and finds no substance in the same. PW-3, an injured witness, has consistently deposed that when she intervened to save the deceased, one of the accused caught hold of her hand and twisted it with force, causing her to fall and sustain

injury. Her testimony, read as a whole, clearly establishes that the injury was sustained in the course of the same transaction as the assault on the deceased. Her presence at the place of occurrence is thus natural and stands firmly corroborated.

70. The version of PW-3 finds assurance from the testimonies of other prosecution witnesses. PW-1 and PW-2 have both deposed about the presence of PW-3 at the place of occurrence and the fact that she attempted to intervene during the assault. Their evidence lends corroboration to the assertion that PW-3 sustained injuries during the incident while trying to rescue the deceased.

71. The medical evidence further supports the ocular account. PW-5, the doctor who examined PW-3, found traumatic swelling on the wrist and opined that such injury could be caused by catching hold of the hand and twisting or jerking it. The injury was kept under observation and X-ray examination was advised. It has come on record that the X-ray subsequently revealed fracture, thereby confirming the seriousness of the injury. Furthermore, in cross-examination, the doctor has categorically stated that fracture can occur due to twisting or jerking of the hand and that the absence of visible external injury does not negate the possibility of such fracture. He has also clarified that the nature of injury described by PW-3 is medically possible.

72. Thus, the inconsistency pointed out by the defence is more apparent than real. The absence of an external mark at the initial stage does not contradict the ocular testimony when the internal injury (fracture) stands established through X-ray and medical opinion. On the contrary, the medical evidence lends assurance to the version of PW-3.
73. It is well settled that medical evidence is corroborative in nature and unless it completely rules out the prosecution version, the ocular testimony, if found credible, must prevail. In the present case, the medical evidence does not in any manner negate the version of PW-3; rather, it supports the mechanism of injury as narrated by her.
74. It is also trite that the testimony of an injured witness carries great evidentiary value. The fact that PW-3 sustained injury during the occurrence is an inbuilt guarantee of her presence at the scene and ordinarily such a witness would not falsely implicate the accused while sparing the real offenders.
75. Upon a cumulative appreciation of the ocular and medical evidence, this Court finds that there is no material contradiction between the two. The testimony of PW-3 stands corroborated not only by medical evidence but also by the evidence of other witnesses regarding her presence and participation in the incident.

Juvenility of Accused A3

76. The issue of juvenility of accused A3 falls for consideration in the present appeal. From the material available on record, it stands established that on the date of occurrence, A3 was approximately 14 years of age and, therefore, was a juvenile in conflict with law at the relevant time. This factual position is not in dispute, having been fairly conceded by the learned counsel for the accused-appellant as well as by the learned AGA.

77. It is a settled principle that the age of the accused has to be reckoned on the date of commission of the offence. Once it is found that the accused was a juvenile on the date of occurrence, he cannot be subjected to the rigors of a regular criminal trial or punishment in the same manner as an adult offender.

78. However, the peculiar facts of the present case warrant careful consideration. The occurrence in question pertains to a period more than four decades prior, and as of now, A3 has long since attained majority and is presently an adult. In such a situation, the question arises as to the appropriate course to be adopted by this Court at this stage.

79. In the considered view of this Court, directing A3 to be sent to any correctional or reformatory institution at this belated stage would neither be practicable nor serve the ends of justice, as such

institutions are intended for children and adolescents and not for persons, who have already crossed the age of majority by a considerable margin. Equally, subjecting A3 to any sentence as an adult would be impermissible in law, in view of his established status as a juvenile on the date of occurrence.

80. It is also borne out from the record that A3 has already undergone incarceration for a period of approximately eleven months during the course of investigation, trial and pendency of the appeal.

81. Having regard to the totality of facts and circumstances, particularly the long passage of time, the present age of A3, and the period of custody already undergone by him, this Court is of the opinion that no useful purpose would be served by directing any further proceedings in respect of sentence.

82. Accordingly, while sustaining the finding regarding the involvement of A3 in the occurrence, it is directed that the period of detention already undergone by him shall be treated as sufficient.

Conclusion

83. In view of the foregoing discussion and upon a comprehensive re-appreciation of the entire evidence on record, this Court finds that the prosecution has successfully established the formation of an unlawful assembly and the participation of the accused persons therein. The involvement of the accused in the occurrence stands

proved beyond reasonable doubt, and the findings of the learned Trial Court to that extent call for no interference.

84. Accordingly, all the appeals are **partly allowed**, the conviction of the accused-appellants (A1, A3, A4, A7, A8, A11, A12) under Sections 302 read with Section 149 I.P.C.; Section 147 I.P.C.; Section 325 read with Section 149 I.P.C.; and Section 323 read with 149 I.P.C. is **affirmed**. The conviction of accused A1 (Ram Pratap) under Section 148 I.P.C. is also **affirmed**. However, for the reasons recorded hereinabove, the prosecution has failed to establish the charge under Section 201 read with Section 149 I.P.C. beyond reasonable doubt. The conviction of the accused-appellants (A1, A3, A4, A7, A8, A11, A12) under the said provision is, therefore, **set aside**.

85. Insofar as accused A3 (Rakesh Kumar) is concerned, having been found to be a juvenile on the date of occurrence and having already undergone a period of incarceration, it is directed that the period already undergone by him shall be treated as sufficient.

86. Accused-appellants A1 (Ram Pratap) , A4 (Ramapati Misra) , A7 (Mithilesh Kumar), A8 (Dhirendra Kumar) , A11 (Radhey Shyam) and A12 (Radhey Mohan) are on bail. They shall surrender within 15 days from today before the court concerned and shall be sent to jail to serve out the sentence imposed upon them, failing which

the concerned court shall take appropriate action in this regard.

The bail bond is cancelled and sureties are discharged.

87. Let a copy of this judgment, along with the trial court record, be transmitted forthwith and in any case within one week from today to the court concerned for necessary compliance.

(ZAFEER AHMAD, J.) (RAJNISH KUMAR, J.)

April 20, 2026

Fahim/-