



2026:AHC:157908-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1340 of 1987

A.F.R.

Judgment reserved on 16.07.2026

Judgment delivered on 30.07.2026

Triveni And Other

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	:	, Bipin Kumar Tripathi
Counsel for Respondent(s)	:	

Court No. - 42

**HON'BLE ATUL SREEDHARAN, J.
HON'BLE JAI KRISHNA UPADHYAY, J.**

(Per : Jai Krishna Upadhyay, J.)

1. This criminal appeal has been preferred by accused appellants against the judgment and order dated 8.5.1987 passed by 2nd Additional District & Sessions Judge, Azamgarh in Session Trial No. 185 of 1984 (State vs. Chhote Lal and others) convicting and sentencing the appellants for the offences punishable under Section 302 read with Section 34 IPC for life imprisonment, for the offence under Section 201 IPC for three years rigorous imprisonment and for the offence under Section 120-B IPC for seven years rigorous imprisonment with default clause.

2. Facts of the case, in nutshell, as unfolded by informant Bhagwandin in the First Information Report (in short 'F.I.R.'), are that the marriage of his daughter was solemnized with Triveni son of Chhote Lal in the year 1978. The husband and her in-laws were not happy with the dowry given in the marriage and were demanding a motorcycle and due to non-fulfillment of the said demand, she was subjected to cruelty and harassment by them and on 1.7.1979 the informant received an information that his daughter had been electrocuted on 30.6.1979 and has expired.

3. On the basis of written report, *chik* F.I.R. was lodged on 18.11.1983 and G.D. report was prepared. Investigation in the matter started. The Investigating Officer visited the place of occurrence, prepared site plan and other papers and after completing necessary formalities submitted charge

sheet in the matter.

4. Dr. H.K. Verma conducted the postmortem of the deceased on 1.7.1979 at 10.00 a.m. He found seven ante-mortem injuries on the body of the deceased. The cause of the death was extensive electric burn due to ante-mortem shock of burns.

5. The accused appeared and charges under Sections 302/34, 201 and 120-B I.P.C. were framed against them on 6.7.1985. They denied the charges and pleading not guilty claimed their trial.

6. Trial proceeded and in order to prove its case on behalf of the prosecution eleven witnesses, namely, Informant - Bhagwandin (P.W.-1), Krishna Kumar Singh (P.W.-2), Dr. H.K. Verma (P.W.-3), Raghuwar Dayal (P.W.-4), Shiv Prasad Dubey (P.W.-5) Khadag Bahadur Singh, (P.W.-6), Ram Bali Rai (PW-7) Ashok Tiwari (P.W.-8), Dev Nath Ram (PW-9), Damdi Prasad (PW-10) and Nihal Singh (PW-11) were examined.

7. In documentary evidence, documents / papers exhibited as Ext.Ka.-1 to Ext. ka-20 respectively have been proved.

8. P.W.-1 - Bhagwandin proved the contents of the FIR. He has stated that his daughter died due to burns caused by accused persons, namely, Triveni, Chhote Lal, Shanti Devi and Chinta Mani on account of non-fulfillment of the demand of motor cycle as additional dowry, and not due to electric shock.

9. P.W.-2 – Krishna Kumar Singh is the State Medico Legal Expert. He has opined that the burning was more likely after pouring in something inflammable. He did not agree with the idea of getting burnt by electric current in the absence of description of characteristics of wounds caused by electrocution.

10. P.W. - 3 – Dr. H.K. Verma, has performed the post mortem on the body of the deceased and has opined that the body was in a pugilistic attitude. There was no smell of kerosene. Death was likely caused one day before. In his opinion cause of death was extensive electric burn due to shock of ante mortem burns.

11. PW-4 Raghuwar Dayal is the brother of the deceased. He has also supported the FIR version and the statement of PW-1-informant.

12. PW-5 Shiv Prasad Dubey has also stated in same tone as PW-1 and PW-4.

13. PW-6 Kharag Bahadur Singh is the Investigating Officer of the case. He has proved the investigation proceedings and the relevant papers in this

regard.

14. PW-7 Ram Bali Rai, **PW-8** Ashok Tiwari, **PW-9** Dev Nath Ram, **PW-10** Damdi Prasad and **PW-11** S.I. Nihal Singh are the formal witnesses. **PW-10** – Junior Engineer of the concerned Sub-Station has stated that on 30.6.1979 there was no electricity at the concerned Sub-Station from 1.45 a.m. to 12.00 noon.

15. After closure of prosecution evidence, statements of accused appellants under Section 313 CrPC were recorded in which they denied the prosecution case and stated that they have been falsely implicated. They further stated that they did not make any demand of motorcycle.

16. The Trial court found that prosecution has fully succeeded in bringing home the charges against the accused appellants beyond reasonable doubt and convicted and sentenced the accused appellants – Chhote Lal, Triveni and Shanti, as mentioned above whereas accused Chintamani was acquitted. Hence this appeal.

17. We have heard Shri B.K. Tripathi, learned counsel for appellants and Shri A.N. Mulla, learned A.G.A. appearing for the State at length.

18. Castigating impugned judgment and order, learned counsel for the appellants submitted that the FIR was lodged after about four years and six months of the alleged incident without any plausible explanation regarding delay. He further submits that it is a case based on circumstantial evidence and is not supported with any other substantial evidence against the appellants and the appellants have been falsely roped in this case by the informant. Nobody has seen the appellants causing death of the deceased. It is further submitted that in the present case the missing of links to make a complete chain of circumstances is a relevant lacuna on the part of the prosecution. The evidence fails to establish that in all human probability the crime has been committed by the appellants. He further submits that Triveni, husband of the deceased, was not present at the home at the time of incident and he had gone for nature's call. It is a case of accidental death. Medical evidence does not support the prosecution case. Nothing has been recovered from the appellants. It is next contended that investigation in this matter is perfunctory. Findings recorded by trial court in the impugned judgment and order are not based on correct appreciation of evidence and impugned judgment and order suffers from infirmity and illegality warranting interference by this Court.

19. In reply, learned AGA submitted that prosecution was able to prove its case beyond reasonable doubt. Medical evidence fully supports the oral

version. F.I.R. is a genuine document. The offence has been committed by the appellants due to non-fulfillment of additional dowry in the form of one motorcycle. He further submits that on 30.6.1979 there was no electricity at the concerned Sub-Station from 1.45 a.m. to 12.00 noon. Laches on the part of Investigating Officer are also not fatal to the prosecution case. Findings recorded by the learned trial court in the impugned judgment and order are based on correct appreciation of facts, evidence and law and do not suffer from any infirmity or illegality warranting interference by this Court.

20. We have considered rival submissions made by learned counsel for parties and have gone through the entire record carefully.

21. At the outset, it may be mentioned here that appellant no. 2 – Chhote Lal (father-in-law of the deceased) and appellant no.3 Smt. Shanti Devi (mother-in-law of the deceased) have died and vide order dated 22.5.2018 appeal against them has been abated and only appellant no.1- **Triveni** (husband of the deceased) is surviving.

22. Now the Court proceeds to deal with submissions raised by learned counsel for the parties.

23. Firstly, this Court must address the glaring delay in the registration of the FIR. An FIR serves as cornerstone for beginning with investigation by making record of initial details of the crime, suspects and witnesses. The record of the present case reveals that the alleged incident, wherein the deceased lost her life, occurred on 30.6.1979. However, the *chik* FIR was only lodged after a long belated period on 18.11.1983. There is a staggering delay of more than four years. Delay in lodging the FIR is not automatically fatal to the case if the same is satisfactorily explained. Courts do consider certain factors like emotional state of informants, awareness, threat or intimidation, etc. for delay in lodging the FIR but an abnormal and unexplained delay casts a grave shadow of doubt on the prosecution's case. F.I.R. in a criminal case, though not substantial, is an extremely vital and valuable piece of evidence. Delay in lodging the F.I.R. quite often results in embellishment and also arises danger of the introduction of coloured version, exaggerated account or concocted story. In cases of inordinate and unexplained delay, the entire evidence has to be evaluated with greater caution. In the present case, delay of about four years and six months severely shakes the credibility of the prosecution's case right from its beginning. No satisfactory explanation for such a long delay has been given by the prosecution.

24. It is pertinent to note here that there is no independent eye witness to the alleged incident and the case is based on circumstantial evidence. The prosecution strongly asserts that the death of the deceased was caused by

pouring an inflammable liquid, relying on the opinion of the State Medico Legal Expert, P.W.-2. On the contrary, the defence vehemently argues that it was a tragic accident caused by electrocution, and the same has been supported by Dr. H.K. Verma, P.W.-3, who conducted the post-mortem and recorded extensive electric burns over the body of the deceased.

25. Moving to the core of the prosecution's case, the foundational fact that must be established beyond a reasonable doubt is the homicidal nature of the death. Distinguishing deaths as homicidal, suicidal, accidental, natural, or undetermined is critical for conducting proper investigation. Though the State Medico Legal Expert, P.W.-2, has stated that he does not agree with the assertion of burning by the electric current in absence of certain characteristics which are usually seen in cases of electrocution, yet he has not disputed the fact that there was no smell of kerosene or any other inflammable substance from the body of the deceased. He has also stated that injury numbers 4,5 and 6 could be caused by electric burn. On the other hand, Dr. H.K. Verma, P.W.-3, who conducted the post mortem of the dead body, found that the body was in pugilistic attitude. No smell of kerosene oil was emanating from the body. Also, there was entrance point of electric burn present in the thumb and index finger of the left hand and exit point of electric burn in the thumb and index finger of the right hand which according to *Parikh's Textbook of Medical Jurisprudence, Forensic Medicine and Toxicology*, is a sign of Electrocution only and not burn by any inflammable substance. From both of the opinions mentioned herein above, no ultimate conclusion can be drawn. None of the situation is proved beyond doubt and there exist the scope of suspicion as to the nature of the death. It is a settled legal proposition that where the core question whether the death was homicidal, accidental or suicidal remains shrouded in doubt, the prosecution's case necessarily fails. The conviction of the accused cannot be based on mere presumption of homicide. If the evidence leaves room for the possibility of a suicidal or accidental death, the benefit of the doubt inevitably goes to the accused.

26. As regards the contention of the learned counsel for the State that there was no supply of electricity at the concerned substation on 30.06.1979 from 1:45 a.m. to 12:00 noon, we find no force in the said argument, as the incident occurred in the intervening night of 29/30.06.1979 at unknown time and it is very much possible that the incident might have occurred before 1:45 a.m. of that night.

27. Now the Court proceeds to examine the presence and alleged role of the surviving appellant, Triveni in the present case. The defence has taken a specific plea that he was not present at the house at the time of the incident.

While the prosecution heavily relies on the circumstance of him being in the house to infer his involvement in the crime. As there is no eye witness to the alleged incident, it remains doubtful as to whether the appellant was actually present at his house at the time of the occurrence or not. For the sake of argument, even if we assume that he was present at the house at the time of occurrence, no specific role in committing the alleged crime has been assigned to him by the prosecution witnesses in their evidence. In cases of circumstantial evidence, mere presence or absence based on suspicion cannot form the sole basis of conviction. In fact, basic presumption in our justice system is the innocence of the accused, and until charges are proved beyond a reasonable doubt, conviction of an accused cannot be recorded. Hence, in the present case conviction cannot sustain as the presence of the appellant at the time of occurrence at the scene of crime has not been proved beyond reasonable doubt and no active role has been assigned to him and the chain of the evidence is not consistent only with the hypothesis of the guilt of the accused.

28. Under the circumstances, considering all the evidences available on record including the delay in lodging the FIR, contradictory medical opinion, suspicion regarding the presence of appellant at the place of occurrence at the time of the incident and failure of prosecution to prove the death of deceased as homicidal death, it is held that prosecution has failed to prove its case beyond reasonable doubt. There exist doubt and suspicion that the accused-appellant has caused the death of the deceased. Hence, we are of the opinion that the conclusion taken by the learned trial court in the impugned judgment and order is not in accordance with law and the evidence available on record. This Court is of the view that the prosecution has not been able to establish the guilt of the accused appellant Triveni beyond reasonable doubt. Therefore, the Court is inclined to grant benefit of doubt to the accused appellant on the ground of rule of caution.

29. The criminal appeal is **allowed** and the conviction and sentence imposed upon the accused appellant Triveni is set-aside as the accused appellant is found not guilty for the charges framed against him. He is acquitted of all the charges. He is on bail. His bail bonds are cancelled and sureties are discharged.

30. Records of the learned trial court be sent back.

July 30, 2026
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(Jai Krishna Upadhyay,J.) (Atul Sreedharan,J.)