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2026:AHC:110449-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
CRIMINAL APPEAL No. - 1417 of 1988**

Karan Singh

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

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Counsel for Appellant(s) : Keshav Sahai, V.p. Singh Kashyap  
Counsel for Respondent(s) : D.g.a.

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**Court No. - 44**

**HON'BLE SIDDHARTH, J.**

**HON'BLE VINAI KUMAR DWIVEDI, J.**

**(Delivered by Hon'ble Vinai Kumar Dwivedi, J.)**

1. Heard Mr. V.P. Singh Kashyap, learned counsel for the appellant, Mr. G.N. Kanaujiya, learned A.G.A.-I for the State/ respondent and perused the record.
2. This criminal appeal has been filed by accused-appellant, Karan Singh, against the judgment and order dated 09.06.1988 of learned Trial Court passed in Sessions Trial No. 272 of 1987 (State v. Hawai Singh @ Hari Singh and another) arising out of Case Crime No. 94 of 1987, under Sections 449, 302/34, 307/34 IPC, Police Station Tanda, District Rampur.
3. Brief facts of the case as revealed from the written report, Exhibit Ka-1, is that informant Charan Singh, son of Late Rohtash Singh, is resident of Mewla Dharu, Police Station Tanda, District Rampur has written himself the written report, Exhibit Ka-1, and lodged the same at Police Station Tanda, District Rampur. Informant Charan Singh (PW-1) has stated in his written report that "my name is Charan Singh. My father's name is Rohtash

Singh. I am resident of Mewla Dharu. My house and house of my uncle, Hawaii Singh @ Hari Singh, are situated in front of each other. Between my uncle and my father, there was no cordial relationship. They quarrel even on petty issues by abusing each other. Yesterday, on 14.06.1987 in the morning, my father had gone to Kashipur to get the engine repaired and to take diesel. When he has returned at the house at about 11 P.M. then in the passage, both brothers started abusing each other in respect of old issues. My father, after parking his tractor, climbed on the roof. Behind him, we including myself, my mother Anchali Devi, sisters Bhago Devi, Murti Devi and Sama Kaur have also reached at the roof. Hawaii Singh @ Hari Singh bringing a gun from his house and Karan Singh, who is also resident of my village, came to our boundary (*gher*) and Hawaii Singh @ Hari Singh started firing upon my father and upon us in upper direction with intention to kill. He fired two shots, out of which, one hit at the chest of my father and the other hit the hands of my mother. After receiving gunshots, my father fell down. We started taking care of our father then my uncle Hari Singh and Karan Singh by stairs have come on the roof and shot fire on my mother and father. Due to which, they both died on the spot. Then we jumped towards the house of Budda and ran away and saw from the east direction of my house that my uncle was dragging the dead body of my father and Karan Singh was dragging the dead body of my mother through stairs, took them to the house of my uncle. My sisters, Km. Bhago Devi and Sama Kaur, have also received pellets injury. On hearing our cries, people of the village came out from their houses. We have seen and identified my uncle Hari Singh and Karan Singh in moonlight and in the light of the lamp. I had also told about the incident to my uncle Ram Saroop Singh of Mewla Kala. This written report was written on 15.06.1987 and given to the police on the same day itself.

4. On the basis of the written report, Exhibit Ka-1 dated 15.06.1987, a *chik* F.I.R. was registered at Case Crime No. 94 of 1987, under Sections 452, 302, 307 IPC, Police Station Tanda, District Rampur by Constable Clerk Gajraj Singh (PW-6). At the time of registration of the F.I.R., S.O. Y.S. Ahlawat (PW-4) was also present at the police station.

5. After registration of the F.I.R., investigation of the case was taken by S.I. Y.S. Ahlawat (PW-4). The Investigating Officer after receiving the information about the incident reached at the place of incident and inspected the same. He found the dead body of Rohtash Singh and Anchali Devi in the house of Hawaii Singh @ Hari Singh. On the dictation of the Investigating Officer, S.I. K.K. Verma prepared the *panchayatnama*, Exhibit Ka-3, of the dead body of the deceased, Rohtash Singh, *challan nash*, Exhibit Ka-4, diagram of dead body, Exhibit Ka-5, report to CMO, Exhibit Ka-6, letter to RI, Exhibit Ka-7, and he sealed the dead body of the deceased, Rohtash, in cloth and prepared the sealed sample, Exhibit Ka-8. S.I. K.K. Verma also prepared *panchayatnama* of the dead body of the deceased, Anchali Devi, Exhibit Ka-9, *challan nash*, Exhibit Ka-10, diagram of the dead body, Exhibit Ka-11, letters to CMO and RI, Exhibits Ka-12 and Ka-13, and also sealed the dead body of deceased, Anchali Devi, in cloth and prepared then sealed sample, Exhibit Ka-14. Thereafter, dead bodies of the deceased, Rohtash Singh and Anchali Devi, were handed to Constable Pratap Singh and Mahendra Singh for autopsy. The Investigating Officer inspected the place of occurrence and prepared the site plan, Exhibit Ka-15. He has also taken bloodstained and simple plaster of cement from the *jeena* (stairs) and prepared the recovery memo, Exhibit Ka-16. He also took the bloodstained and simple soil from the house of accused, Hawaii Singh @ Hari Singh, where the dead bodies of the deceased were

found and prepared recovery memo, Exhibit Ka-17. From the roof of the house of the deceased, Investigating Officer also took bricks. Among these bricks, in one brick, there was mark of pellets and on others, there was bloodstains and he prepared recovery memo, Exhibit Ka-18. He also took from the roof, bloodstained and simple maize and prepared Exhibit Ka-19. From the roof of the house of the deceased, five empty cartridges, pellets and buttons (*tikli*) were taken into possession and *fard* was prepared as Exhibit Ka-20. From the roof also, broken bangles of the deceased, Anchali Devi, were taken into possession and prepared memo as Exhibit Ka-21. The Investigating Officer also took into possession oil lamp that was kept in the courtyard (*aangan*), and a *fard* was prepared as Exhibit Ka-22. Thereafter, the Investigating Officer took accused, Hawaii Singh @ Hari Singh, in police custody remand and on pointing out of accused, Hawaii Singh @ Hari Singh, recovered a licensee double barrel gun no. 21876, Made in England, that was wrapped in a bag, made of shun, from the sugarcane field of his brother Ram Swaroop about two meters away from the boundary (*medh*) and prepared recovery memo as Exhibit Ka-23. The Investigating Officer also recovered empty cartridges and licensee gun and sent them to the ballistic expert to send his report, Exhibit Ka-2, showing that empty cartridges were fired from the licensee gun of the accused-Hawaii Singh @ Hari Singh.

6. The Investigating Officer Y.S. Ahlawat (PW-4) recorded the statements of informant Charan Singh (PW-1) and other witnesses of the facts and formal witnesses. After completing all the formalities of the investigation, the Investigating Officer submitted charge-sheet, Exhibit Ka-25, against the accused-appellant, Karan Singh and Hawaii Singh @ Hari Singh. The

injured Km. Sama Kaur and Km. Bhago Devi were sent by the police for their medical examination.

7. Dr. Satyendra Kumar (PW-5) examined Km. Sama Kaur and prepared injury report as Exhibit Ka-26. He found following injuries on the body of Km. Sama Kaur :-

*"(i) Solitary gun-shot lacerated wound measuring 0.2 cm x 0.2 cm x muscle deep on front of nose. Margins lacerated, inverted, clotted blood present on wound, no pallet palpate, no blackening or charring seen.*

*(ii) Solitary gun-shot lacerated wound measuring 0.2 cm x 0.2 cm x muscle deep on right side of face about 3 cm anterior to right ear. Margins lacerated, inverted, clotted blood present on wound. No fresh bleeding present. No blackening and charring seen.*

*(iii) Gun-shot lacerated wounds (3 in number) on scalp on right side, each measuring 0.2 cm x 0.2 cm x muscle deep, margins inverted, lacerated, clotted blood seen on wound. No fresh bleeding seen. No blackening, tattooing etc. seen."*

Dr. Satyendra Kumar (PW-5) also examined the injured Km. Bhago Devi and prepared injury report, Exhibit Ka-27, and found following injuries on her body :-

*"(i) Gun-shot lacerated wounds on front of face in except forehead, front of neck, front of chest (upper 1/3), right shoulder and front of right upper arm, each measuring 0.2 cm x 0.2 cm. Some are superficial and some are muscle deep. Depth on chest not measured. No blackening, tattooing seen. Clotted blood present on wounds. Margins inverted, lacerated. No. of wounds 48 (8 on face, 18 on neck, 6 on chest, 6 on right shoulder and upper arm). X-ray advised."*

8. Dr. A.K. Garg (PW-7) conducted the post-mortem examination of the dead bodies of deceased, Rohtas Singh and Smt. Anchali Devi, and prepared the post-mortem reports, Exhibit Ka-31. Dr. A.K. Garg (PW-7), on examining the dead body of deceased, Rohtash Singh, found the following ante-mortem injuries on his body :

*"(i) Fire-arm wound of entry 2 cm x 2 cm x brain cavity deep, communicating to injury no. 2. Injury present over left ear. Blackening, scorching and tattooing present.*

*(ii) Fire-arm wound of exit 6 cm x 6 cm over right eye communicating to injury no. 1, brain matter protruding out. No blackening and scorching and tattooing present.*

*(iii) Multiple fire-arm wounds of entry, each 1/3 cm x 1/3 cm x muscle deep on the front of chest in middle in area of 10 cm x 10 cm.*

*(iv) Multiple fire-arm wounds of entry, each 1/3 x 1/3 cm x muscle deep on the front of left forearm 3 cm. above wrist in the area of 5 cm x 5 cm.*

*In my opinion, the cause of death was due to shock and haemorrhage as a result of ante mortem injuries."*

9. Dr. A.K. Garg (PW-7) also found the following ante-mortem injuries on the dead body of the deceased, Smt. Anchali Devi, and according to Exhibit Ka-32, following ante-mortem injuries were found :

*"(i) Fire-arm wound of entry 4 cm x 4 cm on the front of chest on left side lying 4 cm below nipple, lung and heart tissue protruding out. Blackening, scorching and tattooing present.*

*(ii) Fire-arm wound of entry 3/4 cm x 3/4 cm on the front of abdomen lying 4 cm. away from umbilicus on left side. Blackening, scorching and tattooing present.*

*(iii) Multiple fire-arm wounds of entry on the outer aspect of left thigh in area of 10 cm x 10 cm, each measuring 1/3 cm x 1/3 cm x muscle deep.*

*(iv) Multiple fire-arm wound of entry over upper 2/3 of left leg in front, each measuring 1/3 cm x 1/3 cm x muscle deep."*

*In the injury Nos. 3 and 4 – blackening, scorching and tattooing not present.*

*In my opinion, the cause of death was due to shock and haemorrhage as a result of ante mortem injuries."*

10. Investigating Officer filed the charge sheet, Exhibit Ka-25, in the concerned Magistrate Court having jurisdiction. Since the case was exclusively triable by the Court of Session, learned Magistrate committed the case to the Court of Session.

11. Charges were framed against the accused persons by the learned Trial Court on 15.12.1987 under Section 302 read with 34

IPC, Section 307 read with Section 34 IPC, and also under Section 449 IPC. Accused persons denied the charges and claimed for trial.

12. In support of its case, the prosecution adduced Charan Singh (PW-1) and Km. Bhago Devi (PW-2) as eye-witnesses of the incident; and Ram Aashrey Pandey (PW-3), Y.S. Ahlawat (PW-4), Dr. Satyendra Kumar (PW-5), Gajraj Singh (PW-6), and Dr. A.K. Garg (PW-7) as formal witnesses. Apart from the oral evidence, the prosecution also relied on documentary evidence from Exhibits Ka-1 to Ka-28 in support of its case.

13. After recording the evidence of the prosecution witnesses, the accused persons were examined under Section 313 Cr.P.C. by the Trial Court. In his statement under Section 313 Cr.P.C., accused, Karan Singh, denied all the allegations. He accepted that he is a helper of accused, Hawaii Singh @ Hari Singh. The accused-appellant, Karan Singh, has also stated that due to enmity, he was falsely implicated in this case. He also stated that he was a witness in a case between accused Hawaii Singh @ Hari Singh and the deceased Rohtash Singh. Due to this reason, he was falsely implicated by the informant in this case.

14. After recording of the evidence of the prosecution witnesses and completing the proceeding of evidence, the learned Trial Court, after hearing the arguments of both the parties, found accused-appellant, Karan Singh, along with accused, Hawaii Singh @ Hari Singh, guilty for commission of the crime.

15. Learned Trial Court convicted and sentenced both the accused-appellants under Section 302 read with Section 34 IPC to undergo life imprisonment, and to undergo five years' rigorous imprisonment for the offence under Section 307 read with Section 34 IPC. The accused-appellant, Karan Singh, was also convicted and sentenced for the offence punishable under Section 449 IPC

to undergo five years' rigorous imprisonment. All the sentences were directed to run concurrently.

16. Aggrieved by the judgment and order of conviction and sentence dated 09.06.1988, the accused-appellant has preferred this criminal appeal before this Court.

17. It is worthwhile to mention here that although accused, Hawai Singh @ Hari Singh, and the present appellant, Karan Singh, both were convicted and sentenced by the learned Trial Court vide judgment and order dated 09.06.1988. However, this appeal has been filed only by the present appellant, Karan Singh, therefore, we are adjudicating the present appeal in respect of only appellant, Karan Singh.

18. Learned counsel for the accused-appellant, Karan Singh, has submitted that appellant, Karan Singh, has been falsely implicated in this case. There is no incriminating role assigned by the prosecution against appellant, Karan Singh. The appellant, Karan Singh, has not fired any gunshot, or even has not attacked the deceased persons by any lathi, danda, kick or fist. The appellant, Karan Singh, has not even abused the deceased persons or their family members. The only allegation against the present appellant, Karan Singh, as levelled by the prosecution is that he was present with accused, Hawai Singh @ Hari Singh, at the place of occurrence and, after happening of the incident, as per the allegations of the prosecution, appellant, Karan Singh, dragged the deceased, Anchali Devi, from the roof through stairs to the room of the house of main accused, Hawai Singh @ Hari Singh. However, there is no mark of dragging of the dead body of deceased, Anchali Devi. If, in reality, the present appellant, Karan Singh, could have dragged the dead body of the deceased, Anchali Devi, then in this condition, there were many injuries either on lower part or upper part of the body of the deceased,



Anchali Devi. However, there is no injury of this nature by which it could be proved that deceased, Anchali Devi, was dragged from the roof through stairs to the room of the house of the main accused, Hawaii Singh @ Hari Singh, by the present appellant.

19. In spite of the above facts, the learned Trial Court has not considered these major and material facts in its findings and reasoning. The prosecution, falsely and wrongly with a view to implicate and harass Karan Singh, has named him in the written report, Exhibit Ka-1, as an accused. The presence of the appellant, Karan Singh, at the place of occurrence at the time of the incident is doubtful. There is no role in the incident committed by the accused-appellant, Karan Singh. The Trial Court has not appreciated the evidence in a proper perspective and legal manner in respect of the accused-appellant, Karan Singh, and wrongly, and against the evidence and settled principles of law, held the accused-appellant, Karan Singh, guilty with the aid of Section 34 IPC. There is no finding in respect of the fact that accused-appellant, Karan Singh, had pre-plan, pre-meditation or pre-consultation with the main accused, Hawaii Singh @ Hari Singh, for commission of the crime. Learned Trial Court, without considering these major and material aspects in its judgment and order dated 09.06.1988, and only with the help of Section 34 IPC, wrongly convicted and held the accused-appellant, Karan Singh, guilty without any cogent evidence and against the settled principles of law. In view of the above, the appeal of the appellant, Karan Singh, deserves to be allowed and the judgment and order of conviction and sentence passed by the learned Trial Court dated 09.06.1988 is liable to be set aside in respect of the present appellant, Karan Singh.

20. Per contra, learned A.G.A. appearing on behalf of the respondent-State has vehemently opposed the above arguments

of learned counsel for the appellant, Karan Singh. Learned A.G.A. has submitted that the present appellant, Karan Singh, was present with the main accused, Hawai Singh @ Hari Singh, from the beginning of the incident till the end of the incident. Although the appellant, Karan Singh, has not fired any gunshot, nor used any lathi, danda or any other means, but he was present with the main accused Hawai Singh @ Hari Singh at the place of occurrence. After happening of the incident, appellant, Karan Singh, dragged the dead body of deceased, Anchali Devi, from the roof, through stairs, to the room of the house of the main accused, Hawai Singh @ Hari Singh. This fact indicates that the appellant, Karan Singh, was throughout present with the main accused, Hawai Singh @ Hari Singh, and assisted him in removing the dead body of the deceased, Anchali Devi, from the roof to the house of main accused, Hawai Singh @ Hari Singh. This fact is sufficient evidence to hold the appellant, Karan Singh, guilty with the aid of Section 34 IPC for commission of the crime. There is no illegality or perversity in the judgment and order of the learned Trial Court. Learned Trial Court has appreciated the evidence in proper and legal perspective, hence, the criminal appeal of the appellant, Karan Singh, is devoid of merit and deserves to be rejected.

21. In the light of the rival submissions of both the parties and from perusal of the written report, Exhibit Ka-1, it is revealed that according to written report, Exhibit Ka-1, as written by informant Charan Singh (PW-1), it is stated therein that on the date of incident dated 14.06.1987 at 11:00 p.m., Hawai Singh @ Hari Singh had brought his gun from his house and came into the boundary (*gher/sahan*) of the deceased, Rohtash Singh, with co-accused, Karan Singh. The main accused, Hawai Singh @ Hari Singh, from the boundary (*gher*) fired in the direction of the roof

of deceased, Rohtash Singh aiming him. The shot was fired by main accused Hawaii Singh @ Hari Singh which hit Rohtash Singh, his wife Anchali Devi, daughters, Km. Bhago Devi and Sama Kaur. Thereafter, according to prosecution story, main accused Hawaii Singh @ Hari Singh with present appellant, Karan Singh, came on the roof of the deceased by stairs. After coming on the roof, Hawaii Singh @ Hari Singh again fired shot upon Rohtash Singh and his wife Anchali Devi. Thus, according to the written report, Exhibit Ka-1, there is no role assigned during the happening of the incident to the present appellant, Karan Singh. The only role assigned to appellant, Karan Singh, is that he was present with Hari Singh. After the death of Rohtas Singh and his wife Anchali Devi, appellant, Karan Singh, dragged the dead body of the deceased Anchali Devi from the roof of her house through stairs to the house of the main accused, Hawaii Singh @ Hari Singh and Hawaii Singh @ Hari Singh dragged the dead body of his elder brother, Rohtash Singh, from the roof using stairs, that is the only role assigned to the present appellant Karan Singh in this case.

22. In this case, only two eye-witnesses have been produced by the prosecution in support of this case. The first eye-witness is informant Charan Singh (PW-1), who is the son of the deceased Rohtas Singh, and the second eye-witness is Km. Bhago Devi (PW-2), who is an injured witness in this case and an eye-witness of the incident and she is also the daughter of the deceased Rohtas Singh and Anchali Devi. From the perusal of the whole evidence of informant Charan Singh (PW-1), who is an eye-witness of the case and was also present at the place of occurrence, when the incident happened, we find that Charan Singh (PW-1) has stated that accused, Karan Singh, is the helper of main accused Hawaii Singh @ Hari Singh, whose caste is Dhimar. According to informant Charan Singh (PW-1), main

accused Hawaii Singh @ Hari Singh, deceased and his family are Jats by caste. It means that present appellant Karan Singh was a servant-kind of man, who worked with Hawaii Singh @ Hari Singh as a servant. From the evidence of informant Charan Singh (PW-1), it is revealed that the main accused, Hawaii Singh @ Hari Singh, and deceased, Rohtash Singh, usually and often in a routine manner quarrelled among themselves and usually used to abuse each other. However, there is no statement in the evidence of informant Charan Singh (PW-1) that present appellant, Karan Singh, had abused or quarrelled with deceased, Rohtas Singh, or with his family members at any time. From the perusal of the evidence of the informant Charan Singh (PW-1), we find that it is stated by Charan Singh (PW-1) the same things that were stated in the written report, Exhibit Ka-1. Informant Charan Singh (PW-1) has stated in the same way that Hari Singh had brought his licensee gun from his house and came with Karan Singh. They came to the boundary (gher) of the deceased and Hawaii Singh @ Hari Singh fired two gunshots towards his father, mother, and sisters, Km. Bhago Devi and Sama Kaur, aiming the direction of the roof. Those shots hit his father, mother, and sisters, Km. Bhago Devi and Sama Kaur. The shots hit the chest of Rohtas Singh and he fell down. Thereupon, accused persons, Hawaii Singh @ Hari Singh and Karan Singh, came on the roof and Hawaii Singh @ Hari Singh again fired upon the father and mother of the informant (PW-1) from his gun. Thus, we find that there is no role assigned to the present appellant, Karan Singh, in firing the gunshots. Thereafter, it is stated by this witness that this witness has seen that Hawaii Singh @ Hari Singh dragged the dead body of his father and the present appellant, Karan Singh, dragged the body of his mother into the house of Hawaii Singh @ Hari Singh, that is the only role assigned to the present appellant, Karan Singh. In his cross-examination, this witness has stated that a

case under Section 325 IPC is pending against him and his father, deceased Rohtas Singh, in which appellant, Karan Singh, is a witness.

23. In the same way, the next eye-witness, Km. Bhago Devi (PW-2), who is an injured witness, has stated in her evidence the same things and in the same manner as stated by her brother, informant Charan Singh (PW-1). From the perusal of the evidence of the eye-witness, Km. Bhago Devi (PW-2), we find that this witness has also stated the same facts and things as were stated by informant Charan Singh (PW-1). Thus, we find that the same role has been assigned by this witness, Km. Bhago Devi (PW-2) is that after the death of her mother and father, present appellant, Karan Singh, dragged the dead body of her mother, Smt. Anchali Devi, from the roof through the stairs to the house of Hawaii Singh @ Hari Singh.

24. Thus, from the perusal of the written report, Exhibit Ka-1, and the evidence of informant Charan Singh (PW-1) and injured witness Km. Bhago Devi (PW-2), it is revealed that there is only one role assigned to the present accused-appellant, Karan Singh, is that after happening of the incident, appellant, Karan Singh, dragged the dead body of the deceased, Anchali Devi, from the roof through the stairs to the house of the main accused, Hawaii Singh @ Hari Singh. The present appellant, Karan Singh, has not recited any insulting words towards deceased, Rohtas Singh, or his family members. The present appellant, Karan Singh, even has not instigated or exhorted the main accused, Hawaii Singh @ Hari Singh. The present appellant, Karan Singh, did not have any weapon in his hands, either a firearm or any other weapon like knife, lathi and danda. From the perusal of the prosecution evidence, it is revealed that the present appellant, Karan Singh, has not done any act during the happening of the incident.

According to the prosecution story, he was only present with the main accused Hawai Singh @ Hari Singh. Thus, from the perusal of the prosecution evidence, it is revealed that from the beginning of the incident and till the happening of the incident or in other words, from the beginning of the abusing between main accused, Hawai Singh @ Hari Singh and his brother, deceased Rohtash Singh, and till the death of the deceased Rohtash Singh and his wife Anchali Devi, present appellant, Karan Singh, has not performed any act or overt act in the commission of the crime.

25. This fact is clearly established itself by the statements of the eye-witnesses of the case, informant Charan Singh (PW-1) and injured witness Km. Bhago Devi (PW-2), that Karan Singh did not even use filthy or abusive language towards the deceased and their family members. It is said that he was merely present with the main accused at the place of occurrence and, after happening of the incident, dragged the dead body of the deceased, Anchali Devi, from the roof, through the stairs, to the house of the main accused, Hawai Singh @ Hari Singh, that is the only role assigned to him by the prosecution.

26. According to the prosecution, it is said that present appellant, Karan Singh, is a helper of main accused, Hari Singh. From the evidence of informant, Charan Singh (PW-1), this fact is revealed that a case under Section 325 IPC was pending against the informant Charan Singh (PW-1) and his deceased father, Rohtash Singh, in which present appellant, Karan Singh, was a witness. It appears from the evidence and the above facts that, since the present appellant, Karan Singh, was the helper like servant of main accused, Hari Singh, and he was a witness in a case under Section 325 IPC which was pending against Charan Singh and his deceased father Rohtash Singh, therefore, he was

falsely implicated in this case with main accused, Hawaii Singh @ Hari Singh, for commission of the alleged crime.

27. Prosecution witnesses, Charan Singh (PW-1), and injured witness, Km. Bhago Devi (PW-2), who are the eye witnesses of the incident, in their statements, stated that after happening of the incident, present appellant, Karan Singh, dragged the dead body of the deceased, Anchali Devi, from the roof, through stairs, to the house of main accused, Hari Singh.

28. Dr. A.K. Garg (PW-7) who conducted the postmortem examination of deceased, Rohtas Singh and Anchali Devi, and prepared the postmortem reports, Exhibit Ka-31 and Ka-32, stated during his cross-examination that if, after receiving a gunshot, the dead body of Anchali Devi is dragged by holding the leg, there will be marks of dragging. If the body is dragged by holding the head, injuries should appear on other parts of the body except the heels. If the dead body is dragged from the stairs by holding the head, and it falls on every step of the stairs, injuries would also be expected on the heels. However, such injuries may not occur because the skin of the heels is too thick. If a dead body is dragged, injuries are generally found on the legs, feet, and palms.

29. Thus, from the perusal of the statement as given by Dr. A.K. Garg (PW-7) in his cross-examination, it is revealed that there is no injury on the dead body of the deceased, Anchali Devi, from which it could conclusively be inferred and proved that dead body of the deceased, Anchali Devi, was dragged from the roof through stairs to the house of main accused, Hari Singh. If the dead body of the deceased, Anchali Devi, would be dragged by present appellant, Karan Singh, then, in this condition, some abrasions and contusions are likely to be caused on the dead body of the deceased, Anchali Devi, however, there is no injury of

this nature or kind that could indicate conclusively that the body of the deceased, Anchali Devi, was dragged by present appellant, Karan Singh, after happening of the incident. Thus, on this point, there is major difference between oral evidence and medical evidence, which makes presence of the present appellant, Karan Singh, at the place of occurrence, highly doubtful.

30. It is also a notable fact that a case under Section 325 IPC was pending against informant Charan Singh (PW-1) and his father, deceased Rohtas Singh, in which present appellant, Karan Singh, was the witness. This fact indicates that this could be a reason of falsely implicating the present appellant, Karan Singh, in the present case. Apart from the above facts, it is also a fact that Karan Singh was the helper of main accused, Hari Singh. This fact also could be a reason to falsely implicate and involve the present appellant, Karan Singh, for commission of the crime. Since the present appellant, Karan Singh, was working as a helper with accused, Hawaii Singh @ Hari Singh, that indicates that he was working with him as a servant in his daily routine works. This fact also appears to be a reason and motive for false implication of the present appellant, Karan Singh, in the present case. Generally, in Indian Societal Framework, when any person is found involved in any crime, it is general tendency to implicate also his helper or servant along with owner, employer, or master. From the perusal of the evidence, it appears that because the appellant, Karan Singh, was the helper of Hari Singh and was also a witness against Charan Singh (PW-1) and deceased, Rohtash Singh, under Section 325 IPC, it appears that due to this reason, the present appellant, Karan Singh, was falsely implicated in this case.

31. From perusal of the finding and reasoning of the learned Trial Court, it appears that learned Trial Court has not considered



this legal aspect according to the evidence as available on the records that for conviction with the aid of Section 34 IPC, a definite and clear-cut finding must be recorded of this nature by the Court that there was pre-plan, pre-meditation, and pre-consult among the accused persons for the commission of the crime. However, from perusal of the finding and reasoning of the learned Trial Court, we find that there is no finding or reasoning on this legal aspect in the judgment and order of the learned Trial Court. The Trial Court, only on general basis and simply applying the Section 34 IPC without any cogent evidence in respect of pre-plan, pre-meditation, and pre-consult of present appellant, Karan Singh, with main accused, Hawaii Singh @ Hari Singh, wrongly held the present appellant, Karan Singh, guilty for commission of the alleged crime.

32. The Constitutional Bench of the Supreme Court, consisting of Four Judges in the case of **Krishna Govind Patil v. State of Maharashtra, AIR 1963 SC 1413**, has held on Section 34 IPC long before in the year 1963 in para 6 that:-

*"It is well settled that common intention within the meaning of the section implied a pre-arranged plan and the criminal act was done pursuant to the prearranged plan. The said plan may also develop on the spot during the course of the commission of the offence; but the crucial circumstance is that the said plan must precede the act constituting the offence. If that be so, before a court can convict a person under Section 302, read with Section 34, of the Indian Penal Code, it should come to a definite conclusion that the said person had a prior concert with one or more other persons, named or unnamed, for committing the said offence."*

33. Recently, Hon'ble Supreme Court in the case of **Constable 907 Surendra Singh and another v. State of Uttarakhand, (2025) 5 SCC 433**, has held in para 30 that:-

*"By now it is a settled principle of law that for convicting the accused with the aid of Section 34IPC the prosecution must establish prior meetings of minds. It must be established that all the accused had pre-planned and*

*shared a common intention to commit the crime with the accused who has actually committed the crime. It must be established that the criminal act has been done in furtherance of the common intention of all the accused."*

34. Thus, in the light of the law laid down by the Hon'ble Supreme Court in the cases of **Krishna Govind Patil (supra)** and **Constable 907 Surendra Singh (supra)** on Section 34 IPC, we find that for conviction of any person under Section 302 read with Section 34 IPC, Court should come to a definite conclusion that said person had prior concern with one or other person, named or unnamed, for committing the said offence. Apart from this, there must be clear-cut evidence on behalf of the prosecution to establish this fact that there was prior meetings of minds between the accused persons for commission of the crime. However, from perusal of the evidence of informant Charan Singh (PW-1) and Km. Bhago Devi (PW-2), we find that the prosecution has not led any evidence of this nature from which it could be established that there was a prior meetings of minds or pre-plan, or pre-meditation, or pre-consult between the present appellant, Karan Singh, with main accused, Hari Singh, for commission of the crime. The finding and reasoning recorded by the learned Trial Court in its judgment and order dated 09.06.1988 is also silent on this legal aspect. There is no discussions or reference about the elements of Section 34 in the finding and reasoning of the Trial Court. Learned Trial Court only on simple ground with the aid of Section 34 IPC held the appellant, Karan Singh, guilty without giving any cogent evidence about this fact that there was no evidence of pre-meditation, pre-plan or pre-consult or meetings of minds between the present appellant, Karan Singh, and main accused Hawaii Singh @ Hari Singh for commission of the crime.

35. From the perusal of the whole evidence of prosecution and eye-witnesses, informant Charan Singh (PW-1) and Km. Bhago Devi (PW-2), we find that presence of present appellant, Karan

Singh, at the place of occurrence on the date and time of the incident, is highly doubtful and suspicious. Due to above reasons and legal aspects, including the evidence, we are unable to affirm the judgment and order of conviction and sentence passed by the learned Trial Court dated 09.06.1988 in respect of present appellant, Karan Singh. The learned Trial Court has not appreciated the evidence in proper perspective and in legal manner, keeping in mind the legal elements of Section 34 IPC. We find that the Trial Court without cogent evidence and against the settled legal principles of law, has wrongly held the accused-appellant, Karan Singh, guilty for commission of the alleged crime. Due to this reason, judgment and order of conviction and sentence passed by the learned Trial Court dated 09.06.1988 is liable to be set aside in respect of present appellant, Karan Singh.

36. The criminal appeal is **allowed**. Accordingly, we set aside the impugned judgment and order dated 09.06.1988 of conviction and sentence passed against the accused-appellant, Karan Singh, by learned Trial Court in Sessions Trial No. 272 of 1987 (State v. Hawai Singh @ Hari Singh and another) arising out of Case Crime No. 94 of 1987, under Sections 449, 302/34, 307/34 IPC, Police Station Tanda, District Rampur. The appellant is acquitted of the charge under Sections 302/34, 307/34 and 449 IPC. The appellant, Karan Singh, is on bail. He need not surrender. His bail bonds are cancelled and sureties stand discharged. However, he shall comply with the provisions of Section 437-A Cr.P.C.

37. Let a copy of this judgment be sent to the learned Trial Court forthwith along with the Trial Court record for compliance.

**(Vinai Kumar Dwivedi,J.) (Siddharth,J.)**

**May 13, 2026**  
SHUBHAM