Ram Ratan Vs State of U.P.

Court: ALLAHABAD HIGH COURT

Date of Decision: Sept. 20, 2016

Acts Referred: Penal Code, 1860 (IPC) - Section 302

Citation: (2016) 97 ACrC 661 : (2016) 10 ADJ 9 : (2017) 1 AllCrlRulings 251

Hon'ble Judges: Bharat Bhushan and Alok Kumar Mukherjee, JJ.

Bench: Division Bench

Advocate: A.G.A, for the Respondent; V.P. Srivastava, Abdul Majeed and N.I. Jafri, Advocates, for the Appellant

Final Decision: Dismissed

Judgement

Alok Kumar Mukherjee, J. - The appellant/accused Ram Ratan has filed this appeal, against the judgement and order dated 24.05.1983

passed by the learned Special/Additional Sessions Judge, Pilibhit in Session Trial No. 10 of 1983 (State v. Ram Ratan), arising out of Case Crime

No.217 of 1982, P.S. Bilsanda, District Pilibhit, convicting the appellant/accused for the offence under section 302 I.P.C. and sentencing him to

imprisonment for life, on the ground that the conviction of the accused is against the material evidence available on record and the sentence

awarded to the appellant/accused is excessive.

2. Brief facts of the prosecution case are that two sons of the deceased Ram Bhajan namely Puttu Lal and Ram Ratan were living separately and

their father Ram Bhajan (now deceased) was living with his younger son/accused Ram Ratan. The deceased Ram Bhajan owned 24-25 Bighas of

agricultural land. Earlier, before the date of occurrence, he distributed 50 Kgs. of the paddy to his son Puttu Lal, informant also. On 28.10.1982 at

about 3.00 P.M. when Ram Bhajan (now deceased) was thrashing the paddy in front of the door of Daya Ram, he suggested his younger son Ram

Ratan (accused) to part with some paddy to his elder son/informant Puttu Lal. Ram Ratan opposed the suggestion, by saying that not even a single

grain shall be given to Puttu Lal, which evoked altercation between the Ram Ratan accused and Ram Bhajan. Meanwhile, the enraged accused

Ram Ratan brought a sword from his house and cautioned his father Ram Bhajan that he would kill him, if he tried to part with a single grain to

Puttu Lal, also charging his father that earlier, too, he had distributed 50 Kgs. of paddy to Puttu Lal. Whereupon Ram Bhajan (since deceased)

replied that Puttu Lal also happened to be his son, so he certainly would give the paddy to him. Getting infuriated by the said reply accused Ram

Ratan started inflicting repeated sword blows on Ram Bhajan, who tried to run away but fell down after being struck by a peg and resultantly,

succumbed to the fatal sword injuries instantly, in front of the door of Hori Lal. On hearing the hue and cry raised by the informant and his

neighbours, Daya Ram, S/o Ghurai, Hori Lal, S/o Sri Ram and also many other villagers arrived there and witnessed the incident. Thereafter, on

being reprimanded by them (the witnesses) the accused Ram Ratan fled away with the sword, from the scene of occurrence. Leaving the dead

body of his father Ram Bhajan lying in front of the door of the aforesaid Hori Lal, the informant, Puttu Lal gave written report (Exhibit Ka-1) of this

incident to the Head Moharrir Ram Das Sharma at the Police Station Bilsanda, District Pilibhit at about 5.20 P.M. on the same day.

3. Subsequently, a chik FIR (Ext.Ka-2) was registered as Case Crime No. 217 of 1982 under section 302 IPC, which was entered in the General

Diary (G.D.) (Ext.Ka-3), by the Head Moharrir Ram Das Sharma. Investigation of the case was conducted by the Sub Inspector Feru Singh

Yadav, P.S. Bilsanda, District Pilibhit (PW-4). After conclusion of the investigation, charge sheet was submitted by him against the accused Ram

Ratan. Thereafter, the case was committed to the court of Sessions, where he was charged for the offence under section 302 IPC by the

Special/Additional Sessions Judge, Pilibhit. The accused appellant denied the charge and pleaded not guilty. He further stated that he had falsely

been implicated in the instant case due to enmity with regard to agricultural property and claimed to be tried.

4. In order to prove the charge, besides other papers, prosecution has filed written report (Exhibit Ka-1), formal chik report (Exhibit Ka-2), copy

of the General Diary (Exhibit Ka-3), Search Memo of the house of the accused (Exhibit Ka-4), Inquest Report (Exhibit Ka-5), Diagram of the

dead body (Exhibit Ka -6), Challan Nash (Exhibit Ka-7), sample of seal (Exhibit Ka-8), letter addressed to the C.M.O., (Exhibit Ka-9),

Recovery memo of blood stained and plain earth (Exhibhit Ka-10), Site Plan (Exhibit Ka-11), Charge Sheet (Exhibit Ka-12), Post mortem report

of the deceased (Exhibit Ka-13) and placed before the trial court relevant material Exhibits 1 to 5.

5. To bring home the guilt of the accused, the prosecution has also examined as many as six witnesses, P.W.-1, complainant Puttu Lal, P.W. 2

Daya Ram, P.W. -3 Hori Lal, P.W.- 4 Sub Inspector Pheru Singh Yadav, P.W.- 5 Constable Ram Pal. P.W.-6 Dr. AK Srivastava and closed

the evidence.

6. Thereafter, the statement of accused-appellant Ram Ratan under section 313 Cr.P.C. was recorded after closing of the prosecution evidence

and was provided opportunity to adduce evidence in defence. Admitting the inter-se relationship with the deceased and the informant, the appellant

also admitted in his said statement that the deceased was residing with him at the time of the incident in question and the informant was living

separately in the same village. He denied the entire prosecution case and the evidence adduced by the prosecution stating that he had been falsely

implicated in the case due to enmity with regard to the landed property. Despite opportunity given, no evidence had been adduced by the appellant

in support of his contention/defence.

7. After hearing the arguments of the parties the learned trial Judge by the impugned judgment and order convicted the present appellant and

sentenced him as above. Being aggrieved by the aforesaid judgment and order of the trial court, this appeal has been preferred by the accused-

appellant Ram Ratan.

8. We have heard Sri N.I. Jafri, learned counsel for the appellant and Dr. Abida Syed, learned A.G.A, for the State and carefully perused the

evidence on record.

9. It has been argued on behalf of the appellant that the prosecution has utterly failed to prove the alleged motive, the prosecution story as well as

the charge framed against the appellant-accused beyond reasonable doubt. The prosecution has also failed to examine independent witnesses,

whose presence was natural at the scene of the crime or rather, examined interested/partisan as well as inimical witnesses, whose presence at the

site of the crime was wholly doubtful, unnatural and improbable, having inter-se material contradictions as well as shaky testimony and as such they

are not worthy of reliance. It is also contended by the learned counsel for the appellant that the appellant was made a scapegoat in the case by the

informant and his pocket witnesses only with a view to usurp the entire property of the deceased.

10. It is further submitted by the learned counsel for the appellant that the stomach of the deceased was found empty by the doctor whereas it has

been stated by the informant that the deceased had taken meal in the noon, which shows that the murder had actually taken place in the darkness

of night by unknown persons. Further, that the weapon of assault/sword was not recovered for the reason best known to the prosecution. Belated

inquest proceedings and postmortem of the deceased are some of the features in this case, which cast doubt on the prosecution story and affirming

that the FIR was ante-dated and ante-timed as well as there appears manipulation in police and medical papers with a view to frame the accused in

the matter. Lastly, based on several decisions of the Apex Court as well as this Court, it has been contended by the learned counsel for the

appellant that for the sake of argument, if the complicity of the appellant is found to be proved then also this case falls in the ambit of exception-I to

the Section 300 IPC, i.e., the offence committed by the appellant in the course of ''grave and sudden provocation''.

11. It has also been contended that there is material inconsistency between the ocular and the medical evidence; the entire investigation in the case

is faulty as well as against the rules and procedures prescribed by law. Prosecution has failed to prove as to what prompted the appellant to

commit this murder. Counsel for the appellant has also questioned that under what circumstances only all the related, interested and pocket

eyewitnesses were present at the same date, time and place to see this incident of murder. He has submitted that the entire prosecution story is

concocted and presence of the eyewitnesses, as mentioned above, is highly doubtful, improbable and unnatural, therefore, the appellant accused is

entitled to get benefit of doubt.

12. Refuting all the arguments advanced by the side of the appellant, Dr. Abida Syed, learned A.G.A. has submitted that the previous grudge in the

mind of the appellant as well as immediate motive have been elaborately stated in the FIR and proved by the witnesses. The chik FIR was lodged

promptly by the elder son of the deceased/Puttu Lal (P.W.-1). Similarly, the process of investigation was also started with equal promptness. It is

also contended by the learned A.G.A. that the prosecution by placing cogent, oral and documentary evidence has proved the incident in question

and the charge framed against the appellant/accused, beyond reasonable doubt. All the witnesses are trustworthy; their presence at the spot is very

natural and probable being neighbours. Also their testimony are natural having no material contradictions, embellishments or exaggerations. Some

minor contradictions, as pointed out by the learned counsel for the appellant, either in the inter-se statements of the eye witnesses or in the ocular

and medical evidence are misconceived. The learned Sessions Judge has convicted the appellant/accused by a reasoned judgment and order;

hence there is no scope for interference by this Appellate Court in the impugned judgment and order.

13. Before entering into the merits of the appeal, we would like to recall the observation made by the Apex Court in the case of Ishvarbhai

Fuljibhai Patni v. State of Gujarat (1995 Supreme Court Cases (Crl) 222) whereby duties of the appellate court have been outlined. Para-4

of the judgment reads as under:

4. Since, the High Court was dealing with the appeal in exercise of its appellate jurisdiction, against conviction and sentence of life imprisonment, it

was required to consider and discuss the evidence and deal with the arguments raised at the bar. Let alone, any discussion of the evidence, we do

not find that the High Court even cared to notice the evidence led in the case. None of the arguments of the learned counsel for the appellant have

been noticed, much less considered and discussed. The judgment is cryptic and we are at loss to understand as to what prevailed with the High

Court to uphold the conviction and sentence of the appellant. On a plain requirement of justice, the High Court while dealing with a first appeal

against conviction and sentence is expected to, howsoever briefly depending upon the facts of the case, consider and discuss the evidence and deal

with the submissions raised at the bar. If it fails to do so, it apparently fails in the discharge of one of its essential jurisdiction under its appellate

powers. In view of the infirmities pointed out by us, the judgment under appeal cannot be sustained.

14. In the case of Lal Mandi, Appellant v. State of West Bengal, Respondent (1995 CRI.L.J. 2659 (SC),, the Apex Court in para-5 of the report

has given the caution to the High Court reminding its duty in the matter of hearing of appeal against conviction. It would be gainful to reproduce the

observation made in para-5 of the report, extracted below:

5. To say the least, the approach of the High Court is totally fallacious. In an appeal against conviction, the Appellate Court has the duty to itself

appreciate the evidence on the record and if two views are possible on the appraisal of the evidence, the benefit of reasonable doubt has to be

given to an accused. It is not correct to suggest that the ""Appellate Court cannot legally interfere with"" the order of conviction where the trial court

has found the evidence as reliable and that it cannot substitute the findings of the Sessions Judge by its own, if it arrives at a different conclusion on

reassessment of the evidence. The observation made in Tota Singh''s case, which was an appeal against acquittal, have been misunderstood and

mechanically applied. Though, the powers of an appellate court, while dealing with an appeal against acquittal and an appeal against conviction are

equally wide but the considerations which weigh with it while dealing with an appeal against an order of acquittal and in an appeal against

conviction are distinct and separate. The presumption of innocence of accused which gets strengthened on his acquittal is not available on his

conviction. An appellate court may give every reasonable weight to the conclusions arrived at by the trial court but it must be remembered that an

appellate court is duty bound, in the same way as the trial court, to test the evidence extrinsically as well as intrinsically and to consider as

thoroughly as the trial court, all the circumstances available on the record so as to arrive at an independent finding regarding guilt or innocence of

the convict. An Appellate Court fails in the discharge of one of its essential duties, if it fails to itself appreciate the evidence on the record and arrive

at an independent finding based on the appraisal of such evidence.

15. Therefore, it is the settled proposition of law that the High Court, while exercising appellate jurisdiction in criminal appeal, is expected to

appraise the credibility of evidence available on record and to draw the inference on the basis of material available on record and has not to be

guided by the finding of acquittal or conviction recorded by the learned court below, bearing in mind the basic principles of criminal law regarding

innocence of the accused.

16. In the light of the above guidelines, firstly, we would like to have a glance at the medical evidence, which is in the form of statement of Dr. A.K.

Srivastava (P.W.6) and postmortem report (Ext. Ka-13). Though on behalf of the defence death/murder of Ram Bhajan has not been disputed,

we are duty bound to examine whether any offence was committed and if so, by whom.

17. Dr. A.K. Srivastava (P.W.-6) in his statement has stated that he was posted as Radiologist, District Hospital, Pilibhit on 29.10.1982. On that

date at about 3.30 P.M. he conducted the postmortem examination on the corpse of Ram Bhajan, whose age was about 65 years. He deposed

that the dead body was brought to him by constable Rampal CP 52 and Ram Pal CP 212, who also produced the necessary papers before him.

On external examination of the body, he claimed to have found that the deceased was of an average built. Rigor mortis was present on the body

and death had occurred about one day before. He found following ante-mortem injuries on the dead body of deceased:-

(1) Incised wound 10 cm x 2 cm x bone deep on the right side of the lower jaw.

(2) Incised wound 12 cm x 3 cm x right parietal bone, cut on the right side skull in the parietal region.

(3) An incised wound 8 cm x 2 cm x bone tissue deep on the back of right side skull, on the occipital region and was cut under the injury.

(4) Incised wound 7Ã¯Â¿Â½ cm x 3 cm x bone deep on the front side of left fore-arm.

(5) Incised wound 2 cm x 1 cm in the middle part of the front of right middle finger.

(6) Incised wound 3 cm x 2 cm x bone deep on the right shoulder bone.

(7) Incised wound 9 cm x 3 cm x bone deep on the back of left elbow.

18. On the internal examination of the dead body of the deceased the doctor (PW-6) found fracture of the bones under injury Nos. 2 and 3, the

membranes of the brain were found lacerated. The brain was also lacerated under injury nos. 2 and 3. The heart was empty. The stomach and

small intestine were empty and faecal matter was present in the large intestines. Urine was present in the bladder. No abnormality was detected in

the remaining organs.

19. The doctor (PW-6) opined that the death of the deceased was caused due to shock and haemorrhage as a result of the aforesaid injuries. The

doctor further opined that in ordinary course, the aforesaid injuries found on the dead body of the deceased are sufficient to cause his

instantaneous death. He proved the postmortem report (Ext.Ka-13).

20. We have gone through the deposition of Dr. A.K. Srivastava, which reveals that he has been cross-examined only on one point, in reply to

which he had stated that if any person happened to fall down on the ground by striking on a peg, it was not necessary that any injury would be

caused to him. He admitted that there was no abrasion on the right leg of the deceased. Except for the above point, no other question was asked

by the defence to the said doctor, vividly describing the seven incised wounds on the body of the deceased Ram Bhajan. The witness has proved

that the death of the deceased Ram Bhajan would have happened on the date and time of the incident, i.e., 28.10.1982 at about 3.00 P.M. and

these injuries were probably inflicted by the sword. In his opinion, these fatal wounds were sufficient to cause death of the deceased in ordinary

course.

21. Therefore, the testimony of P.W.-6 Dr. A.K. Srivastava is more or less unrebutted and the postmortem report (Ext.Ka-13) as well as the

clothes found on the body of the deceased (Ext.Ka-3,4 and 5), proved by the witness before the trial court, corroborate the incident in question as

also the entire ocular and other oral testimony and documentary evidence placed by the prosecution. Relying thereon in totality, we hold that the

above-mentioned seven antimortem injuries found on the body of the deceased, out of which two are on vital parts and are also fatal in nature, on

the date and time of the incident in question, were caused only by a sword which resulted in the death of Ram Bhajan deceased.

22. Now, we deal with the ocular version of the occurrence. In this regard, we would like to refer to the statements of three eye witnesses P.W.-1

Puttu Lal, informant, P.W.-2 Daya Ram and P.W.-3 Hori Lal. Endorsing the promptly recorded FIR (Ext.Ka-2), the informant Puttu Lal (P.W.-1)

has corroborated the written report (Ext.Ka-1) and stated in his deposition that he and the appellant/younger brother Ram Ratan were living

separately for about 10-12 years but their father/deceased Ram Bhajan was living with his younger brother/appellant. He further stated that the

entire agricultural land which was 24-25 Bighas was owned and cultivated by his father (deceased), the produce of which was being given to the

appellant alone by his father regularly. But on the date of the incident at noon, when the witness was present in his house and the deceased was

thrashing paddy crop in front of the door of Daya Ram (P.W.-2), it is stated that the deceased had told the accused that he had distributed 50

Kgs. of paddy to his elder son/the witness (PW-1) in the morning, as he was also one of his sons. Thereafter, he told the appellant that he had

never given anything to the witness till date so he wanted to give some share from it to the witness Puttu Lal (PW-1). Whereupon, the appellant

Ram Ratan got infuriated and started quarrelling with his father. During the said quarrel he told his father that he would not let him to part with a

single grain to his brother/witness Puttu Lal (PW-1). In reply to him, the deceased asked him as to why he would not permit him to do so as the

witness also was his son, which ensued in an altercation between the appellant and his father/deceased and in the course of this altercation, the

appellant moved to his house and brought a sword from there and started inflicting repeated sword blows upon his father Ram Bhajan (deceased).

The witness present at the spot then raised a hue and cry, which attracted Daya Ram (PW-2), Hori Lal (PW-3) and other villagers, who were

residing in the vicinity of the place of occurrence. Due to the said sword injuries his father fell down on the ground, after moving barely 10 to 12

paces, and succumbed to his wounds in front of the house of Hori Lal (PW-3). Soon, thereafter, the appellant Ram Ratan started to run away,

with the said weapon/sword used in this crime.

23. Similarly, in his testimony P.W.-2 Daya Ram has also supported the entire prosecution story, by showing the reason for his presence at the

spot. According to him, on the date of the incident at noon he had proceeded to his pond after taking meal from his house. When he was returning

from there, he heard much commotion near his house. Subsequently, when he reached near the house of one Hulla of his village, he found that the

appellant was quarrelling with his father/the deceased. In the course of the said quarrel, the accused Ram Ratan inflicted sword blows upon his

father/Ram Bhajan, who tried to save himself by running away, first towards the east and then towards north, but eventually fell down after being

struck by a peg in front of the house of Hori Lal (PW-3). Thereafter, the accused after taking clothes from his house fled away towards the west of

the village. Due to the said fatal sword injuries, Ram Bhajan died at the spot. At the time of the incident the witnesses Hori Lal (PW-3), Puttu Lal

(PW-1), Shreeram, Murli and several other persons of the village had gathered at the place of occurrence.

24. In consonance with the testimony of the said witnesses (PW-1 and PW-2) and thereby corroborating the story of the prosecution, P.W.-3

Hori Lal has stated in his testimony that much before the date and time of the incident, at about 12.00 noon, he was present in his house and the

deceased Ram Bhajan was thrashing paddy in front of the nearby house of neighbour Daya Ram. He stated that earlier also the deceased Ram

Bhajan had given out some paddy to his son/informant Puttu Lal (PW-1). According to him, on the date, time and place of the occurrence, the

deceased was telling the appellant to part with some paddy to his son Puttu Lal because earlier his younger son/appellant Ram Ratan used to take

away his entire agricultural produce and no portion of it had ever been given to Puttu Lal (PW-1). When the deceased posed the aforesaid

suggestion to the appellant, he replied to his father that if any portion of the paddy was given to his elder brother/informant then he would kill his

father/deceased. But the deceased replied that he would certainly part with some paddy to him, saying that he, too, was his son. Whereupon, the

appellant ran towards his house, brought a sword from there and inflicted one sword blow upon his father/Ram Bhajan. Consequently, the

deceased with a view to save himself, ran helter and skelter, first towards the east and then after repeated sword blows, towards the north and

while running he fell down, when a peg struck his leg, in front of the house of the witness (PW-3). In the course of this incident, they, the witnesses

Daya Ram (PW-2) and Puttu Lal (PW-1) reached the spot. Soon, thereafter, the appellant fled away from the spot towards his house and from

there he took something and then ran away towards the west of the village. Due to the said sword blows Ram Bhajan/deceased fell on the ground

and died on the spot. According to him, when Ram Bhajan fell down, the appellant did not inflict any sword blow on him.

25. All these witnesses (PW-1 to PW-3) stood the test of cross-examination. We examined the entire direct ocular testimony of the three

witnesses with due care and caution, which reflects that barring minor contradictions, their statements, by and large, are free from any major

contradictions, embellishments or exaggerations.

26. On perusal of the site plan (Ext.Ka-11) prepared by the Investigating Officer (PW-4) it appears that the place of occurrence is in front of or

near the houses of all the witnesses, therefore, their presence on the spot and witnessing the incident in question, is absolutely natural and probable.

The testimony of all the ocular witnesses (P.W.-1 to P.W.-3) also appear to be natural and their statements are in consonance with the normal

human conduct. There is no inconsistency in the inter-se evidence of the witnesses. Corroborating the entire prosecution documents in totality, their

statements establish not only the immediate motive of the incident but also the date, time, place, nature of quarrel, the weapon used in crime,

manner of assault, causing injuries by the appellant to the deceased as well as facts before, during and after the incident. The same holds true for

the reason of the presence of the witnesses at the time of the occurrence and the nature of the injuries on the body of the deceased, which are in

consonance with the more or less unrebutted medical evidence, as discussed above, and the site plan (Ext.Ka- 11).

27. This is a case of patricide. The presence of all the witnesses at the place of occurrence and their witnessing the incident in question is proved

beyond reasonable doubt by the prosecution. Notwithstanding the fact that there was some ill-will, regarding the distribution of the agricultural

produce of the deceased to the informant, between the appellant and the deceased prior to the incident, there was no occasion for the elder son of

the deceased/witness Puttu Lal (PW-1) to falsely implicate his real younger brother/appellant for the murder of their father and let go the real

culprits. Moreover, the other two witnesses (PW-2 and PW-3), against whom the defence was unable to show any animosity or ill-will, admittedly

residing close to the place of occurrence and whose presence at the spot cannot be doubted, have also proved the complicity of the accused in this

incident. All these witnesses appeared to be trustworthy witnesses. Their testimony are also found to be unshaken and credible.

28. In his statement P.W.-4 Sub Inspector Pheru Singh Yadav, the Investigating Officer, has proved the entire investigation proceedings.

Corroborating the date and time of lodging of the First Information Report in this case by the informant Puttu Lal (PW-1) through his written report

(Ext.Ka-1), he stated that the Head Moharrir Ram Das had prepared the chik no. 160 before him. He proved the said FIR/chik report (Ext.Ka-2)

through secondary evidence. Similarly, he also proved and filed the copy of corresponding entry in the General Diary at report no. 16 of the date

(Ext.Ka-3). During investigation he found that the body of the deceased lying in front of the house of Hori Lal (P.W.-3). According to him, he

reached the spot on the same day at about 7.00 p.m., but due to prevailing darkness at the spot, he postponed the preparation of the inquest

report. During the said night he remained there and recorded the statements of the eye witnesses Daya Ram (PW-2) and Hori Lal (PW-3),

searched the house of the appellant and also prepared the memo for the same (Ext.Ka-4).

29. The next morning, the I.O. (PW-4) prepared the inquest report (Ext.Ka-5), Sketch of the dead body (Ext.Ka-6), Challan Nash (Ext.Ka-7)

and after completing the necessary formalities, he sent the body of the deceased along with his mutilated left thumb, through Constable Ram Pal

Singh and Constable Ram Pal Gupta for postmortem with the letter to CMO (Ext.Ka-9), along with other relevant papers and sample seal

(Ext.Ka-8). Further, he recorded the statements of the witnesses of the inquest report, took samples of blood stained earth (Ext-1) and simple

earth (Ext-2) and separately sealed them, after preparing the corresponding memo (Ext.Ka-10). Thereafter, he recorded the statement of the wife

of Puttu Lal informant. On the pointing out of the witnesses, he prepared the site plan (Ext.Ka-11) and thereafter, recorded the statements of other

witnesses. He received the postmortem report of the deceased (Ext.Ka-13) on 30.10.1982 and recorded the statements of the aforementioned

Constables.

30. According to the said I.O. (PW-4), S.O. Dhanveer Singh had filed the charge-sheet (Ext.Ka-12) against the appellant. He also proved the

charge sheet dated 25.11.1982 (Ext.Ka-12). He had been cross-examined but in his cross-examination also, he proved the entire investigation

proceedings. No material contradiction, omission or commission has been shown in his testimony which discredit the prosecution case or lead to

the inference that the investigation in this case was defective, tainted or made in a perfunctory manner. He also proved that the mutilated left thumb

of the deceased was found near the dead body and not in any other place.

31. Lastly, the prosecution had examined P.W.-5 Constable/52 CP Ram Pal, as a link evidence, who has proved that he along with Constable

Ram Pal Gupta accompanied the Investigating Officer to the place of occurrence, situated at village Bamrauli. The very next day on 29.10.1982,

the Investigating Officer handed over the sealed body of the deceased, along with the sample seal and other relevant papers in their custody for

postmortem examination. They, in turn, handed over the body of the deceased in a sealed condition to the Doctor, who conducted the postmortem

on that very day. According to him, the body was intact while in their custody and was identified by them before postmortem. They received a

sealed bundle, two sealed envelopes along with sample seal from the said doctor after the said postmortem and they lodged the same in the

concerned police station. This witness has not been cross-examined by the defence and therefore, his testimony is un-controverted, which further

corroborates the prosecution case as well as the investigation proceedings.

32. In the statement under section 313 Cr.P.C. the appellant has admitted that he and the witness Puttu Lal (PW-1) are real brothers/sons of the

deceased Ram Bhajan, living separately and the deceased/his father was residing with him. Except for these two admissions, the appellant has

denied the entire prosecution story and stated that he had been framed in this case due to enmity with regard to the landed property. However, it is

surprising to note that he had neither specifically denied the factum of his father"s (since deceased) unnatural death nor even shown any cause or

explanation, as to how his father died, who was actually living with him; rather he tried to escape from the liability by stating only that he was falsely

being implicated due to the enmity over agricultural land, without elaborating the nature and details of such prior enmity. Despite opportunity given

no evidence had been adduced by the appellant in his defence.

33. On perusal of the FIR (Ext.Ka-2), we found that the distance between the place of occurrence and the police station is 6 kms.. The date and

time of the incident is 28.10.1982 at about 3.00 p.m., therefore, it appears that the FIR was lodged promptly, on the same day at 5.20 p.m., by

the elder son of the deceased/elder brother of the accused Puttu Lal (PW-1). It contains the name of the accused-appellant, the immediate motive

for the murder, the nature of altercation/quarrel, the manner of assault, the weapon used in the incident, date, time and place of the occurrence,

names of the witnesses who were present at the time of the incident and witnessed it, nature and number of blows inflicted by the appellant, the

result of the said blows on the deceased, who fell down and died due to the said injuries then and there at the spot and also the fleeing away of the

accused with the weapon of assault. Therefore, it contains the entire prosecution incident in detail.

34. Perusal of the record shows that the police machinery immediately moved towards the place of the incident and the investigation proceeding

was started at 7.00 p.m., as stated by the Investigating Officer (PW-4). It is also stated by the Investigating Officer that due to the prevailing

darkness, the preparation of the inquest report in this case was postponed till the morning of the next day, but he started recording the statements

of the witnesses present there. His statement finds support in the inquest report (Ext.Ka-5) and other papers of the investigation proceeding as well

as the testimony of all other witnesses examined in the trial, including the Doctor and the Postmortem Report (Ext.Ka-13). The injuries found on

the body of the deceased are in consonance with the inquest report (Ext.Ka-5) also.

35. Once it is found that the FIR was promptly lodged after the incident, by the witness Puttu Lal (PW-1), and that set in motion the police

machinery which started investigation on the spot immediately thereafter, it must be held that the content of the FIR would reflect the first hand

account of what actually happened on the spot, as has been held by the Apex Court in the decision of State of Punjab v. Surza Ram, 1995 Cri.

L.J. 4161, wherein it was observed by the Supreme Court that the FIR, which was promptly lodged and which contained detail outline of the

prosecution case clearly corroborates the eye-witnesses'' account.

36. It is in the light of the prompt lodging of the FIR in the present case, which corroborates the version of the eye-witnesses'' account, thereby

supporting the prosecution case in totality. In view thereof, there appears no manipulation, ante-dating, ante-timing of the police or medical papers

or any concoction therein. On careful examination of materials on record, we believe that the entire testimony of the eye witnesses, examined by

the prosecution in this case, along with the medical and police papers, fully corroborates the prosecution story, which in turn appears that the

prosecution has proved all the ingredients of the offence/charge framed against the accused-appellant and the possibility of false implication of the

appellant is entirely ruled out.

37. Now, we deal with the arguments advanced by the learned counsel for the appellant.

38. It is contended by the learned counsel for the appellant that the eye witness account placed by the prosecution does not deserve to be

accepted as these witnesses (PW-2 and PW-3) had a soft-corner for the informant Puttu Lal (PW-1) and the latter, with an intention to usurp the

entire property of his father/deceased, had falsely implicated the accused.

39. We are unable to accept the said argument advanced by the learned counsel for the appellant. It is a broad daylight murder in the centre of a

village ''abadi'', surrounded by the residence of the eye witnesses as well as other villagers. The front doors of their residence open towards the

spot of the crime. Even in the statement under section 313 Cr.P.C. the accused-appellant had not stated any single instance of animosity or ill-will

against the witnesses testified before the trial court. The witnesses Daya Ram (PW-2) and Hori Lal (PW-3) appear to be most probable, natural

and independent witnesses. In their cross-examination no concrete material has been elicited by the defence which casts any doubt in their veracity

or the prosecution case. No specific suggestion has been given to them regarding any enmity or ill-will against the accused-appellant. Their

presence at the spot is very natural and probable. Their testimony is in consonance with natural human conduct. Being the nearest residents of the

place of occurrence their presence and witnessing the entire incident cannot be doubted. Moreover, there is no specific or cogent suggestion by the

defence as to how and why the witnesses (PW-2 and PW-3) had soft-corner towards the brother of the accused/Puttu Lal (PW-1) and were

inimical to the appellant.

40. The principle of law has now been settled that the testimony of a witness cannot be discarded merely because the witness is a family member,

relative, inimical or interested/partisan. In such a case, the court has to adopt a careful approach, in analysing the evidence of such witnesses and if

the testimony of the said witness is otherwise found credible, the accused can be convicted on the basis of the testimony of such witnesses. The

above ratio of law has been laid down by the Apex Court in the cases of Shyam Babu v. State of U.P., AIR 2012 SC 3311, Shyamal Ghosh

v. State of WB, AIR 2012 SC 3539, Dhari & others v. State of U.P., AIR 2013 SC 308, Shanmugam and another v. State of TN

(2013) 12 SCC 765 and Nand Kumar v. State of Chhatishgarh 2015 Cri. L.J. 381.

41. Therefore, it is not appreciable that they have deposed only to falsely implicate the accused for the simple reason that they are either a family

member/inimical or having soft-corner for the informant. The testimony of the eye-witnesses is that they saw the incident at the place of occurrence

and they narrated the entire prosecution story. On the analysis of the testimony of all the three witnesses (PW-1 to PW-3) with due care and

caution, nothing has been found in their evidence which supports the contention of the defence, rather on the touchstone of credibility, the testimony

of all the direct ocular witnesses are found to be of credence. Their names also find place in the FIR. The entire evidence of the witnesses are in

consonance with the medical evidence as well as site plan. Their testimony are also in consonance with the statements recorded during

investigation. Hence there is no force in the contention of the learned counsel for the appellant.

42. Further, the contention that any elder brother would depose against his younger sibling and wish to falsely implicate him with a view to usurp

the entire property of his own father and spare the actual culprit is neither tenable and nor acceptable by any stretch of imagination. In these type of

cases, it is usually noticed that the family members try to save their relative by advancing doubtful evidence to save him from the gallows.

Moreover, in the cross-examination, Puttu Lal (PW-1) had specifically stated that he had got the agricultural land of his uncle which was given to

him by his father and therefore, there was no occasion for him to falsely implicate the accusedappellant just to gain the father"s property and spare

the real culprit in this case of daylight murder.

43. The informant Puttu Lal (PW-1) and Hori Lal (PW-3) have specifically proved the immediate motive for murder, against which there is neither

any explanation from the side of the accused nor is there any apparent explanation from the evidence on record. The said motive is quite natural

and probable and it is quite reasonable to believe that the accused, who was usurping the entire agricultural produce of his father for a long time,

would have felt annoyed when his father/deceased wanted him to part with some portion of it to his elder brother. The said witnesses not only

witnessed the incident but were close neighbours, who also described the scene of crime, vividly. Being a daylight murder it cannot be a case of

wrong identification of the real assailant and nonwitnessing by the close neighbours residing there, in whose presence the entire incident of murder

was committed. Therefore, we are unable to accept the argument that the witnesses had shielded the real assailant and named the accused-

appellant just to gain the property of the deceased for Puttu Lal (PW-1), by falsely implicating his brother.

44. It was next argued by the learned counsel for the appellant that the witness Puttu Lal (PW-1) had admitted in his statement that his father had

taken his meal in the noon but at the time of postmortem examination his stomach was found empty and therefore, the possibility cannot be ruled

out that the murder had been committed in the darkness of the night.

45. It is also argued by the learned counsel for the appellant that the presence of Puttu Lal at the time of the incident is quite doubtful because he

was living separately and the appellant was living with his father/deceased. We do not agree with the said contention, because even from the cross-

examination of Daya Ram (PW-2) and Hori Lal (PW-3), it has been proved that during the course of the incident the witnesses and other persons

had assembled and raised an alarm and called out to Puttu Lal (PW-1) saying that the deceased was killed by the appellant, whereupon Puttu Lal

(PW-1) reached the spot and chased the appellant along with others, but he could not be caught with the weapon of assault at the spot, therefore,

we do not find force in the above arguments of the learned counsel for the appellant. There is no cross-examination regarding the point of variation

of time of death to the doctor (PW-6). The incident is said to have taken place at about 3.00 p.m. and it is not surprising that by the time his

murder was committed, the meal taken by him had been digested because the villagers take the meals in the early hours of the day. By carefully

scanning the entire testimony of three direct ocular witnesses it is clearly established that the presence of the witnesses at the spot at the time of the

incident and their witnessing the said incident cannot be doubted.

46. It was also contended by the learned counsel for the appellant that the evidence of witness Hori Lal (PW-3) appeared to be shaky because in

his cross-examination he had stated that when the incident took place, he was inside his house and on hearing the hue and cry he came out and

saw Ram Bhajan lying near the peg and Ram Ratan accused going towards the west. We do not find ourselves in agreement with the contention of

the learned counsel for the appellant because the door of the house of witness Hori Lal opens towards the place of occurrence. Corroborating the

immediate motive of the incident he had clearly stated in his statement that the accused had inflicted repeated sword blows to the deceased Ram

Bhajan and emphatically denied the suggestion given by the defence about non-witnessing the incident in question, which clearly reflects that he had

seen the entire incident and especially the accused inflicting repeated sword blows to the deceased. The minor discrepancies pointed out by the

side of the appellant are quite natural, which makes the testimony of the witness more credible. Therefore, his testimony also proves the

prosecution version and the charge of murder committed by the accused.

47. The evidence of a witness can not be read in piece-meal but it should be read in totality. Perusal of the statement of Hori Lal (PW-3) as a

whole negates the above contention of the appellant. The Apex Court in the cases of Ashok Kumar Choudhary v. State of Bihar, 2008 (61)

ACC 972 and Dimpal Gupta (minor) v. Rajiv Gupta, AIR 2008 SC 239 has propounded that if the testimony of an eyewitness is otherwise

found trustworthy and reliable, the same cannot be disbelieved and rejected merely because certain insignificant, normal or natural contradictions

have appeared into his testimony. If the inconsistencies, contradictions, exaggerations, embellishments and discrepancies in the testimony are only

normal and not material in nature, then the testimony of an eyewitness has to be accepted and acted upon. Distinctions between "normal

discrepancies" and "material discrepancies" are that while "normal discrepancies" do not corrode the credibility of a party"s case, "material

discrepancies" do so.

48. It is further submitted by the learned counsel for the appellant that even though in this case the FIR and the police action were alleged to have

been prompt, the weapon of assault used in the crime, i.e., the sword could not be recovered by the Investigating Officer despite the fact that the

house of the appellant is situated close to the place of incident. We do not find any force in the said submission of the learned counsel for the

appellant because the entire evidence on record clearly shows that the appellant, after committing the crime, fled away from the place of

occurrence along with the said sword. The search memo of the house of the appellant (Ext.Ka-4) shows that the house of the appellant was

searched by the police on the date of the incident itself in the presence of the witnesses but no incriminating material, weapon of assault/sword was

recovered from his house. The record of this case pertaining to the court of Ist Additional Munsif Magistrate, Pilibhit reveals that the accused had

ultimately surrendered before the court on 18.12.1982. Therefore, in the light of the above facts and circumstances, the conduct of the accused

after committing the crime itself speaks volumes of his involvement in the incident. It is also apparent that there was no possibility of recovery of the

weapon of assault, i.e., sword in this case. Merely, non-recovery of the weapon of offence/sword cannot relieve the appellant from the charge of

murder in this appeal. The above contention of the learned counsel for the appellant is misconceived.

49. The learned counsel for the appellant further contended that the FIR and all the police papers prepared in this case were ante-dated and ante-

timed. We do not subscribe to the view of the learned counsel for the appellant. As discussed above, we found that the first information report in

this case was lodged very promptly by the elder brother of the appellant and the police machinery was set in motion thereafter, very promptly. The

delay in inquest proceeding has been sufficiently explained by the Investigating Officer (PW- 6) himself, and the inquest report (Ext.Ka-5) also

contains the copy of FIR and crime number etc. Similarly, the unchallenged statement of P.W.-5 constable Ram Pal, who has proved the factum of

receiving the sealed body of the deceased along with the papers etc. in his custody for handing it over to the doctor for postmortem also

corroborates the testimony of the I.O. as well as the inquest report (Ext.Ka-5) and all the police papers prepared on 29.10.1982. It has also been

proved by the said witnesses that the police party including the I.O. remained at the spot in the night. The statement of the doctor Sri A.K.

Srivastava (P.W.-6) and the postmortem report (Ext.Ka-13) prepared by him also corroborate the fact that the FIR in this case was lodged very

promptly. There is no evidence on record to indicate any suspicion about the promptly lodging of FIR or the delay in police and medical

proceedings in this case. The direct ocular testimony of the witnesses (PW-1 to PW-3), all the police papers and medical evidence are in

consonance. There is also no inter-se major contradiction between the testimony of the witnesses examined by the prosecution to establish the

prosecution case, and hence, there is no force in the contention of the learned counsel for the appellant.

50. It is also argued by the learned counsel for the appellant that the investigation in this case is tainted and defective. In support of his contention

the learned counsel only stated about the delay in preparation of inquest report (Ext.Ka-5) and non-recovery of weapon of assault/sword. As we

have discussed above, the delay in preparation of inquest report as well as non-recovery of weapon of assault/sword have sufficiently been

explained by the prosecution; therefore, the argument of the learned counsel for the appellant is baseless.

51. Lastly, the learned counsel for the appellant has argued that if the case of the prosecution is found to be proved and conviction of the appellant

maintained, even then as the homicide in this case has been caused by the appellant due to grave and sudden provocation given by the deceased,

the only offence under section 304 IPC is likely to be proved, and hence the learned trial court has erred in convicting and sentencing the accused

under section 302 IPC. To buttress his argument, the learned counsel for the appellant has placed reliance on the following decisions of the Apex

Court:

(1) State of Rajasthan v. Ramesh, (2011) 3 SCC 685.

(2) Budhi Singh v. State of Himachal Pradesh, (2012) 13 SCC 663.

(3) K. Ravi Kumar v. State of Karnataka, (2015) 2 SCC 638.

52. We have gone through the aforementioned decisions submitted by the learned counsel for the appellant. The facts and circumstances in all

these decisions entirely differ from this case. Therefore, the principles of law laid down in these decisions are not applicable to the facts and

circumstances of the present case.

53. The word Provocation has been defined in the Oxford Dictionary, as an action, insult, etc. that is likely to provoke physical retaliation. The

term grave only adds an element of virulent intensity to what is otherwise likely to provoke retaliation.

54. In the case of Mancini v. Director for Public Prosecutor (1941) 3 All ER 272, the word provocation and its applicability in crime has

been defined as follows:-

it is not all provocation that will reduce the crime of murder to manslaughter. Provocation to have that result, must be such as temporarily deprive

the person provoked of the power of self control as a result of which he commits the unlawful act which caused death. The test to be applicable is

that of the effect of the provocation on a reasonable man, as was laid down by the Court of Criminal Appeal in Rex v. Lesbini so that an unusually

excitable or pugnacious individual is not entitled to rely on provocation which would not have led ordinary person to act as he did. In applying the

test, it is of particular importance to (a) consider whether a sufficient interval has elapsed since the provocation to allow a reasonable man time to

cool, and (b) to take into account the instrument with which the homicide was effected, for to retort, in the heat of passion induced by provocation,

by a simple blow, is very different thing from making use of a deadly instrument like a concealed dagger. In short, the mode of resentment must

bear a reasonable relationship to the provocation if the offence is to be reduced to manslaughter.

55. Similarly in the decision of R. v. Duffy (1949) 1 All ER 932, the term provocation and its consequence has been explained as under:-

The whole doctrine relating to provocation depends on the fact that it cause, or may causes, a sudden and temporary loss of self-control, whereby

malice, which is the formation of an intention to kill or to inflict grievous bodily harm, is negatived. Consequently, where the provocation inspires an

actual intention to kill, or to inflict grievous bodily harm, the doctrine that provocation may reduce murder to manslaughter seldom applies.

56. The legal connotation of ''Grave and sudden provocation'' in P. Ramanatha Aiyar''s Concise Law Dictionary is given as under:-

Intensely stirring up a person to such a pitch of anger or hatred abruptly that he instantly loses control over himself and is led to do what he would

not do if he could weigh or contemplate the nature or significance of his act. [S. 300, except. 1, IPC (45 of 1860)]; [Section 222, ill. (b), Cr. PC

1973 (2 of 1947)].

The ''Grave and sudden provocation'' as provided in the Exception-I of Section 300 IPC is quoted herein below:

Exception 1. - When culpable homicide is not murder.- Culpable homicide is not murder if the offender, whilst deprived of the power of self-

control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by

mistake or accident.

The above exception is subject to the following provisos:-

(First) -That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

(Secondly) -That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers

of such public servant.

(Thirdly) -That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.-Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

57. In the leading case of K.M. Nanavati v. State of Maharashtra, 1962 (1) Cri. L.J. 521, the Apex Court has provided four elements to test the

grave and sudden provocation in a particular case, which are as follows:-

(85) The Indian law, relevant to the present enquiry, may be stated thus :

(1) The test of ''''grave and sudden'''' provocation is whether a reasonable man, belonging to the same class of society as the accused, placed in the

situation in which the accused was placed would be so provoked as to lose his self-control.

(2) In India, words and gestures may also, under certain circumstances, cause grave and sudden provocation to an accused so as to bring his act

within the first Exception to Section 300 of the Indian Penal Code.

(3) The mental background created by the previous act of the victim may be taken into consideration in ascertaining whether the subsequent act

caused grave and sudden provocation for committing the offence.

(4) The fatal blow should be clearly traced to the influence of passion arising from that provocation and not after the passion had cooled down by

lapse of time, or otherwise giving room and scope for premeditation and calculation.

58. In the case of Vasanta v. State of Maharashtra, AIR 1983 SC 361, while dealing with a similar matter,. the Apex Court has rejected the

contention of the appellant and observed as under:-

It appears that there was some verbal altercation as a result of which the deceased had caught the hand of the accused, whereupon the accused

assaulted the deceased with a knife with very great force according to medical evidence. In view of the medical evidence and injuries received by

the deceased the case squarely falls within four corners of Section 302, IPC. Mr. Lalit, however, submits that the case falls under Section 304,

Part 2, I.P.C. in view of serious altercations between the parties as held by the trial Court. We are, however, unable to agree with this contention

because there is nothing to show that the altercation was of such a serious nature which could cause sudden provocation. Secondly, the nature of

injury, namely, the stab on the chest which resulted in the fracture of the 6th rib and injured the heart and the lung and which according to the

doctor was given with great force showed that it was most cruel and therefore the case squarely falls under Section 302, I.P.C. We are in

complete agreement with the High Court that the offence falls under Section 302, IPC and the appellant was therefore, rightly convicted by the

High Court.

59. In a similar nature case, as the case in hand, the Karnataka High Court in State of Karnatak v. Surendra, 1995 Cri. L.J. 3824, it has been

categorically concluded as follows:-

It cannot be said that the deceased gave him any provocation because after the quarrel the accused went back to his house and brought knife. So

when he stabbed, there was no provocation of any sort by the deceased. The case, therefore, clearly falls under Section 302 IPC.

60. In a latest decision of B. D. Khunte v. Union of India and others, 2015 Cri. L.J. 243, the Apex Court has provided five ingredients for a case

to fall under Exception-1 to Section 300 of the IPC, which are quoted herein below:-

What is critical for a case to fall under Exception 1 to Section 300, IPC is that the provocation must not only be grave but sudden as well. It is

only where the following ingredients of Exception 1 are satisfied that an accused can claim mitigation of the offence committed by him from murder

to culpable homicide not amounting to murder:

(1) The deceased must have given provocation to the accused.

(2) The provocation so given must have been grave.

(3) The provocation given by the deceased must have been sudden.

(4) The offender by reason of such grave and sudden provocation must have been deprived of his power of self control; and

(5) The offender must have killed the deceased or any other person by mistake or accident during the continuance of the deprivation of the power

of self-control.

61. Bearing these principles in mind if we look at the facts of this case, we find that in the case in hand there was some verbal altercation and

quarrel between the appellant and the deceased on the point of distribution of some part of the paddy to his son/elder brother of the appellant

before the crime. In the said altercation, when the deceased refused to accept the obstinate stand of the appellant/his younger son and insisted on

parting with some portion of the paddy to his elder son/Puttu Lal informant, the appellant was infuriated. Whereupon, the appellant went to his

house and brought a deadly weapon/the sword from there and started inflicting repeated sword blows (as many as seven blows) several of which

were dealt with very great force, according to medical evidence, to the deceased/his own father, which resulted in his instantaneous death. All

these circumstances do not betray any signs of grave, leave alone grave and sudden provocation, to have disturbed the appellant''s mental

equilibrium or deprived him of self-control, which is an essential attribute of ''grave and sudden provocation'' to qualify as a mitigating factor under

Exception-I to Section 300 IPC.

62. Even if such nature of altercation/quarrel took place between the appellant/younger son and the deceased/father, as proved by the prosecution,

we do not believe that it provoked the appellant to such an extent as to prompt him to fetch a deadly weapon/sword from his house and brutally

kill his own father/deceased by inflicting repeated sword blows; rather it appears to be a case of self-created provocation by the appellant himself.

Given the facts of the present case normally a reasonable man belonging to the same class of society as the accused, placed in the said situation in

which the accused was placed, would not be so provoked as to lose his self-control for committing the said offence. The conduct of the appellant

during the quarrel when he went back to his house to fetch the sword clearly shows that the murder was a deliberate and calculated one.

63. Further, there was sufficient time for him to re-gain his self-control, even if he had not re-gained it earlier. Therefore, when the appellant

inflicted repeated blows of sword to his father/deceased after returning from home, there was no fresh provocation of any sort by the deceased

and it could not conceivably be a provocation for the murder, as emphasised in Exception-I to Section 300 of the IPC. We, therefore, hold that

the facts of the case do not attract all the ingredients of the provisions of Exception-I to Section 300 of the IPC, as per the golden principles laid

down by the Hon''ble Apex Court in the aforementioned decisions. In the final analysis of this point in question, the conviction of the appellant

under section 302 of the Indian Penal Code and sentence of imprisonment for life passed by the trial court are correct. Hence the submission of the

learned counsel for the appellant, contrary to it, cannot be accepted.

64. After careful examination of material on record and in view of the direct evidence of crime against the present appellant by the ocular testimony

rendered by the highly credible prosecution witnesses, whose presence on the spot has been established and cannot be doubted, which in turn is in

consonance with the medical and other prosecution evidence/documents available on record, we are of the opinion that the prosecution has been

able to prove its case beyond all reasonable doubt and has been able to bring home the guilt of the accused-appellant by credible and trustworthy

evidence. Therefore, the learned Special/Additional Sessions Judge has rightly believed the prosecution story and also rightly recorded the finding

of guilt against the present appellant. Hence, we do not find any ground to differ from the finding of guilt recorded by the learned Special/Additional

Sessions Judge. The judgment and order dated 24.5.1983 passed by the Special/Additional Sessions Judge, Pilibhit in S.T. No. 10 of 1983 (State

v. Ram Ratan) arising out of Case Crime No. 217 of 1982, P.S. Bilsanda, District Pilibhit does not require any interference.

65. In view of the above, the appeal preferred by the appellant Ram Ratan lacks merit and is, accordingly, dismissed. The conviction and sentence

awarded by the learned Special/Additional Sessions Judge against the accused-appellant Ram Ratan are confirmed. The accused/appellant Ram

Ratan is directed to serve out the remaining part of the sentence awarded by the learned trial court in the impugned judgment. The accused-

appellant Ram Ratan is on bail. He shall surrender before the trial court for serving out the sentence within 15 days from the date of this judgment,

failing which the trial court shall ensure his arrest and shall send him to jail for serving out the remaining part of the sentence in accordance with law.

66. The copy of the judgment and entire record be transmitted back to the concerned trial court through Sessions Judge, Pilibhit for compliance

within ten days. The concerned court will thereafter report the compliance to this Court within a month.