



2026:AHC:154435

Reserved on 27.05.2026

Delivered on 27.07.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2564 of 1985

Bux Ullah Alias Burey Ali

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Syed Wajid Ali, Sudhir Agarwal
Counsel for Respondent(s)	: A.G.A., V.c. Tewari

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Heard Shri Mohd. Shiraz, Advocate holding brief of Shri Syed Wajid Ali, learned counsel for the appellant and Shri Purshottam Maurya, learned AGA for the State.

2. This criminal appeal has been preferred by the appellant Bux Ullah alias Burey Ali, son of Asad Ali, against the judgment and order dated 18.09.1985 passed by Special Judge/Additional Sessions Judge, Pilibhit in S.T. No. 319 of 1984 (State v. Bux Ullah alias Buxey Ali), whereby the appellant was convicted under

Section 307 of the Indian Penal Code, and sentenced to undergo six years R.I. and Rs.600/- fine. In default of payment of fine, to undergo further period of six months R.I.

3. The appellant was, at the relevant time, serving as a police constable posted at Bareilly. According to the prosecution, the appellant, while wearing his police uniform, left his headquarters without leave or permission and came to his home-town of Bisalpur, where he committed the offence in question. The injured, Sayeed Ayub Ali, is stated to be a religious 'Peer' (spiritual preceptor) of the appellant, commanding a large following in the town of Bisalpur.

4. The prosecution case, in brief, is that at about 6.45 a.m. on 21.08.1984, the injured complainant Sayeed Ayub Ali, while proceeding to offer prayers at a 'Mazar' along with his 'Mureeds' (disciples) Liyaqat Ali Khan, Israr Hussain and Babu, was intercepted by the appellant in front of the clinic of Dr. Lokesh Chand in Mohalla Habib Ullah Khan Janubi. The appellant, who was carrying a knife and was in his police uniform, protested that he had been defamed on a charge of theft of a tape-recorder at the instance of the injured, and declared that he would teach the injured a lesson, whereupon he forthwith gave knife blows to the injured. The injured, in order to save himself, rushed towards the hospital along the main thoroughfare, but was chased by the appellant, who

intercepted him again at the turn of the road near the hospital and inflicted further knife blows, causing the injured to fall down at that spot. The three companions of the injured were unable to apprehend the appellant, who thereafter made good his escape towards his house.

5. A written report (Ex.Ka.1), scribed by witness Babu at the dictation of the injured, was lodged at Police Station Bisalpur and registered at 7.10 a.m. on the same day. The injured was sent for medical examination and treatment. Investigation was entrusted to S.I. Shyam Lal Pandey (P.W.5), who prepared the site-plan (Ex.Ka.6), effected the arrest of the appellant near the railway gate of Mira Kasimpur while the appellant was still in his police uniform, and recovered from the appellant's possession the knife (Ex.5) used in the commission of the offence, vide recovery memo Ex.Ka.2. The blood-stained uniform of the appellant, comprising shirt, pant, belt and cap (Ex.1 to Ex.4), was seized vide memo Ex.Ka.3. Blood-stained and plain earth were lifted from the spot vide memo Ex.Ka.7. On completion of investigation, charge-sheet (Ex.Ka.9) was submitted against the appellant on 23.08.1984.

6. The prosecution examined eight witnesses. P.W.1, the injured Sayeed Ayub Ali, and eye-witnesses P.W.2 Liyaqat Ali and P.W.3 Babu deposed in a consistent manner that the appellant emerged from a lane in front of the shop of Dr. Lokesh Chand and assaulted

the injured with a knife, chased him when he attempted to flee, and again assaulted him with the knife near the hospital on the main road. P.W.1 proved the written report Ex.Ka.1. P.W.4 Mansoor Ahmad was examined as a witness to the arrest of the appellant and recovery of the knife and blood-stained uniform, though he did not support the prosecution on the question of his signatures upon the recovery memos, and to that limited extent was declared partly resiled, he nevertheless identified the knife Ex.5 as the one allegedly recovered from the appellant. P.W.5 S.I. Shyam Lal Pandey proved the investigation, the arrest of the appellant, the recoveries, the site-plan, and the submission of the charge-sheet. P.W.6 Head Moharrir Lal Singh proved the relevant General Diary entries and the check report. P.W.7 Dharam Veer Saxena, pharmacist, proved the injury report (Ex.Ka.14) of the injured, the Medical Officer who had originally examined the injured, Dr. S.S. Sharma, having since died, and P.W.8 constable Dinesh Kumar proved that he had carried the case property for chemical examination in sealed condition, the report whereof (Ex.Ka.15) was tendered in evidence.

7. The appellant did not furnish any explanation to the questions put to him under Section 313 of the Code of Criminal Procedure, beyond disclosing his name, parentage and age, though he signed the statement recorded thereunder without demur. The defence, as it

emerged from the cross-examination of the prosecution witnesses, was one of complete denial. An attempt was also made on behalf of the appellant to suggest that he was of unsound mind and may not have known the consequences of his act. The defence further filed certified copies of certain proceedings to suggest that the eye-witnesses had a chequered antecedent history and were, for that reason, unreliable.

8. The learned Trial Judge, on a consideration of the evidence on record, found that the F.I.R. was lodged with promptitude at 7.10 a.m., within about twenty-five minutes of the occurrence, and that the place of occurrence being close to the police station, there was nothing suspicious in the timing of the report. The submission made on behalf of the defence that the natural first reaction of the injured and his companions would have been to rush the injured to hospital rather than first lodge a report, and that the occurrence must therefore have taken place earlier than stated was rejected, the Trial Court noting that a person who could remain alert and answer questions correctly notwithstanding a large number of knife wounds could well have thought of lodging the report with the police in the first instance.

9. As regards the place of occurrence, the Trial Court accepted the prosecution version that the assault commenced in front of the shop of Dr. Lokesh Chand and continued to a second spot near the

hospital on the main thoroughfare, notwithstanding the absence of blood marks at the first spot and along the intervening stretch, holding that such absence was attributable to the movement of passers-by and vehicular traffic on a public thoroughfare, and did not detract from the substratum of the prosecution case.

10. On the medical evidence, the Trial Court took note of the injury report (Ex.Ka.14) prepared by Dr. S.S. Sharma, who examined the injured at P.H.C. Bisalpur at 7.30 a.m. on 21.08.1984, and which disclosed as many as ten incised wounds and one linear scratch as follows:

1. Incised wound measuring 8 cm × 0.5 cm, scalp deep, on the right forehead, 8 cm superior to the right eyebrow, running transversely from the midline.
2. Incised wound measuring 1 cm × 0.5 cm, fascia deep, on the left anterior part of the bridge of the nose, 4.5 cm superior to the tip of the nose.
3. Incised wound measuring 7 cm × 1 cm, fascia deep, on the medial aspect of the left forearm, 7 cm below the elbow joint, running transversely.
4. Incised wound measuring 4 cm × 0.5 cm, muscle deep, on the left side of the chest, 4.5 cm below the nipple at the 5 o'clock position, running transversely.
5. Incised wound measuring 7.5 cm × 1 cm, deep up to the ribs, on the right side of the chest, 6.5 cm away from the nipple at the 4 o'clock position, running transversely from the midline. Injury kept under observation.
6. Incised wound measuring 4.5 cm × 1 cm, on the right side of the abdomen, 4 cm away from the umbilicus at the 10 o'clock position, running transversely.
7. Incised wound measuring 4 cm × 1 cm, fascia deep, on the right side of the abdomen, 2 cm lateral to Injury No. 6, running transversely.
8. Incised wound measuring 3 cm × 1 cm, fascia deep, on the left side of the abdomen, 10 cm away from the umbilicus at the 3 o'clock position, running transversely.

9. Incised wound measuring 4.5 cm × 1.5 cm, fascia deep, on the left side of the abdomen, 8 cm away from the umbilicus at the 4 o'clock position.

10. Incised wound measuring 4.5 cm × 1.5 cm, extending into the abdominal cavity, on the left side of the abdomen, 4 cm away from the umbilicus at the 5 o'clock position. A bunch of intestines was bulging out through the wound. On examination, bleeding from mesenteric vessels in the intestinal loops was seen. The injury was kept under observation pending exploratory laparotomy to detect any injury to the intestines, for which the patient was referred to District Hospital, Pilibhit.

11. Scratch-type linear injury measuring 13 cm, on the lower part of the chest, running across the sternum, 14 cm below the nipple, running transversely.

All the injuries were found to be fresh and caused by a sharp-edged weapon, with clean, incised margins, consistent with the knife (Ex.5) recovered from the appellant. The Trial Court held that the ocular evidence of P.W.1, P.W.2 and P.W.3 stood fully corroborated by this medical evidence, both as to the number and nature of the injuries and as to the fact that two distinct volleys of blows were inflicted at two different points.

11. Upon the above appreciation of evidence, the Trial Court held the prosecution case to have been established beyond reasonable doubt and convicted the appellant under Section 307 I.P.C., sentencing him to rigorous imprisonment, aggrieved whereby the present appeal has been preferred.

12. Learned counsel for the appellant has assailed the judgment of conviction principally on the grounds that the eye-witnesses, being disciples and close associates of the injured, are partisan and

interested and their antecedents, as brought on record through Ex.Kha.1 to Ex.Kha.3, render their testimony suspect, there exist doubts as to the exact time and place of occurrence on account of the absence of blood marks at the point where the assault is alleged to have first commenced, and the defence of unsoundness of mind, though not substantiated by direct medical evidence, ought to have enured to the benefit of the appellant. In the alternative, and without prejudice to the above, it has been submitted that the sentence imposed is excessive having regard to the appellant's advanced age and the inordinately protracted pendency of the appeal.

13. Learned counsel for the State, per contra, has supported the judgment of the Trial Court in its entirety and submitted that the concurrent, consistent and mutually corroborative testimony of the injured and the two independent eye-witnesses, coupled with the contemporaneous lodging of the F.I.R., the recovery of the blood-stained weapon and uniform from the appellant, and the objective medical evidence disclosing eleven incised/scratch injuries including a life-threatening abdominal wound, leaves no manner of doubt as to the guilt of the appellant, and that no case for interference with the finding of conviction is made out.

14. We have heard learned counsel for the parties and have been taken through the material evidence on record, including the depositions of P.W.1 to P.W.8, the F.I.R. (Ex.Ka.1), the site-plan

(Ex.Ka.6), the recovery memos (Ex.Ka.2 and Ex.Ka.3), and the injury report (Ex.Ka.14).

15. On a careful re-appreciation of the evidence, we find no infirmity in the finding recorded by the Trial Court that the prosecution has established its case beyond reasonable doubt. The testimony of the injured Sayeed Ayub Ali (P.W.1) is that of a natural witness who was himself the victim of the assault, and his version is fully corroborated by the two independent eye-witnesses, P.W.2 and P.W.3, who were present at the spot and whose presence was natural in the circumstances, they being companions of the injured on the way to the Mazar. We find no material contradiction of any consequence in the statement of the injured which would render his testimony unreliable. The bare suggestion that the witnesses had a chequered past does not, without more, warrant rejection of otherwise cogent and corroborated testimony, more particularly where such testimony finds independent and unimpeachable corroboration in the medical evidence.

16. The medical evidence is, in our view, of critical importance in this case. The injury report discloses no fewer than ten distinct incised wounds and one scratch-type injury spread across the scalp, face, fore-arm, chest and abdomen of the injured, several of them extending to the fascia and one penetrating the abdominal cavity with protrusion of intestines and bleeding from the mesenteric

vessels, necessitating exploratory surgery. The sheer number, distribution and depth of the injuries are consistent only with a sustained and determined assault of the nature described by the injured and the eye-witnesses, involving two distinct episodes of assault at two spots, and are wholly inconsistent with the appellant's defence of denial. The recovery of the blood-stained knife and the blood-stained police uniform from the appellant lends further and telling corroboration to the prosecution case.

17. As regards the alleged discrepancy in the place of occurrence on account of the absence of blood marks at the first spot, we are in agreement with the reasoning of the Trial Court that such absence, on a busy public thoroughfare frequented by passers-by and vehicles, is neither unnatural nor sufficient to dislodge the otherwise cogent and corroborated testimony of the eye-witnesses as to the sequence of events. Similarly, the plea of unsoundness of mind, not having been substantiated by any medical or other credible evidence, and not having been raised at the earliest available opportunity, cannot be accepted.

18. For the above reasons, we find no ground to interfere with the finding of conviction recorded by the Trial Court under Section 307 I.P.C. The conviction of the appellant is accordingly upheld and confirmed.

19. Now, coming to the question of quantum of sentence. It has been brought to our notice, and is not disputed by the State, that the appellant is presently more than sixty years of age. It has further been brought to our notice that this appeal, arising out of a judgment of conviction rendered as far back as in the year 1985, has remained pending before this Court for a period of approximately forty-one years, and that no part of this inordinate delay is attributable to any default, dilatory conduct, or fault on the part of the appellant.

20. The Apex Court in **State of M.P. vs. Saleem Alias Chamaru and Another**, (2005) 5 SCC 554, held as under:

“12. To justify a conviction under this section, it is not essential that bodily injury capable of causing death should have been inflicted. Although the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, such intention may also be deduced from other circumstances, and may even, in some cases, be ascertained without any reference at all to actual wounds. The section makes a distinction between an act of the accused and its result, if any. Such an act may not be attended by any result so far as the person assaulted is concerned, but still there may be cases in which the culprit would be liable under this section. It is not necessary that the injury actually caused to the victim of the assault should be sufficient under ordinary circumstances to cause the death of the person assaulted. What the court has to see is whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. An attempt in order to be criminal need not be the penultimate act. It is sufficient in law, if there is present an intent coupled with some overt act in execution thereof.

13. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. The section makes a distinction between the act of the accused and its result, if any. The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. Therefore, an accused charged under Section 307 IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt.”

21. The Apex Court in **Ravada Sasikala vs. State of Andhra Pradesh and Another**, (2017) 4 SCC 546, held as under:

“17. In *Sumer Singh v. Surajhhan Singh*, while elaborating on the duty of the Court while imposing sentence for an offence, it has been ruled that: (SCC p. 338, para 36)

“36.It is the duty of the court to impose adequate sentence, for one of the purposes of imposition of requisite sentence is protection of the society and a legitimate response to the collective conscience. The paramount principle that should be the guiding laser beam is that the punishment should be proportionate. It is the answer of law to the social conscience. In a way, it is an obligation to the society which has reposed faith in the court of law to curtail the evil. While imposing the sentence it is the court's accountability to remind itself about its role and the reverence for the rule of law. It must evince the rationalised judicial discretion and not an individual perception or a moral propensity.”

The Court further held that if in the ultimate eventuate the proper sentence is not awarded, the fundamental grammar of sentencing is guillotined and law does not tolerate it; society does not withstand it; and sanctity of conscience abhors it. It was observed that the old saying "the law can hunt one's past" cannot be allowed to be buried in an indecent manner and the rainbow of mercy, for no fathomable reason, should be allowed to rule. The conception of mercy has its own space but it cannot occupy the whole accommodation. While dealing with grant of

further compensation in lieu of sentence, the Court ruled:
(Sumer Singh case¹¹, SCC p. 339, para 36)

"36. We do not think that increase in fine amount or grant of compensation under the Code would be a justified answer in law. Money cannot be the oasis. It cannot assume the centre stage for all redemption. Interference in manifestly inadequate and unduly lenient sentence is the justifiable warrant, for the Court cannot close its eyes to the agony and anguish of the victim and, eventually, to the cry of the society."

18. In *State of Punjab v. Bawa Singh* ¹², this Court, after referring to the decisions in *State of M.P. v. Bablu* ¹³ and *State of M.P. v. Surendra Singh* ¹⁴, reiterated the settled proposition of law that one of the prime objectives of criminal law is the imposition of adequate, just, proportionate punishment which is commensurate with the nature of crime regard being had to the manner in which the offence is committed. It has been further held that one should keep in mind the social interest and conscience of the society while considering the determinative factor of sentence with gravity of crime. The punishment should not be so lenient that it would shock the conscience of the society. Emphasis was laid on the solemn duty of the court to strike a proper balance while awarding the sentence as imposition of lesser sentence encourages a criminal and resultantly the society suffers."

22. The Apex Court in **State of Punjab vs. Bawa Singh**, (2015) 3

SCC 441, held as under:

"15. A three-Judge Bench of this Court in *Ahmed Hussein Vali Mohammed Saiyed. State of Gujarat*, observed as follows: (SCC p. 281, paras 99-100)

"99.The object of awarding appropriate sentence should be to protect the society and to deter the criminal from achieving the avowed object to (sic break the) law by imposing appropriate sentence. It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the

sentencing process has to be stern where it should be. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be resultwise counterproductive in the long run and against the interest of society which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system.

100. Justice demancis that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime. The court must not only keep in view the rights of the victim of the crime but the society at large while considering the imposition of appropriate punishment. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which both the criminal and the victim belong.”

16. We again reiterate in this case that undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law. It is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. The sentencing courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. The court must not only keep in view the rights of the victim of the crime but also the society at large while considering the imposition of appropriate punishment. Meagre sentence imposed solely on account of lapse of time without considering the degree of the offence will be counterproductive in the long run and against the interest of the society.”

23. It is well settled that while the gravity of the offence and the nature and extent of the injuries inflicted are weighty considerations in determining the appropriate sentence, the advanced age of the accused and inordinate, unexplained delay in the conclusion of

criminal proceedings for which the accused is not responsible are also relevant and mitigating circumstances that a court exercising appellate jurisdiction is entitled, and indeed obliged, to take into account while moulding the sentence, consistently with the interests of justice.

24. Having regard to the appellant's present age of over sixty years, the fact that the appeal has remained pending for about forty-one years through no fault of the appellant, and balancing the same against the gravity of the offence and the serious and life-threatening nature of the injuries inflicted upon the injured, we are of the considered view that, while the conviction must be maintained, the sentence awarded by the Trial Court requires to be suitably modified in the interest of justice.

25. In the result, the appeal is **partly allowed**. The order of conviction of the appellant, is hereby confirmed. The sentence awarded to the appellant is, however, modified as under:

(i) The conviction of the appellant, **Bux Ullah alias Burey Ali** under Section 307 of the Indian Penal Code, 1860, as recorded by the Trial Court in S.T. No. 319 of 1984, is hereby affirmed.

(ii) The sentence of six years' rigorous imprisonment awarded to the appellant is reduced to four years' rigorous imprisonment and to pay a fine of Rs.40,000/- (Rupees Forty Thousand) and in default of

payment of fine, the appellant shall undergo further period of simple imprisonment for six months.

(iii) Out of the fine amount so realised, a sum of Rs.35,000/- (Rupees Thirty-five Thousand) shall be paid over to the injured, Sayeed Ayub Ali, or, in the event of his having since died, to his legal heirs, by way of compensation under Section 357 Cr.P.C. The balance to be credited to the State exchequer.

26. The bails bonds are cancelled and the sureties stand discharged, if furnished earlier.

27. Appellant, who is on bail, shall surrender before the court below *within a period of two weeks from today*, without any fault, to serve out the remainder of the sentence, failing which the trial court shall take coercive actions including non-bailable warrant in order to secure his custody in accordance with law.

28. The appellant shall be entitled to set-off, under Section 428 Cr.P.C., for the period, if any, already undergone by him as an undertrial and in pursuance of the sentence awarded by the trial court.

29. Let a copy of this judgment be transmitted forthwith to the trial court concerned along with trial court record for compliance.

30. The trial court is directed to submit its compliance report within two months from the date of receipt of this order. Further

more, the registry is also directed to place the compliance report on record.

31. The Registrar (Compliance) is also directed to serve a copy of this order **within 48 hours** by FAX/e-mail to the concerned court through District & Sessions Judge, Pilibhit for compliance.

(Santosh Rai,J.)

July 27, 2026
Ankit.