



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Criminal Appeal No. 290/2017

1. Sanjay alias Sanju son of Shri Ranglal
2. Ramanrayan son of Shri Ranglal
3. Ranglal son of Shri Gangaram
R/o Hanotiya Ki Tapariya, Police Station Dangipura District
Jhalawar At Present In Central Jail, Kota

----Accused Appellants

Versus

The State of Rajasthan through PP

----Non-Appellant

For Appellant(s)	:	Mr. Harendra Singh Sinsinwar with Mr. Jaswant Singh Rathore & Mr. Hemang Singh
For Respondent(s)	:	Mr. Amit Kumar Punia, P.P.

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

Judgment

24/02/2026

(Per Hon'ble Sameer Jain, J.)

1. This Criminal Appeal has been preferred by the accused-appellants (for short "the appellants") assailing the legality and validity of the judgment dated 16.12.2016 passed by the learned Additional Sessions Judge, Aklera, District Jhalawar (for brevity "the learned Trial Court") in Sessions Case No.03/2015 whereby, the appellants have been convicted and sentenced as under:-

Appellant No.1- Sanjay alias Sanju

Under Section 302 IPC: Life imprisonment and fine of ₹10,000/-; in default whereof, one month's additional simple imprisonment.

Under Section 4/25 of the Arms Act: One year's simple imprisonment.

**Appellant No.2- Ramanrayan**

Under Section 302 read with Section 34 IPC: Life imprisonment and fine of ₹10,000/-; in default whereof, one month's additional simple imprisonment.

Under Section 4/25 of the Arms Act: One year's simple imprisonment.

Appellant No.3- Ranglal

Under Section 302 read with Section 34 IPC: Life imprisonment and fine of ₹10,000/-; in default whereof, one month's additional simple imprisonment.

All the substantive sentences of the appellants to run concurrently.

2. The relevant facts, in brief, as narrated by Shri Harendra Singh Sinsinwar, learned counsel appearing on behalf of the appellants, are that one Shri Mohan (PW-3), son of the deceased Dhan Singh, submitted a written report dated 04.11.2014 (Exhibit P-5) to the Station House Officer, Police Station Dangipura, District Jhalawar. In the said report, it was stated that on the night of 04.11.2014 at about 8:00 PM, his father, Dhan Singh, and his sister, Lad Bai, had gone to the well of Patel Ji to start the water motor. As there was no electricity, they slept on a cot, when the appellants, namely Sanju, Ramnarayan and Ranglal, arrived there armed with stick, *farsi* and sword, and began inflicting injuries upon his father. It was further stated that upon hearing the screams and cries of his sister Lad Bai, he, along with his uncle Kanwar Singh, his mother Badam Bai, and Rai Singh, rushed to the well. It was alleged that all three appellants were assaulting his father (hereinafter referred to as 'victim') with stick, *farsi* and sword.



3. It is contended by the learned counsel for the appellants that when Mohan and the other persons intervened, all three accused persons fled from the spot after a brief altercation. It is submitted that a huge amount of blood was oozing from the victim, due to injuries sustained on the head and face, and that he fell down from the cot. He was immediately taken to the hospital; however, on their way to the hospital the victim had expired. It is further submitted that the alleged motive behind the incident was previous enmity, on account of which the murder is stated to have occurred. Upon receipt of the said written report, an FIR bearing No. 159/2014 (Exhibit P-23) was registered against the appellants on 05.11.2014 at about 1:00 PM, in relation to the incident alleged to have taken place on 04.11.2014 at 20:00 hours, for the offences under Sections 302/34 of the IPC. It is also submitted that, as per the postmortem report (Exhibit P-19), the cause of death was opined to be the injuries sustained on the head of the victim.

4. During the course of investigation, the appellants were arrested, and upon completion of a thorough investigation, the Police filed a *challan* on 25.11.2014 for the offences under Sections 302, 504, and 34 of the IPC, along with Sections 4/25 of the Arms Act against appellants. Thereafter, charges were framed against Sanjay @ Sanju and Ramnarayan for the offence under Section 302 IPC; in the alternative, under Sections 302/34 and 504 IPC, along with Section 4/25 of the Arms Act, and against appellant No.3-Ranglal, for the offence under Section 302 IPC; in the alternative, under Sections 302/34 and 504 IPC. The accused denied the charges and claimed trial.



5. In support of its case, the prosecution examined as many as eighteen witnesses and exhibited forty-two documents. The appellants were examined under Section 313 of CrPC and they did not produce any witness in their defence. After analysis of the records, considered hearing, the learned Trial Court vide judgment dated 16.12.2016, convicted and sentenced the appellants, as stated hereinabove.

6. Learned counsel for the appellants submitted that the appellants have been falsely implicated merely on the basis of suspicion. It is contended that both sides, i.e., the appellants and the family of the complainant/informant, belong to the same family, and therefore, it is highly improbable that they would commit such an offence as alleged. It is further submitted that the victim had strong criminal/ delinquent nature, which, according to the defence, stands corroborated by the statement of his own son, Shri Mohan (PW-3), who deposed that the victim was a habitual offender and a drunkard, having several criminal antecedents against him. It is contended that the victim had several enmities, and it is possible that someone else might have murdered him in the darkness of the night, or that he might have fallen upon a sharp-edged or pointed object and sustained the injuries. It is argued that due to certain family disputes and prior differences, the allegations have been falsely levelled against the appellants.

7. Learned counsel further submitted that the prosecution has failed to establish that Lad Bai (PW-6), Mohan (PW-3) and Badam Bai (PW-5) were eye witnesses to the occurrence. It is contended that the prosecution case rests solely upon the testimony of interested witnesses, and that their statements suffer from stark



deviations, material contradictions, and inconsistencies, rendering them unreliable. Specific reference is made to alleged contradictions in the testimonies of Mohan (PW-3), Rai Singh (PW-4), Lad Bai (PW-6), and PW-5 Badam Bai, the wife of the deceased. It is also submitted that the recovery witnesses have turned hostile and failed to support the prosecution case, and were accordingly declared hostile. Learned counsel further argued that it was impossible for the eyewitnesses to identify the appellants or the weapons allegedly used at the place of occurrence, particularly when it is an admitted position, as per the testimony of the prosecution witnesses themselves, that there was no source of light and the incident occurred on a dark night. In view of the said circumstance, the alleged identification lacks credibility and is nothing more than hearsay.

8. Relying upon the statements of Mohan (PW-3), Badam Bai (PW-5), and Lad Bai (PW-6), learned counsel for the appellants invited the attention of the Court to alleged material deviations occurring from the stage of the FIR (Exhibit P-23) to the statements recorded under Section 161 CrPC, as well as in the course of cross-examination. It is submitted that Lad Bai (PW-6), who was projected as an eyewitness, turned hostile. Further, Badam Bai (PW-5), the wife of the deceased, though claiming herself to be an eyewitness, has denied the presence of Lad Bai at the place of occurrence. It is also contended that the narration regarding the alleged altercation involving Mohan is inconsistently placed in the statements pertaining to the scene of crime. It is further submitted that there is an improvement from the version described in the FIR by introducing one Mahender as a witness;



however, the said person was neither produced by the prosecution nor shown to be present at the site. Therefore, it can be noted that the prosecution's case is founded upon false and frivolous allegations.

9. It is next contended that the site plan (Exhibit P-11) itself does not lend support to the prosecution story. According to the defence, if the victim was sleeping in a dark night, it would have taken only a few seconds to inflict five injuries with the alleged weapons; however, the version of presence of Lad Bai, Badam Bai and Kanwar Singh approximately to 200 meters away, as reflected in the site plan, appears implausible and unrealistic. Reliance is also placed upon the recovery witnesses and the seizure memos, with the submission that the said witnesses have turned hostile. It is further contended that the FSL report is inconclusive, inasmuch as there are no definitive findings regarding the blood group in relation to the alleged bloodstains. In support of the said submission, learned counsel has placed reliance upon the ratio encapsulated in **Raja Naykar vs. State of Chhattisgarh**, reported in **(2024) 3 Supreme Court Cases 481**, wherein it is held that where blood grouping is inconclusive, the mere presence of human blood on the recovered article does not advance the case of the prosecution.

10. It is next submitted that Dr. Satyanarayan Meena (PW-8), who conducted the postmortem examination, has stated that if timely medical aid was provided, the victim could possibly be saved. It is further contended that the injuries noted on the body of the deceased could also be caused by a fall upon a sharp-edged weapon or pointed object. On the basis of the aforesaid



cumulative circumstances, learned counsel submitted that the findings recorded by the learned Trial Court are founded upon surmises and conjectures and are not supported by cogent and reliable evidence. Consequently, it is prayed that the impugned judgment be quashed and set aside.

11. Per contra, Shri Amit Kumar Punia-learned Public Prosecutor stoutly opposing the contentions made by the learned counsel for the appellant and supporting the observations noted in the impugned judgment, submitted the learned trial Court has gone into the intricacies of the matter, considered all above arguments, have given a detailed judgment. He submitted that minor contradictions, compared with the tangible evidences and recoveries, cannot be censored out. Learned Public Prosecutor, opposing the submissions advanced on behalf of the appellants, contended that the recoveries effected during the course of investigation, the FSL report, and the postmortem report, when considered cumulatively, lend full support to the prosecution case. In support of his submissions, reliance is placed upon the judgment of the Hon'ble Supreme **in Baban Shankar Daphal & Ors. vs. State of Maharashtra, Criminal Appeal No. 1675/2015**, decided on 22.01.2025. In light of the aforesaid, it is submitted that the case pertains to the brutal murder of an innocent person who was sleeping on a dark night, and therefore, the conviction recorded by the learned trial court deserves to be upheld and the impugned judgment and order ought to be maintained.

12. Heard. Considered.



13. This Court has considered the rival submissions, analysed the material available on record, and examined the judgments cited at the Bar. In the present case, it is noted that an FIR was registered on 05.11.2014 and that a thorough investigation was carried out thereafter. The prosecution has placed strong reliance upon the statement of Lad Bai (PW-6)- the prime witness, and has founded its case upon the postmortem report, the injuries sustained by the deceased, and the FSL report. A site plan was also prepared to substantiate the place of occurrence. The case was projected as one of culpable homicide, the nexus of which was attributed to the appellants. In this regard, recoveries were also effected after following due procedure. On the basis of the said material, conviction was recorded as mentioned hereinabove against the appellants.

14. This Court has analysed the record, particularly the statement of Mohan (PW-3), juxtaposed with the FIR. Upon such analysis, it emerges that the case is of overstatement and material improvements; when the version is compared with the site plan, it is noted, on a cumulative reading, that Shri Mohan (PW-3) was not present at the place of occurrence. The prosecution has placed heavy reliance upon his testimony; however, on perusal of his examination-in-chief and cross-examination, it is evident that there are stark contradictions and substantial improvements from what was originally stated in the FIR (Exhibit P-23). In the FIR, it was stated that the three appellants, armed with weapons, inflicted several injuries upon the victim, and that upon hearing the incident, the complainant along with his uncle Kanwar Singh, and his mother Badam Bai (PW-5)



rushed to the spot and attempted to intervene, whereafter the appellants fled. However, in cross-examination, Mohan (PW-3) improved his version by introducing one Mahendra Singh, his friend, with whom he claimed to be returning from a dinner party. He categorically stated that when his father was sleeping in the agricultural field, no one was in his company. He denied the presence of Lad Bai at the place of occurrence at the time of the incident and asserted that he was the first person to reach the spot. He further stated that apart from his mother and *Kaki*, other people arrived at the place of occurrence approximately half an hour after the incident. He also categorically stated that although his father had suffered injuries, his clothes while taking him to the hospital did not become stained with blood. These statements appear unrealistic, contradictory, and untrustworthy, and do not align with the prosecution's story.

15. Upon analysing the testimony of the prime witness, Lad Bai (PW-6), it is noted that she has turned hostile *in toto* and has denied the prosecution story in its entirety. The hostility of this witness, who was projected as a key eyewitness, has substantially weakened the prosecution case. Further, on analysing the testimony of Badam Bai (PW-5), the wife of the victim, it is observed that although she initially claimed to be present at the place of occurrence, she categorically stated that Lad Bai was not present at the time of the incident and that she herself was in the company of her husband. She also categorically stated that Mohan and Mahender Singh were bringing food from their home. However, she did not categorically state that Mohan and Mahender were present at the time of the incident.



16. On examination of the site plan (Exhibit P-11), it is noted that the version narrated in the FIR does not correspond with the site plan. It appears improbable and unrealistic that a person sleeping on a dark night would sustain five injuries inflicted by three appellants within a span of certain minutes, while the alleged eyewitnesses were coming from a distance of 200 meters. The FIR also mentions that an altercation took place and that resistance was offered. However, in light of the material contradictions in the testimony of the relied-upon witnesses, such a version appears implausible when examined in conjunction with the site plan, the distances involved, and the indicated directions of arrival and departure of the appellants.

17. With regard to the recoveries and seizure memos, it is noted that the same were allegedly effected by the police authorities in the presence of independent witnesses, namely Mangi Lal (PW-9), Ranglal (PW-13), Indra Singh (PW-14), and Jagdish (PW-16). However, all these witnesses have turned hostile and have not supported the prosecution's case. It is further observed that the seizure memos (Exhibits P-27, P-28, and P-29) and their analysis do not bear the signatures of independent witnesses. Additionally, the recoveries were made from open places accessible to the general public and after a considerable lapse of time from the date of the incident, thereby casting a shadow of doubt upon their authenticity and bona fides. In view thereof, this Court is of the opinion that the legality and reliability of the seizure memos and recoveries remain doubtful.

18. Upon analysing the scientific evidence, including the FSL report, it is also revealed that no specific blood group matching



the alleged recoveries has been identified. In view of the judgment relied upon by the learned Public Prosecutor i.e. of **Baban Shankar Daphal & Ors. (supra)**, this Court is of the considered opinion that, in the facts and circumstances of the present case, the said precedent does not advance the prosecution case and cannot be relied upon to sustain the conviction.

19. Upon an assiduous scanning of the record, this Court finds that the prosecution has failed to prove its case beyond reasonable doubt. The material witnesses suffer from serious contradictions and improvements; the prime witness has turned hostile; the presence of the alleged eyewitnesses at the scene is dubious; the recoveries and seizure memos do not inspire confidence; and the scientific evidence does not conclusively connect the appellants with the offence. The cumulative effect of these deficiencies creates a reasonable doubt in the prosecution case.

20. In view of the foregoing discussion, this Court is of the considered opinion that a conviction cannot be sustained on the basis of conjectures and surmises. In the present facts and circumstances, the prosecution has failed to prove the guilt of the appellants beyond reasonable doubt. Accordingly, the appeal deserves to be allowed.

21. Resultantly, the appeal is allowed. The judgment impugned dated 16.12.2016 passed by the learned Additional Sessions Judge, Aklera, District Jhalawar in Sessions Case No.03/2015 is quashed and set aside and the appellants are acquitted of the charges framed against them. The sentence of **appellant No.2**



Ramanrayan son of Shri Ranglal was suspended, therefore, his bail bonds are discharged and he need not surrender and shall be at liberty. Since, the **appellants No.1 Sanjay alias Sanju son of Shri Ranglal** and **3. Ranglal son of Shri Gangaram** are in jail, they shall be set at liberty forthwith if not required to be detained in any other case.

22. In view of the provisions of Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (437-A CrPC), the appellants are directed to furnish a personal bond in the sum of ₹25,000/- each and a surety in the like amount before the Registrar (Judicial) of this Court which shall be effective for a period of six months with the stipulation that in the event of Special Leave Petition being filed against the judgment or on grant of leave, the appellants aforesaid, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

(SAMEER JAIN),J

(MAHENDAR KUMAR GOYAL),J