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2026:AHC:130316-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 4487 of 2019

Ranjeet Patel

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Jeet Bahadur Gautam, Mohd Akhtar, Sufiya Bano
Counsel for Respondent(s)	: Ashutosh Singh, G.A., Sanjay Vikram Singh

Court No. - 2

HON'BLE J.J. MUNIR, J.

HON'BLE VINAI KUMAR DWIVEDI, J.

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

1. This criminal appeal has been preferred by the convict Ranjeet Patel against a judgment and order passed by Mr. Om Prakash Tripathi, the then Sessions Judge, Jaunpur dated 28.03.2019 in S.T. No. 268 of 2015 (arising out of Case Crime No. 557 of 2015), under Sections 302, 504 I.P.C., Police Station Jalalpur, District Jaunpur, convicting the appellant of the offence punishable under Section 302 IPC and sentencing him to suffer imprisonment for life. A fine of Rs. 10,000/- was also imposed. In case of default in payment of fine, the appellant was directed to serve additional rigorous imprisonment for a further period of six months.

2. Aggrieved by this judgment and order of conviction and sentence, the appellant Ranjeet Patel has preferred this criminal appeal before this Court.

3. The facts of this case in a nutshell are that the informant Lal Sahab, PW-1, son of Ram Dhani, a resident of Village Lakhamipur, Police Station Jalalpur, District Jaunpur lodged a written report stating therein that, today on 26.05.2015 his cousin Ranjeet Patel son of Sewak Patel, had come over to his place at 03:30 a.m. and on account of a dispute relating to money, abused his brother Ram Asrey in filthy language. When his brother woke up, Ranjeet Patel who carried an iron rod on him, assaulted the informant's brother on the head with an intention to kill him, and as a result, caused him to be seriously injured. The other family members present there tried to intervene and save his brother, but Ranjeet Patel after injuries escaped along with the iron rod. Due to seriousness of the injury, the injured was conveyed to the BHU Hospital straightaway, where doctors declared him dead. He had come to the police station with his brother (a reference to his dead body). The dead body was kept in Jeep No. UP62 C/1613. This written report is Exhibit Ka-1. The informant Lal Sahab, PW-1 got the written report scribed by one Ramshiromani Patel and lodged it with Police Station Jalalpur, District Jaunpur.

4. On the basis of the report, Exhibit Ka-1, a case was registered against named appellant Ranjeet Patel under Section 302, 504 IPC. Prosecution witness, Constable 755 Rajnath Yadav, PW-6 registered a *chik* First Information Report as Crime No. 557 of 2015, under Sections 302 and 504 IPC. Station Officer, Anil Kumar Singh, PW-7 reached the place of occurrence. He took up investigation of the case. He took samples of the bloodstained soil and unstained soil and also the mesh of the cot, where the deceased was sleeping at the place of occurrence, as Exhibit Ka-8. After holding inquest relating to Ram Asrey's body and preparing other police papers at the place of occurrence, the dead body was sent for postmortem examination to district headquarters.

5. On 26.05.2015, after receiving information from a police informer, the appellant was arrested. On the pointing out of the appellant, the weapon of murder a *Sabbar (rambha)* made of iron was recovered from the sunflower field of one Surender, a resident of Lohmaza. *Fardbaramadgi* was prepared as Exhibit Ka-6. The Investigating Officer inspected the place of occurrence and on the pointing out of the informant, prepared the site plan. He took down the statements of witnesses under Section 161 Cr.P.C. After completing all formalities of the investigation, a charge-sheet was filed before the Magistrate against the appellant Ranjeet Patel.

6. Medical witness Dr. V.K. Sonkar, PW-5, conducted postmortem examination of deceased Ram Asrey's body on 26.05.2015 and prepared a postmortem report, Exhibit Ka-2. According to Dr. V.K. Sonkar, PW-5, the following ante-mortem injuries were present on the dead body of the deceased:

(1) Contusion present on both eyelid.

(2) Laceration present on left ear *pinna*.

(3) 1.5 cm x 1.5 cm, lacerated wound present on left temporal region into deep bone fracture of left temporal bone.

(4) In the opinion of Dr. V.K. Sonkar, PW-5, who prepared the postmortem report, Exhibit Ka-2, the cause of death is due to hemorrhage, shock and coma, as a result of ante-mortem head and brain injury.

7. Since the case was exclusively triable by the Court of Session, the learned Magistrate committed the case to the Court of Session for trial. On 08.09.2015, charge was framed against appellant Ranjeet Patel by the learned Sessions Judge, Jaunpur under Sections 302 and 504 I.P.C. The appellant denied the charge and claimed trial.

8. To substantiate their case, the prosecution produced witnesses, informant Lal Sahab Patel, PW-1, Suman Devi, PW-2, Sukhwanti, PW-3,

Sangeeta, PW-4, Dr. V.K Sonkar, PW-5, Constable Raj Nath Yadav, PW-6, and S.O. Anil Kumar Singh, PW-7. Apart from the oral evidence, prosecution also relied on the documentary evidence from Exhibit Ka-1 to Exhibit Ka-16.

9. In the Trial Court, prosecution witnesses were produced and their evidence recorded. After hearing all the prosecution evidence, appellant Ranjeet Patel was examined under Section 313 Cr.P.C. on 22.01.2019. During his examination under Section 313 Cr.P.C., the appellant denied all the allegations. The appellant has stated that a false recovery of the murder weapon was made and he was falsely implicated due to enmity. He also stated that all prosecution witnesses have testified wrongly under pressure. The appellant has also stated that he is innocent. The informant Lal Sahab, PW-1, in collusion with the S.O. Jalalpur, wrongly implicated him in the First Information Report. Deceased Ram Asrey was not a man of good character. Some unknown assailant at some time (not known) has committed the crime during the night that was not seen by anyone. The informant has implicated him due to enmity with regard to monetary transaction. In his statement under Section 313 Cr.P.C., the appellant although said that he would adduce defence evidence but no defence evidence was adduced by the appellant during trial.

10. After hearing the prosecution witnesses and perusing all the prosecution evidence, oral and documentary, the learned Trial Judge acquitted the appellant of the offence under Section 504 IPC but convicted him under Section 302 IPC and sentenced him to imprisonment for life. A fine of Rs. 10,000/- was also imposed.

11. Aggrieved by the above judgment and order of the Trial Court, the appellant has preferred this criminal appeal.

12. We have heard Mr. Ashutosh Yadav, learned *Amicus Curiae* along with Ms. Suman Sonkar, Advocate for the appellant and Mr. Shashi Shekhar Tiwari, learned Additional Government Advocate along with Mr. K.K. Nishad, learned State Law Officer on behalf of the State and perused the record. We have also perused all the documentary and oral

evidence. We have also considered the findings and reasoning of the Trial Court.

13. The learned *Amicus Curiae* for the appellant has submitted that the findings of the Trial Court are perverse, as admittedly the incident took place in front of the complainant's house and all the witnesses are interested witnesses because they are family members of the informant, but the Trial Court has not considered this important aspect at all. All witnesses of fact, who were examined before the Trial Court, their statements are slightly contrary with regard to nature of the murder weapon and, therefore, the conviction and sentence is totally bad in the eyes of law. It is also submitted by the learned *Amicus Curiae* for the appellant that the Trial Court has failed to appreciate that there is a clear contradiction in the statement of the witnesses, and, therefore, the conviction of the appellant is bad in the eyes of law. There is contradiction between the testimonies of Lal Sahab Patel, PW-1, Suman Devi, PW-2, Sukhwanti, PW-3 and Sangeeta, PW-4. Therefore, the conviction of appellant is against the settled principles of law. Hence, the appeal is liable to be allowed and the conviction set aside.

14. It is also submitted by the learned *Amicus Curiae* for the appellant that the evidence of the complainant is self-contradictory, as he has said on the one hand that they went to the police station before they went to the BHU Hospital, and, on the other, said that they went to the BHU Hospital before the police station concerned. It is also submitted that the testimony of witnesses of fact, Lal Sahab Patel, PW-1, Suman Devi, PW-2, Sukhwanti, PW-3 and Sangeeta, PW-4, and the testimony of medical witness, Dr. V.K. Sonkar, PW-5, are also contradictory with regard to the injury sustained by the deceased. The nature of the murder weapon and the shape of injury were not corroborated, but the Trial Court failed to consider this fact. On the basis of the above submission, the learned *Amicus Curiae* for the appellant vehemently submitted that the Trial Court has not considered the above legal point and against the evidence and law, delivered a judgment of conviction. Hence, the judgment and

order of conviction and sentence as passed by the Trial Court dated 28.03.2019 is liable to be set aside and the appeal of the convict-appellant is liable to be allowed.

15. The submissions advanced by the learned *Amicus Curiae* for the appellant, have been repelled by Mr. Shashi Shekhar Tiwari, learned AGA for the State. He has submitted that the appellant has been named in the written report. Except appellant Ranjeet Patel, no other family member of the appellant has been named as the accused. From this fact, it is clear that the informant Lal Sahab, PW-1, has not falsely implicated the appellant Ranjeet Patel. The incident happened in front of the houses of both sides and in the presence of eye-witnesses. The date of incident is 26.05.2015 at 03:30 a.m., which is a summer morning. When the appellant assaulted deceased Ram Asrey, all the witnesses of fact for the prosecution were sleeping nearby Ram Asrey's cot in the open, in front of the house. They woke up and saw that appellant Ranjeet Patel was assaulting deceased Ram Asrey, employing the weapon of crime. No material contradictions are present in the evidence of the prosecution witnesses. If there are any contradictions, these are of a very trivial nature, which cannot affect the prosecution story. In front of the victim's house in the open area in the early morning on 26.05.2015, the appellant brutally assaulted the deceased with an iron rod (*Sabbal/Rambha*) on the head, due to which Ram Asrey died. All the witnesses have seen the occurrence with their own eyes, which was committed by appellant Ranjeet Patel.

16. It is also submitted by the learned AGA for the State that the findings and reasoning recorded by the Trial Court are according to the evidence on record and the settled principles of law. The Trial Court has appreciated the evidence in right perspective and according to the legal principles applicable. No perversity and illegality are there in the judgment and order of conviction and sentence passed by the Trial Court. Hence, the criminal appeal preferred by appellant Ranjeet Patel is devoid of merit and liable to be dismissed.

17. Considering the submissions advanced by both sides and upon a perusal of the written report, it appears that appellant Ranjeet Patel alone has been named as the accused involved in the commission of the crime. Upon a perusal of the F.I.R, it is evident that the incident occurred on 26.05.2015 at 03:30 a.m. and a report at the police station concerned has been lodged on 26.05.2015 at 09:30 a.m. by informant, Lal Sahab, PW-1.

18. Upon a perusal of the report, it is also clear that in the said report, Exhibit Ka-1, informant Lal Sahab, PW-1 has said that on 26.05.2015 his cousin Ranjeet Patel had come over to his door and at 03:30 a.m, begun to abuse his brother Ram Asrey. When his brother Ram Asrey woke up, appellant Ranjeet Patel assaulted him with an iron rod on the head, due to which he was seriously injured. Thereafter, Ranjeet Patel ran away. In the written report, Exhibit Ka-1, it is stated that due to seriousness of the injury, the deceased was carried to the BHU Hospital, where doctors declared him dead.

19. In his examination-in-chief, Lal Sahab, PW-1, has stated the same facts as stated by him in his written report, Exhibit Ka-1. From the cross-examination of informant Lal Sahab, PW-1, it is evident that Ram Dhani Patel, Ram Chander and Ram Sewak were brothers of full blood. Ram Dhani Patel, Ram Chander and Ram Sewak would reside in the same house at the time of the incident. Ram Dhani Patel had two sons, the deceased Ram Asrey and informant Lal Sahab, PW-1. Ram Sewak had two sons, appellant Ranjeet Patel and Sarwajeet Patel. Ram Chander had two sons, Shiv Kumar Patel and Hemant. At the time of incident, only Hemant was living out of station, whereas all others stayed home. From the cross-examination of this witness, it appears that all the families of the three brothers, including that of informant Lal Sahab, PW-1 had been living in one house. Each had got two rooms in partition. The *sehan* of the house was not partitioned. All used the *sehan* of the house jointly. Informant Lal Sahab, PW-1, has said in his cross-examination that when appellant Ranjeet Patel was abusing Ram Asrey, they all woke up and

heard the abuses. The family members of Ram Chander and Ram Dular, who were also awake did not come forward. When the Investigating Officer came over to the spot for investigation, PW-1 was present at the place of occurrence. He told all details to the Investigating Officer. The Investigating Officer had inquired from him. The witness has denied the suggestion that at the time of the incident that night, he and his wife were not present and sleeping at the place of occurrence. The witness also denied the suggestion that he and his wife were not present at home on the night of the incident and came back at 08:00 a.m. after hearing about it all.

20. During his cross-examination, this witness has stated that he did not convey the deceased to the Jalalpur Government Hospital directly, but had gone to the police station. At the police station, the *Daroga* told him to take the victim to the BHU Hospital, but before reaching BHU Hospital, Ram Asrey died. Nevertheless, they reached there. On reaching BHU Hospital, the doctor said that death had occurred ten to fifteen minutes earlier. This witness also stated that deceased Ram Asrey had received a total of three injuries. He was assaulted by the appellant three times. One injury in the frontal area of the head, the second injury on the left and right side of the head, both sides bleeding. There was no bleeding from any other injury. This witness denied this suggestion that at the time of the incident, there was darkness. This witness further said that at the time of the incident, there was no light illuminating on his door. On hearing the abusive words by the appellant, at the time of incident, PW-1 and Ram Asrey, Sangeeta, Suman and Sukhwanti, all had woken up. Three blows that were delivered to Ram Asrey, caused grievous injuries. Ram Asrey was assaulted with a *rambha*, which was not just an iron rod. It was flat, not rounded on the mouth side; it was pointed.

21. Thus, upon a perusal of the evidence of informant, Lal Sahab, PW-1, it is revealed that at the time of the incident, this witness and all other prosecution witnesses, such as Suman Devi, PW-2, Sukhwanti, PW-3

and Sangeeta, PW-4 were sleeping in front of their house in the *sehan*. It was early in the morning at 03:30 hours. The appellant Ranjeet Patel on account of a dispute related to a monetary transaction, abused deceased Ram Asrey. On hearing abuses hurled by appellant Ranjeet Patel, all witnesses i.e. informant Lal Sahab, PW-1, Suman Devi, PW-2, Sukhwanti, PW-3 and Sangeeta, PW-4 woke up. During abusive diatribe, appellant Ranjeet Patel assaulted Ram Asrey with the iron rod (*sabbal/rambha*) striking him on the head. There is a minor contradiction in the evidence of informant Lal Sahab, PW-1 about this fact that at one place, informant Lal Sahab, PW-1 has stated that after the incident, he carried injured Ram Asrey straight to the BHU Hospital, but elsewhere in his evidence, he has said that for a first, he took Ram Asrey to the police station, where the *Daroga* asked the informant to convey the victim to the BHU Hospital.

22. In our view, the above contradictions are not major and material ones at all. The contradictions which figure in the evidence of this witness, are very minor ones, which in our view, do not affect the prosecution story or worth of the evidence of informant Lal Sahab, PW-1. Upon a perusal of the evidence of informant Lal Sahab, PW-1, we find that this witness in a very natural way, has stated those facts, which he has seen at the time of occurrence. After the happening of the incident, he carried Ram Asrey to the BHU Hospital and lodged the FIR. We find no material and major contradiction in the evidence of this witness. We also do not find any contradiction, embellishment, concoction and false narration of facts by this witness. Therefore, in the light of the above discussion, we do not find any force in the arguments of the learned *Amicus Curiae*.

23. The prosecution witness Suman Devi, PW-2 is the wife of deceased Ram Asrey. Upon a perusal of the evidence of Suman Devi, PW-2, it appears that this witness has also corroborated the date, time and place of occurrence as also the manner and mode of commission of the offence by appellant Ranjeet Patel. This witness has testified that she

had seen appellant Ranjeet Patel assaulting her husband, striking him on his head. This witness has also stated that the Police had inquired of her about the incident. Upon a perusal of the evidence of this eye-witness, it is evident that this witness also confirmed the fact that all family members of Ram Sewak, Ram Chander and Ram Dhani were living jointly in one common house and they all had a common *sehan* in front of their house. From the evidence of this witness, it is clear that this witness had come from Surat with her husband Ram Asrey to her village Lakhamipur. It is also evident from the evidence of this witness that this witness stated that after Ram Asrey was injured, his brother-in-law Lal Sahab, PW-1, wife and sister-in-law carried Ram Asrey in the night to the hospital for treatment. Upon a perusal of the evidence of this witness, it appears that she expressed her ignorance about the monetary transaction. However, she also said that Lal Sahab, PW-1, had knowledge about the monetary transaction. Upon an overall assessment of this witness, we do not find any kind of major or material contradiction in her evidence giving rise to a cause, on the ground of which, we may disbelieve the testimony of this natural eyewitness of the incident. In other words, the prosecution witness Suman Devi, PW-2, has testified in a natural manner that inspires confidence without any embellishment, concoction and exaggeration. Whatever be the discrepancy or contradiction in her evidence, it is of very minor nature, and, therefore, we find the evidence of this witness, wholly reliable. From the evidence of this witness, the evidence of informant Lal Sahab, PW-1, finds support and corroboration.

24. Prosecution witness Sukhwanti, PW-3, is the mother of deceased Ram Asrey. This witness has also supported the prosecution story as narrated and testified to by the prosecution witness informant Lal Sahab, PW-1 and Suman Devi, PW-2.

25. From a perusal of the evidence of this witness, we find that this witness has also stated the fact that the *Sehan* was in the common use of all the family members. This relevant fact emerges that there was a

marriage of Gulab's son and there was also a marriage in the house of Ram Chander. Both the marriages were scheduled after the date of incident. It is another account that on the date of incident, brothers and sisters and other relatives had come. From this fact, it is established that on the date of incident, Suman Devi, PW-2, was present at her matrimonial home and she had seen the incident with her own eyes.

26. This witness has denied the suggestions of the defence that it is wrong to say that Ram Asrey has had illicit relations with Gudiya, daughter of Ranjeet Patel, due to which, she had become pregnant and committed suicide. Although, PW-2 denied this suggestion, however, this suggestion by the defence reveals a serious fact relevant to the present case.

27. The prosecution produced Sangeeta as PW-4. This witness is the wife of informant Lal Sahab, PW-1. Upon a perusal of the evidence of this witness Sangeeta, PW-4, it is clear that, this witness also supports the prosecution story. By the evidence of this witness, the evidence of informant Lal Sahab, PW-1, Suman Devi, PW-2 and Sukhwanti, PW-3, find support and corroboration. This witness has testified that there was a dispute about a monetary transaction between Ram Asrey and Ranjeet Patel.

28. All four witnesses in this case are close relatives of deceased Ram Asrey, informant Lal Sahab, PW-1 being the real brother of the deceased, Suman Devi, PW-2 is deceased Ram Asrey's wife, Sukhwanti, PW-3, deceased Ram Asrey's mother and Sangeeta, PW-4, the deceased's sister-in-law. It is also noteworthy that appellant Ranjeet Patel is a cousin of deceased Ram Asrey and informant Lal Sahab, PW-1. Thus, both sides are family members amongst themselves. Appellant Ranjeet Patel has been named in the written report, Exhibit Ka-1, as the sole accused. If informant Lal Sahab, PW-1, intended to implicate Ranjeet Patel falsely, he could easily implicate all the family members of Ranjeet Patel. However, the fact that the appellant alone has been nominated in the FIR, lends assurance that the appellant has not been

falsely implicated in this case. All the above prosecution witnesses- Lal Sahab, PW-1, Suman Devi, PW-2, Sukhwanti, PW-3 and Sangeeta, PW-4 had witnessed the incident with their own eyes and they have stated true facts in a natural manner without any embellishment, exaggeration or concoction. Therefore, on the ground alone that all the prosecution witnesses of fact are family members of deceased Ram Asrey, evidence of these eye-witnesses cannot be rejected.

29. As per law, it is well settled that the Court is required to scrutinise and analyse the evidence of family members with great care and caution. It is also noteworthy that a family member of a victim would not falsely implicate an innocent man in the commission of the crime or exculpate the real culprit of the crime.

30. The Supreme Court in the case of **Ashok Kumar Chaudhary and Others Vs. State of Bihar, 2008 (61) ACC 972** has held in paragraph 7:

“7. We are not impressed with the argument. Though it is true that the incident having taken place near the market around 6 p.m. on 17th July, 1988, the prosecution should have attempted to secure public witnesses who had witnessed the incident, but at the same time one cannot lose sight of the ground realities that the members of the public are generally insensitive and reluctant to come forward to report and depose about the crime even though it is committed in their presence. In our opinion, even otherwise it will be erroneous to lay down as a rule of universal application that non-examination of a public witness by itself gives rise to an adverse inference against the prosecution or that the testimony of a relative of the victim, which is otherwise credit-worthy, cannot be relied upon unless corroborated by public witnesses. Insofar as the question of credit-worthiness of the evidence of relatives of the victim is concerned, it is well settled that though the Court has to scrutinize such evidence with greater care and caution but such evidence cannot be discarded on the sole ground of their interest in the prosecution. The relationship per se does not affect the credibility of a witness. Merely because a witness happens to be a relative of the victim of the crime, he/she cannot be characterized as an "interested" witness. It is trite that the term "interested" postulates that the person concerned has some direct or indirect interest in seeing that the accused is somehow or the other convicted

either because he had some animus with the accused or for some other oblique motive.”

31. In **Namdeo Vs. State of Maharashtra, 2007 AIR SCW 1835**, the Supreme Court has held that “a close relative cannot be characterized as an "interested" witness. He is a natural witness. His evidence, however, must be scrutinised carefully. If on such scrutiny, his evidence is found to be intrinsically reliable, inherently probable and wholly trustworthy, conviction can be based on the 'sole' testimony of such witness. Close relationship of witness with the deceased or victim is no ground to reject his evidence. On the contrary, close relative of the deceased would normally be most reluctant to spare the real culprit and falsely implicate an innocent one”.

32. Upon a perusal of the prosecution evidence, it appears that in the FIR, the weapon of murder is described as an Iron rod. Recovery from appellant Ranjeet Patel was that of *Sabbar/rambha* made of iron. On this point, the prosecution witness/informant Lal Sahab, PW-1, in his evidence, described the weapon of murder as an iron rod. In his cross-examination, Lal Sahab, PW-1, described the murder weapon, employed in the assault as a *rambha* made of iron. Suman Devi, PW-2, described the murder weapon as an iron rod. Sukhwanti, PW-3, described the weapon of murder as *rambha*, which is used for digging earth. PW-4, Sangeeta has also described the weapon of murder as *rambha*. However, it is a clear fact that between a *rambha* and an iron rod, there is no major difference. In dimension, an iron rod is little thinner than a *rambha*. A *rambha* is fabricated out of a very thick iron rod for boring earth or digging up a hole. In other words, both are iron rods. An iron rod is comparatively thin while a *sabbar* is slightly thicker in diameter than an iron rod. But, both are made of hard iron. Thus, on this ground, we cannot disbelieve the evidence of eye-witnesses for the prosecution. We also cannot doubt and reject the prosecution story on that ground.

33. Upon a perusal of the findings and reasoning given by the learned Trial Judge on this point, we find that the Trial Court has discussed and appreciated the evidence on this point in right perspective and has given

a cogent finding. From a perusal of the evidence of medical witness Dr. V.K. Sonkar, PW-5, who did the autopsy and prepared the postmortem report of deceased Ram Asrey, Exhibit Ka-2, it is evident that injury No.3 is 1.5 x 1.5 cm, a lacerated wound present on left temporal region x deep bone fracture of left temporal bone. Thus, from a perusal of injury no.3, it is clear that this type of injury could only be caused by an object made of iron, such as iron rod (*rambha*). Due to the use of an iron rod (*rambha*), a deep bone fracture was found on left temporal bone of deceased Ram Asrey. Thus, from the above discussion, we find no force in the arguments of the learned *Amicus Curiae* assisting us on behalf of the appellant.

34. Further, upon a perusal of the report, Exhibit Ka-1, it is apparent that the incident occurred on 26.05.2015 at 03:30 a.m. It is also evident that the month of May is a summer month, but no fact about the source of light has been mentioned in the FIR. In the month of May, which is a very hot month of the summer season, at 03:30 hours in the early morning, it is quite possible to identify a person in the open sky, particularly, in front of one's house, say the *sehan*. It is also noteworthy that the appellant and the victim are very close family members. Appellant Ranjeet Patel was a cousin of Lal Sahab, PW-1. It is well known that residents of a village can identify locals in dim light or where it is slightly dark. To add to it, in the case in hand, the appellant is a cousin of informant Lal Sahab, PW-1. In this condition, prosecution witnesses, informant Lal Sahab, PW-1, Suman Devi, PW-2, Sukhwanti, PW-3 and Sangeeta, PW-4, who are all family members, could easily have identified appellant Ranjeet Patel by his speech, language, gait, even in very poor light or when it was slightly dark.

35. In **Nathuni Yadav Vs. State of Bihar, 1998 (9) SCC 238**, the Supreme Court held:

"Even assuming that there was no moonlight then, we have to gauge the situation carefully. The proximity at which the assailants would have confronted with the injured, the possibility of some light reaching there from the

glow of stars, and the fact that the murder was committed on a roofless terrace are germane factors to be borne in mind while judging whether the victims could have had enough visibility to correctly identify the assailants. Over and above those factors, we must bear in mind the further fact that the assailants were no strangers to the inmates of the tragedy-bound house, the eyewitnesses being well acquainted with the physiognomy of each one of the killers. We are, therefore, not persuaded to assume that it would not have been possible for the victims to see the assailants or that there was possibility for making a wrong identification of them. We are keeping in mind the fact that even the assailants had enough light to identify the victims whom they targeted without any mistake from among those who were sleeping on the terrace. If the light then available, though meagre, was enough for the assailants why should we think that the same light was not enough for the injured who would certainly have pointedly focussed their eyes on the faces of the intruders standing in front of them. What is sauce for the goose is sauce for the gander."

36. Therefore, in view of the law laid down by the Supreme Court in the above authority, it is also clear that the prosecution witnesses in the present case would have easily and clearly identified appellant Ranjeet Patel at 03:30 hours early in the morning, in the occurrence that happened on 26.05.2015 i.e. during the summers. Thus, in view of the above guidance of the Supreme Court and the facts and circumstances of the case in hand, the argument of the learned *Amicus Curiae* has no force in this respect.

37. It is a settled principle of law that where the prosecution story finds support from eyewitnesses of the case, the motive loses its significance. In other words, if in any case where a crime is committed by a person and other persons have witnessed the incident with their own eyes, and such witnesses testify to it in Court, motive loses its significance. In the present case, eyewitnesses produced by the prosecution have clearly seen the occurrence which was committed by appellant Ranjeet Patel. All the four prosecution witnesses of fact have supported the prosecution story and they have specifically said in their evidence that they have seen appellant Ranjeet Patel assaulting deceased

Ram Asrey on the head, employing a *sabbar/rambha*, with their own eyes.

38. It is also a well-known fact that the head of a human body is a very sensitive and vital part. Without doubt, appellant Ranjeet Patel assaulted deceased with an iron rod (*rambha*) on his head, fracturing the temporal bone, with the intention to kill Ram Asrey.

39. The kind of the weapon employed and the site of the injury also clearly indicate the intention of appellant Ranjeet Patel, which was clearly one to kill. The assault on the deceased's head by Ranjeet Patel with an iron rod (*rambha*) is self-speaking.

40. Although, all the four prosecution witnesses, to wit, informant Lal Sahab Patel, PW-1, Suman Devi, PW-2, Sukhwanti, PW-3 and Sangeeta, PW-4 are family members and interested witnesses, but on this ground alone, reliable and trustworthy testimony of theirs cannot be rejected. Upon a perusal of the evidence of the prosecution witnesses, it is amply clear that all the prosecution witnesses of fact have clearly testified to the manner and mode in which appellant Ranjeet Patel had assaulted deceased Ram Asrey on his head and committed the crime. Therefore, only on the ground that all prosecution witnesses of fact are family members and interested witnesses, we cannot reject the testimony of the eyewitnesses in this case.

41. From a perusal of the findings and reasoning of the Trial Court, we find that the Trial Court has discussed and given findings on other arguable points raised by the defence. The findings and reasoning given by the Trial Court are supported by evidence of the prosecution, and are based on a sound appreciation of the evidence on record. Hence, we find no illegality, infirmity or perversity in the judgment and order of conviction and sentence as passed by the Trial Court.

42. Therefore, in view of the above discussion, we find no force in the arguments of the learned *Amicus Curiae*.

43. Resultantly, this criminal appeal filed by the appellant is devoid of merit and liable to be dismissed and the judgment and order of conviction and sentence passed by the Trial Court affirmed.

44. In view of the above discussion, we affirm the impugned judgment and order of conviction and sentence as passed by the Trial Court in S.T. No. 268 of 2015, State Vs. Ranjeet Patel (arising out of Crime No.557 of 2015), under Section 302 IPC against appellant Ranjeet Patel.

45. The appeal is, accordingly, *dismissed*.

46. Let this order be communicated to the Trial Court concerned and the lower Court records be transmitted.

(Vinai Kumar Dwivedi,J.) (J.J. Munir,J.)

July 01, 2026

NSC