

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Criminal Appeal No. 363/2002

State of Rajasthan

----Appellant

Versus

1. Sampat Son of Bajrang Singh
2. Birma Ram Son of Bhura Ram, resident of Village-Khajpura
Police Station-Rupangarh District Ajmer

----Accused-Respondents

Connected With

D.B. Criminal Revision Petition No. 674/2001

Kalyan Ram son of Bhoma Ram, resident of Khajpura, P.S.
Roopangarh, Kishangarh, District Ajmer

----Complainant-Petitioner

Versus

1. Sampat Singh son of Bajrang Singh
2. Birma Ram son of Bhura Ram, resident of Khajpura, P.S.
Roopangarh, District Ajmer

----Accused-Respondents

For State(s)	:	Mr. Naresh Kumar Gupta, PP
For Complainant	:	Mr. Arun Sharma for Mr. G S Fauzdar
For Accused-Appellant(s)	:	Mr. Rinesh Kumar Gupta with Mr. Ashutosh Singh Naruka

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

25/02/2026

(Per Hon'ble Mahendar Kumar Goyal, J.)

Pursuant to order of this Court dated 15.07.2025, learned
Public Prosecutor has submitted the status report dated

16.02.2026 furnished by SHO, Police Station Rupangarh, District-Ajmer.

As per the aforesaid report, which is accompanied with a certificate even dated issued by Administrator Gram Panchayat, Jajota and counter signed by the Village Development Officer, the accused-respondents are alive.

The criminal appeal No. 363/2002 has been preferred by the appellant-State and the criminal revision petition No. 674/2001 has been preferred by the complainant-Shri Kalyan Ram against the accused-respondents (for short, 'the respondents') aggrieved by the judgment dated 19.07.2001 passed by the learned Additional District and Sessions Judge, Kishangarh District Ajmer (for brevity, 'the learned trial Court') in Sessions Case No. 23/1999, whereby, the respondents have been acquitted of the charges framed against them under Section 302 read with Section 34 IPC.

The relevant facts in brief are that, based upon the written report dated 05.03.1999 (Ex. P5) submitted by Shri Kalyanram, an FIR No. 31 dated 05.03.1999 (Ex. P6) came to be registered at Police Station Rupangarh, District Ajmer for the offence under Section 302 and 34 IPC. After investigation, the respondents were charge-sheeted for the offence under Section 302 read with Section 34 IPC. Initially, charge under Section 302 IPC was framed against the respondents but, later on, it was amended to Section 302 read with Section 34 IPC. After trial, they have been acquitted of the charge, as supra.

Assailing the judgment impugned, learned Public Prosecutor for the State and learned counsel for the complainant, submitted

that the learned trial Court did not appreciate that from the evidence available on record, the prosecution was able to establish, beyond reasonable doubt, that the respondents have, in furtherance of their common intention, committed murder of Rupa Ram. They submitted that the case was based on circumstantial evidence and the prosecution was able to establish the complete chain of circumstances leading to the only conclusion of guilt of the respondents. They contended that the learned trial Court had unnecessarily been swayed by delay in lodging the FIR; but, in view of impeccable ocular evidence, the delay was of no consequence. They submitted that, as per the Postmortem Report (Ex. P2), the cause of death was anti mortem head injury on the body of the deceased and the weapon of offence, i.e., a lathi was recovered on the disclosure statement made by the respondent No. 1-Sampat (Ex. P8). They, therefore, prayed that the appeal as well as revision be allowed, judgment impugned dated 19.07.2001 be quashed and set aside, the respondents be convicted of the charge framed against them and be sentenced accordingly.

Per contra, learned counsel for the respondents, opposing the submissions and supporting the findings recorded by the learned trial Court, prayed for dismissal of the appeal as also the revision petition.

Heard. Considered.

Indisputably, the case is based on circumstantial evidence. The prosecution story unfurls from the written report dated 05.03.1999 (Ex. P5) submitted by Shri Kalyanram (PW5)-not a family member, rather, a resident of Village Kankroli, District-Rajsamand whereas, the deceased was resident of Khajpura,

Tehsil-Kishangarh, District Ajmer. Although, in the written report, he has claimed to be resident of Village Khajpura; but, his testimony as PW5 establishes, beyond doubt, that he was resident of Village Kankroli, District-Rajsamand and not the resident of Village Khajpura. In written report, it was alleged that at about 09:00 PM on 03.03.1999, Shri Perma Ram (PW8) had informed the family members of the deceased Rupa that he saw the respondents with co-accused Sumer Singh dragging and beating the deceased. Smt. Kanodi (PW1)-mother of the deceased has deposed that when she went to the scene of crime alongwith Girdhari (PW2), Ugma Ram (PW4) and wife of the deceased, Rupa informed that he was beaten by the respondents alongwith co-accused Sampat. In her cross-examination, she has denied that the deceased used to take liquor. However, Shri Girdhari as PW-2 did not aver that on reaching the scene of crime, Rupa Ram informed that he was beaten by the respondents alongwith co-accused rather, as per his testimony, Rupa informed that he was dragged without attributing it to either of the respondents. During his cross-examination, he has denied any enmity with the respondents as also that the deceased used to take liquor. Ugma Ram (PW4) did not aver that he had gone to the scene of crime alongwith the PW1 and PW2. Wife of the deceased was not produced in the witness-box. Thus, the prosecution testimony is contradictory with each other as to whether the deceased Rupa has apprised the PW1, PW2 and the PW4 of the manner in which the crime was committed as also, by whom?

Further, as per the aforesaid testimony, the family members of the deceased came to know in the night of date of incident

itself, i.e., 03.03.1999, that the respondents have committed murder of the deceased Rupa Ram; but, none of them lodged the report either immediately or thereafter; rather, it was lodged by Shri Kalyanram, neither a family member nor, resident of same village that too with a delay of 2 days. No reason was furnished by prosecution either for delay in lodging the FIR or, as to why it was not lodged by any of the family members.

Moreover, as per the prosecution testimony, the deceased was dragged to some extent tying a loop knot in his neck but, neither the injury report (Ex. P1) prepared on 04.03.1999 nor, the Postmortem of body of the deceased (Ex.P2) reflects any injury on the body except a swelling on left side of the skull. It may also be pertinent to mention here that in the injury report of the deceased (Ex. P1) as also in his Postmortem Report (Ex. P2), it is mentioned that he was beaten by some unknown persons based on the information furnished by relatives who had brought the injured. It also taints the reliability of the prosecution case.

Furthermore, although, as per the testimony of family members of the deceased and other prosecution witnesses, the deceased did not use to take liquor; but, as per Dr. PC Agarwal (DW1), the Junior Special Surgeon, Government Yagyanarayan Hospital, who treated the deceased in the hospital and has prepared the bed head ticket (Ex. D3A), his mouth and nostrils were smelling of alcohol. In view thereof, a possibility could not be ruled out that the deceased suffered an injury on his head upon falling down on hard surface after consuming liquor especially, when the prosecution has failed to establish that the fatal injury was caused by the respondents.

We find that the learned trial Court has recorded the finding of acquittal after appreciating the entire prosecution evidence available on record which, we do not find to be suffering from any perversity, illegality or infirmity so as to warrant interference of this Court in its limited appellate as also revisional jurisdiction against such findings.

Resultantly, the appeal as also revision petition are dismissed.

(SAMEER JAIN),J

(MAHENDAR KUMAR GOYAL),J