



UPBB010016312024

In the Court of Sessions Judge , Barabanki.

(Present : - Pratima Srivastava , H.J.S.)

(I.D. No. - UP1899)

Sessions Case No.-353/2024

State of U.P.....**Prosecution.**

Vs

Munnuram son of Chauthi, Resident of village- Ratanpur, P.S. Ramnagar,
District- Barabanki.

.....Accused/applicant.

Case Crime No.-419/2017

Under Section- 307,504 I.P.C.

P.S.- Ramnagar,

District- Barabanki.

JUDGMENT

The accused Munnuram was tried by this court in the Case Crime No. 419/2017 under Section- 307, 504 I.P.C., P.S. Ramnagar, District- Barabanki.

2. Briefly, the prosecution story is that on dated 18.11.2017, complainant's son Milki Ram and Budhu, son of Kailash, were going towards their fields at 8 pm. As soon as his son Milki Ram and Budhu reached in front of Munnu Ram's house, Munnu, son of Chauthi, who was already drunk, started abusing his son and when his son objected this, accused Munnu, began to hurling filthy abuses at him and ran towards him to hit his son. Before his son could understand anything, Munnu stabbed a knife in the stomach of his son Milki Ram. On hearing the screaming of his son, he and his son Vidya Ram rushed to the spot. His son told him that Milki Ram had stabbed in his stomach and injured him. He immediately informed this incident on dial 100 number, on which the police came and admitted his son to CHC Ramnagar, from where he was referred to Barabanki District Hospital. Due to critical condition, his son was referred to KGMU Lucknow.

3. On the basis of the above complaint of the complainant, a case was registered against the accused Munnuram under Case Crime No.-419/2017 under Section- 307, 504 I.P.C., which was disclosed in the copy of Report No.-20 dated 19.11.2017 at 09.10 hours.

4. The investigation of the above case was conducted by Inspector Incharge Manoj Kumar Sharma. During the investigation, he perused the Nakal Chik, Nakal Report and recorded the statement of complainant Shiv Prasad and witness Vidya Ram by reaching complainant's home. At the instance of the complainant, he prepared the Site Map (Exhibit Ka-6) of the incident. After this, on the information of informant, he arrested the accused Munnuram and on his pointing, he recovered the knife. He prepared the recovery memo of knife and proved it as Exhibit Ka-7. After this, he prepared the site-map of recovered knife in his own handwriting and proved it as Exhibit Ka-8. In the above case, after the previous Investigating Officer had filed a CD dated 08.12.2017, he was transferred and consequently, Incharge Inspector Akhand Dev Mishra took over the investigation. He perused the previous papers and perused the medical report related to the case. After completion of the evidence, the charge sheet (Exhibit Ka-9) against the accused Munnuram was sent to the court under Section- 307, 504 I.P.C.

5. The cognizance on the charge sheet was taken by the learned A.C.J.M Court No. 11, Barabanki. On dated 04.03.2024, the case was committed to the Court of Sessions for trial and Sessions Case No.- 353/2024 was registered against the accused.

6. On 04.04.2024, the court framed charges under Section- 307,504 I.P.C. against the accused Munnuram. The charges were read out and explained to the accused in Hindi. The accused denied the above allegations and prayed for trial.

7. In order to substantiate its allegations under Sections- 307, 504 I.P.C., the prosecution examined the following witnesses who were examined in the court.

Name of prosecution witnesses	Nature of prosecution Witnesses
PW-1, Satyendra Singh (Inspector)	FIR Writer
PW-2, Dr. Awadhesh Kumar Gupta	Doctor

PW-3, Vidyaram	Independent witness
PW-4, Milkiram	Injured/independent witness
PW-5, Rinku @ Buddhu	Independent witness
PW-6, Manoj Kumar Sharma (Inspector Incharge)	Investigating Officer
PW-7, Akhand Dev Mishra (Inspector Incharge)	Investigating Officer

8. In order to establish its case, the prosecution had produced the documentary and oral evidence-

Documentary Evidence-

Written Tehrir	Exhibit Ka-3
First Information Report	Exhibit Ka-1
General Diary No. 20	Exhibit Ka-2
Medical Report of Milkiram	Exhibit Ka-4
Certified copy of emergency register of C.H.C. Ramnagar	Exhibit Ka-5
Site-map	Exhibit Ka-6
Recovery memo of recovered Knife	Exhibit Ka-7
Site-map of recovered knife	Exhibit Ka-8
Charge-sheet	Exhibit Ka-9

9. The statement of the accused was recorded under Section 313 Cr.P.C., in which the accused stated the incident and the evidence given by the prosecution witnesses as false and stated that he has not committed any crime.

10. The accused was given an opportunity to present defence evidence but he has not presented any defence evidence.

11. While submitting the arguments on behalf of the prosecution, learned Incharge D.G.C. (Criminal) submitted that in the present case, the prosecution has been successful in proving its story beyond reasonable doubt and the evidence available on record proves that the accused has abused injured Milkiram and assaulted on him, by stabbing a knife in his stomach, resulting which he sustained fatal injury. The accused assaulted on Milkiram with Knife, with the intention and knowledge that the said injury could have resulted to his death. The prosecution witnesses PW-3 Vidyaram, PW-4

Milkiram, PW-5 Rinku @ Buddhu who are factual witnesses, have not supported the prosecution story, but from the other evidence available on record, the allegations against the accused are reasonably proven beyond doubt.

12. In rebuttal to the above arguments presented by the prosecution, it was submitted by the learned counsel for the accused that in every criminal trial it is the responsibility of the prosecution to prove its story beyond reasonable doubt, but in the present case, the prosecution has failed in proving its story. It has been a complete failure. Three factual witnesses have been presented by the prosecution to prove its story. The prosecution's story has not been supported by the factual witnesses and even after all these witnesses were declared hostile by the Incharge D.G.C. (Criminal). The evidence of these witnesses are not been reliable. Therefore, there is no evidence on record which can slightly prove that the accused committed the crime. Therefore, the prosecution has completely failed to prove the allegations against the accused beyond reasonable doubt. The accused is liable to be acquitted after getting the benefit of doubt.

13. I have heard the arguments of the learned Incharge D.G.C. (Criminal) for the prosecution and the learned counsel of the accused and have seriously perused the oral and documentary evidence available on record.

14. Now it has to be determined whether the accused Munnuram assaulted the injured Milkiram with knife and caused fatal injury to Milkiram or not? In this regard, it is necessary to peruse the evidence presented by the prosecution.

15. **P.W.-1 Satyendra Singh (Inspector)** stated in his examination in chief that on 19 November 2017, he was posted as Head Clerk at Ramnagar Police Station, Barabanki. On that day, based on a handwritten complaint submitted by Shiv Prasad, son of Maan Yadav, he had written it verbatim on computer by dictating it. He had written FIR No. 419/2017, Section 307, 504 IPC, Police Station- Ramnagar and had signed on it. The witness also stated that he had dictated this FIR on the computer and proved it as Exhibit Ka-1. He had recorded the GD of the FIR on the computer by dictating it on

19.11.2017 at 09:10 am, and the witness identified the signature made on it and proved it as Exhibit Ka-2. He proved written tehrir as Exhibit Ka-3.

16. P.W.-2 Awadhesh Kumar Gupta (Pharmacist) stated under oath in his examination-in-chief that he was currently employed as a pharmacist at C.H.C. Ramnagar. He presented with the Accidental Injury Register of CHC Ramnagar, effective from 20.05.2016 to 22.04.2019. On 18.11.2017, Dr. S.K. Rai recorded the injury of injured Milkiram on page 15 of the medical register at 9:05 PM. He worked with Dr. S.K. Rai at CHC Ramnagar for one year during the 2016-2017 session. He has seen Dr. Rai read and write. He is well acquainted with his handwriting and signature. Dr. S.K. Rai died during COVID-19. The witness identified the handwriting and signature of Dr. S.K. Rai by looking at medical file number A-19, which was entered as Exhibit Ka-4. The witness verified this by comparing it with the register. The witness presented in the court with the Emergency Register of CHC Ramnagar, effective from 26.09.2017 to 02.03.2018. As per serial number 387 (333) of page number 165, he was admitted to Milkiram Hospital at 8.55 PM and was referred to District Hospital Barabanki at 09:15 AM. He submitted a photocopy of the same which was proved by him as Exhibit Ka-5.

17. P.W.-3 Vidyaram deposed on oath in his examination in chief that the incident occurred about 8 years prior to the examination in chief. His brother Milkiram was injured at about 8 p.m. He has no knowledge of how Milkiram was injured. He did not see that the accused Munnuram had stabbed his brother Milkiram. The sub-inspector had not recorded his statement in this regard.

At the request of the prosecution, the witness was declared hostile and permission was granted to Incharge D.G.C. (Criminal) for cross-examining the witness.

In the cross-examination, the witness denied the suggestion that the above-mentioned accused had stabbed his brother Milkiram and abused him in front of him. Further, he denied that when the accused Munnuram was stabbing his brother Milkiram with knife, he had watched the incident by a torch. He further admitted that this case is lodged by his father who has passed away. He admitted that he has cordial relation with his brother

Milkiram and there is no dispute of any kind. He further admitted in his cross-examination that injured Milkiram and accused Munnuram also have good relations among them. He further stated that his father Shivprasad had no enmity with the accused Munnuram.

18. PW. 4 Milkiram deposed on oath in his examination in chief that on dated 18.11.2017, he was going to the grocery store in his village to buy beedis. The place was already crowded. People were shouting among themselves. It was dark. As he reached the shop, he was pushed from behind. The tin sheet on the wooden shop, which was sharp due to the impact, struck him and pierced his stomach. He screamed in pain, and people rushed him to the district hospital for treatment. From there, he was sent to a medical college for treatment. He was not stabbed. The sub-inspector had not recorded the statement regarding this.

At the request of the prosecution, the witness was declared hostile and permission was granted to Incharge D.G.C. (Criminal) for cross-examining the witness.

In the cross-examination, the witness stated that the first information report of this incident was lodged by his father or not, he has no knowledge regarding this. It is correct to say that he sustained an injury at the Tendhe shop. It was dark there, therefore he cannot tell which people of the village were present there. He recognized the voices of some of the villagers. He does not remember whose voices he heard at the time of the incident. It is correct that Munnuram who is a resident of his village, belongs to the Mallah caste. He further denied the suggestion that he has reached a compromise with Munnuram, and therefore he is not telling the truth in court.

19. PW. 5 Rinku @ Buddhu deposed on oath in his examination in chief that about 08 years have passed since the incident. He does not remember the date. On that day he had gone to Ramnagar. When he returned in the evening, he came to know that Milkiram of his village had sustained an injury. He further admitted that he has no information as to how Milkiram got injured. The Investigating Officer had not recorded any statement regarding this incident.

At the request of the prosecution, the witness was declared hostile and permission was granted to Incharge D.G.C. (Criminal) for cross-examining the witness.

In the cross-examination, the witness stated that he is on talking terms with both Milkiram and accused Munnuram. He denied the suggestion that he is lying in the court to save Munnuram.

20. P.W.-6 Manoj Kumar Sharma (In-charge Inspector) stated under oath in his examination-in-chief that on 19.11.2017, First Information Report No. 413/2017, under sections 307 and 504, was registered against Munnu Ram at Ramnagar Police Station, Barabanki. On the same day, he inspected the copy sheet and the copy report in the first slip prepared, went to the complainant's house and recorded the statements of complainant Shiv Prasad and witness Vidya Ram. Subsequently, at the complainant's direction, he inspected the crime scene, drew a site map on the spot and proved it as Exhibit Ka-6. Subsequently, based on information from an informant, the accused, Munnu, was interrogated and taken into police custody at the Bhairampur Petrol Pump intersection at around 16:25 p.m. In his statement, he took the accused Munnu to a guava tree near his house and retrieved a knife used in the crime from the ground, stating that it was the knife he had used to stab Milkiram in the stomach the previous day. A report was prepared at the scene. Exhibit Ka-7 was filed with the recovery report. On November 20, 2017, he recorded statements from witnesses, inspected the medical report of the injured Milkiram, and prepared a map with his own handwriting and signature. His companion identified his signature on the map of the recovered weapon and proved it as Exhibit Ka-8.

21. P.W.-07 Inspector Akhand Dev Mishra stated under oath in his examination-in-chief that on 19.12.2013 he was posted as Sub-Inspector at Ramnagar Police Station, Barabanki district. He assumed the investigation of the aforementioned case after the previous Investigating Officer (HC) was transferred after preparing the CD dated 08.12.2017. He reviewed the previous papers and the medical report related to the case. Subsequently, he perused the legal opinion on 22.03.2018. Based on the evidence collected

from the entire investigation so far and the statements of witnesses, the offence under Sections 307 and 504 of the Indian Penal Code was well established against the accused Munnu Ram, resident of Ratanpur, Ramnagar Police Station, Barabanki district. Chargesheet No. 69/2018, dated 22.03.2018, was submitted to the court with his signature. The witness identified his signature on charge sheet and proved it as Exhibit Ka-9.

Conclusion

22. According to the prosecution story, on the date, time, and place of the incident, the accused stabbed a knife in the stomach of injured Milkiram and caused grievous injury to him.

23. To prove its story, the prosecution examined the factual witnesses PW-3 Vidyaram, PW-4 Milkiram, PW-5 Rinku @ Buddhu.

24. The learned counsel for the accused persons argued that the factual witnesses examined by the prosecution PW-3 Vidyaram, PW-4 Milkiram, PW-5 Rinku @ Buddhu are hostile witnesses. The prosecution's story has not been supported by them in their evidence. In such a situation, the prosecution story is not proved beyond reasonable doubt and the accused deserves to be acquitted by getting the benefit of the doubt.

25. On the contrary, while refuting the above arguments on behalf of the prosecution, it was argued that although the witnesses of the facts examined by the prosecution have not supported the prosecution story, their entire evidence and other documentary evidence available on record support the prosecution story. The prosecution has successfully proved the charges against the accused beyond reasonable doubt. Therefore the accused persons deserves to be convicted.

26. In light of the above arguments, it becomes clear from the perusal of the record that the prosecution has examined the witnesses of fact PW-3 Vidyaram, PW-4 Milkiram, PW-5 Rinku @ Buddhu to prove their story. The witnesses were examined but they have not supported the prosecution's version, hence the prosecution witnesses have been declared hostile at the request of the prosecution. In such a situation, it is necessary to first consider the legal position regarding the quality and admissibility of the evidence of the hostile witness at this stage.

27. In the case of **Jodhraj vs State of Rajasthan 2007 Cr.L.J. Page 2942**, Hon'ble Supreme Court has opined that;

“Only because a witness, for one reason or the other, has, to some extent, resiled from his earlier statement by itself may not be sufficient to discard the prosecution case in its entirety. Even in such a situation courts are not powerless. Keeping in view the material available on record, it is permissible for a court of law to rely upon a part of the testimony of the witness who has been declared hostile.”

28. In **Gura Singh 2001 CRL. L.J. 487 (SC) CrI. A. 1184/1998**, Hon'ble Supreme Court has held that;

*“It is a misconceived notion that merely because a witness is declared hostile his entire evidence should be excluded or rendered unworthy of consideration. The same principle has been upheld by the Hon'ble Supreme Court in the case of **Ramakrishna vs. State of Maharashtra, 2007 (58) ACC page 604, State of Uttar Pradesh vs. Ramesh Chandra Mishra and others, 1996 (10) SCC page 360, Radhamohan Singh alias Lal Sahib and others vs. State of Uttar Pradesh, AIR. 2006 SC page 951.***

29. In **Bhagwan Singh v. State of Haryana 1976 Cril LJ 203**, Hon'ble Supreme Court held that

“Merely because the Court gave permission to the Public Prosecutor to cross-examine his own witness describing him as hostile witness does not completely efface his evidence. The evidence remains admissible in the trial and there is no legal bar to base conviction upon the testimony of such witness.

30. In **Rabindra Kumar Dey v. State of Orissa 1977 Cri LJ 173**, Hon'ble Supreme Court held that

“By giving permission to cross-examine nothing adverse to the credit of the witness is decided and the witness does not become unreliable only by his declaration as hostile. Merely on this ground his whole testimony cannot be excluded from consideration. In a criminal trial where a prosecution witness is cross-examined and contradicted with the leave of the Court by the party calling him for evidence cannot, as a matter of general rule, be treated as washed off the record altogether. It is for the court of fact to consider in each case whether as a result of such cross-examination and contradiction the witness stands discredited or can still be believed in regard to any part of his testimony. In appropriate cases the court can rely upon the part of testimony of such witness if that part of the deposition is found to be creditworthy.”

31. In case of **State of U.P. Vs. Ram Prasad Mishra and Another 7 (1996) 10 SCC 360** Hon’ble Supreme Court has held that;

“It is the law that the statement of the hostile witness to be taken as the evidence would not be totally rejected just because the person has moved away from his duty to speak the truth, or that he has not spoken in the favor of the prosecution. However, in such a case, the court can scrutinize the statement of the witness and can reject only the part that is inconsistent with the case or arguments of the prosecution.”

32. In the context of the views observed from time to time by the Hon’ble Supreme Court in the above legal provisions, it is clear that the careful analysis of the evidence of the witnesses of the facts examined in the case is that the witness P.W.-3 Vidyaram deposed on oath in his examination in chief that incident occurred about 8 years prior to the examination in chief. His brother Milkiram was injured but he has no knowledge of how Milkiram was injured. Even he did not see that the accused Munnuram stabbed a knife in the

stomach of Milkiram. In the cross-examination, the witness denied the suggestion that the above-mentioned accused had stabbed his brother Milkiram and abused him in front of him. Further, he denied that when the accused Munnuram was stabbing his brother Milkiram with knife, he had watched the incident by a torch. He further admitted in his cross-examination that injured Milkiram and accused Munnuram also have good relations among themselves. He further stated that his father Shivprasad had no enmity with the accused Munnuram. From the minute analysis of the above evidence of P.W.-3, it is clear that the witness has not supported the prosecution story in his testimony. Thus, the witness has refuted the prosecution story by giving evidence contrary to the prosecution story. Similarly, PW. 4 Milkiram who is injured witness deposed on oath in his examination in chief that on dated 18.11.2017, when he was going to a grocery store in his village to buy beedis. The place was already crowded and the people were shouting there. It was dark. As he reached the shop, he was pushed from behind by someone and a tin sheet which was sharp due to the impact, struck him and pierced into his stomach. He screamed in pain, and people rushed him to the district hospital for treatment. From there, he was sent to a medical college for treatment. He further stated that he was not stabbed by anyone. In the cross-examination, the witness stated that the first information report of this incident was lodged by his father or not, he has no knowledge regarding this. It is correct to say that he sustained an injury at the Tendhe shop. It was dark there, therefore he cannot tell which people of the village were present there. He recognized the voices of some of the villagers. He does not remember whose voices he heard at the time of the incident. Subsequently, P.W.- 5 Rinku @ Buddhu deposed on oath in his examination in chief that 8 years have passed since the incident. He does not remember the date. On that day, he had gone to Ramnagar. When he returned in the evening, he came to know that Milkiram of his village had sustained an injury. He further stated that he has no information as to how Milkiram got injured. In the cross-examination, the witness stated that he is on talking terms with both Milkiram and accused Munnuram. Further, he denied the suggestion that he is lying in the court to save Munnuram.

33. In a criminal trial, the presumption is that the accused is innocent, and it is the responsibility of the prosecution to prove the guilt of the accused or the accused beyond every reasonable doubt. It depends on the facts, circumstances of each case, and the credibility and admissibility of the evidence presented in that case whether the evidence presented in the case is of reliable nature or not. Although conviction is possible on the statement of a single or injured witness, his evidence should be of such a level that conviction is possible.

34. In the background of the above legal principles, scrutiny of the facts of the witnesses makes it unquestionably clear that the witnesses PW-3 Vidyaram, PW-4 Milkiram, PW-5 Rinku @ Buddhu are not reliable witnesses. A careful analysis of his entire evidence does not support the prosecution's story. PW-3 Vidyaram, PW-4 Milkiram, PW-5 Rinku @ Buddhu are hostile witnesses, their evidence also does not support the prosecution story. The medical report shows that the injured Milkiram had one injury in his stomach, but the prosecution failed to prove that this injury was caused by the accused. From the analysis of the evidence of the witnesses, I conclude that the evidence of the fact witnesses is not reliable. Apart from the above, there is no evidence, factual or circumstantial, available on record which proves the allegations against the accused beyond reasonable doubt. Therefore, the prosecution has failed to prove the allegations leveled against the accused beyond reasonable doubt. In such a situation, the accused deserves to be acquitted by getting the benefit of doubt from the charges leveled under Sections- 307, 504 I.P.C.

35. In view of the aforesaid, I am of the considered view that the prosecution failed to prove the specific allegations against the accused for inflicting injury to injured and there was no intention to kill injured Milkiram. There is nothing on record either in the deposition of the prosecution witnesses or otherwise so as to suggest that accused was involved in the commission of crime.

36. Hence, the prosecution has failed to prove its case against the accused Munnuram beyond reasonable doubt, hence, he is liable to be acquitted for the charges under section- 307,504 I.P.C.

ORDER

Accused Munnuram is entitled to get the benefit of doubt and is acquitted from the charges under sections- 307, 504 I.P.C.

Accused Munnuram is on bail. Hence, his personal bail bonds are cancelled and sureties be discharged from their liability.

Accused in compliance to the section 437-A of the Code of Criminal Procedure, shall file a personal bond of Rs. 20,000/- and one surety in like amount within two weeks from today.

Dated- 06.06.2026

(Pratima Srivastava)
Sessions Judge,
Barabanki
(I.D. No.- UP1899)

The judgment signed, dated and pronounced in open court today.

Dated- 06.06.2026

(Pratima Srivastava)
Sessions Judge,
Barabanki
(I.D. No.- UP1899)