

# State Of U.P. vs Dheer Singh on 1 May, 2025

**Author: Siddharth**

**Bench: Siddharth**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68785-DB

Court No. - 47

Case :- GOVERNMENT APPEAL No. - 177 of 2025

Appellant :- State of U.P.

Respondent :- Dheer Singh

Counsel for Appellant :- G.A.

Hon'ble Siddharth,J.

Hon'ble Ms. Nand Prabha Shukla,J.

Order on Criminal Misc. (Leave to Appeal) Application No. of 2019

1. Heard Sri Sushil Kumar Pandey, learned AGA-Ist for the State-appellant and perused the material on record.
2. The above noted leave to appeal application has been filed praying for grant of leave to the appellant to prefer appeal against the judgement and order of acquittal dated 22.10.2018 passed by Additional Sessions Judge, District Muzaffar Nagar, in Sessions Trial No.1084 of 2009 (State Vs. Dheer Singh).

3. By the aforesaid judgement and order, the accused-respondent has been acquitted of all charges under Sections 323, 304, 504, 506 IPC, which was registered as Case Crime No.301 of 2009 at Police Station Kakrauli, District Muzaffar Nagar.

4. The prosecution story in brief is that complainant, Lakhmira, gave an information on 29.05.2009 at Police Station Kakrauli stating therein that on 20.05.2009 at about 2:00 p.m. his son, Harendra and son of accused, Dheer Singh, were playing and quarrel took place between them wherein the accused-respondent interfered and abused his son, Harendra and beaten him. He received injuries whereupon complainant's wife Smt. Mesho and one Bhikari s/o Buddhu and others reached there and witnessed the incident. The accused-respondent also threatened complainant of dire consequences. As the complainant had gone for treatment of his son to Delhi, after returning from there, he informed about the incident at police station whereupon an N.C.R. No. 13/2009 was registered under Section 323, 504, 506 IPC. On 05.06.2009 the complainant submitted a written Tehrir that his son Harendra died in Hospital at Chandigarh and his body was taken by him to his house whereupon the aforesaid NCR No. 13/2009 was converted into Case Crime No. 301/2009 and Section 304 IPC was added. After lodging of the FIR the investigating officer started investigation and after completing all formalities and collecting sufficient materials evidences submitted charge-sheet against the accused-respondent in the Court below.

5. Trial court framed charges against the respondent which he denied and sought trial.

6. The prosecution in order to prove its case has examined PW-1, Lkakhmira (complainant); PW-2, Mesho; PW-3, Bhikhari; PW-4, Constable Rajendra Singh; PW-5 Dr. R.P. Singh and PW-6 Dr. Arun Kumar.

7. Learned counsel for the appellant has submitted that trial court has acquitted the accused-respondent holding that the prosecution has failed to prove its case beyond all reasonable doubt and as such the accused-respondent are entitled for acquittal.

8. The appellate Court is usually reluctant to interfere with a judgment acquitting an accused on the principle that the presumption of innocence in favour of the accused is reinforced by such a judgment. The above principle has been consistently followed by the Constitutional Court while deciding appeals against acquittal by way of Article 136 of the Constitution or appeals filed under Section 378 and 386 (a) Cr.P.C. in State of M.P. Vs. Sharad Goswami,(2021) 17 SCC 783; State of Rajasthan Vs. Shera Ram, (2012) 1 SCC 602, Shivaji Sahabrao Bobade Vs. State of Maharastra, (1973) 2 SCC 793.

9. The Supreme Court in the case of Ramesh Babulal Doshi Vs. State of Gujarat, (1996) 9 SCC 225 has observed that the High Court must examine the reasons given by the trial Court for recording their acquittal before disturbing the same by re-appraising the evidence recorded by the trial court. For clarity, para 7 is extracted herein below:

"Before proceeding further it will be pertinent to mention that the entire approach of the High Court in dealing with the appeal was patently wrong for it did not at all

address itself to the question as to whether the reasons which weighed with the trial Court for recording the order of acquittal were proper or not. Instead thereof the High Court made an independent reappraisal of the entire evidence to arrive at the above quoted conclusions. This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate Court answers the above question in the negative the order of acquittal is not to be disturbed. Conversely, if the appellate Court holds, for reasons to be recorded, that the order of acquittal cannot at all be sustained in view of any of the above infirmities it can then - and then only - reappraise the evidence to arrive at its own conclusions. In keeping with the above principles we have therefore to first ascertain whether the findings of the trial Court are sustainable or not."

10. The Supreme Court in the case of *Sadhu Saran Singh Vs. State of U.P.*, (2016) 4 SCC 357 has observed that an appeal against acquittal has always been on an altogether different pedestal from an appeal against conviction. In an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the appellate court would interfere with the order of acquittal only when there is perversity.

11. The Supreme Court in the case *Basheera Begam Vs. Mohd. Ibrahim*, (2020) 11 SCC 174 has held that the burden of proving an accused guilty beyond all reasonable doubt lies on the prosecution. If, upon analysis of evidence, two views are possible, one which points to the guilt of the accused and the other which is inconsistent with the guilt of the accused, the latter must be preferred. Reversal of a judgment and order of conviction and acquittal of the accused should not ordinarily be interfered with unless such reversal/acquittal is vitiated by perversity. In other words, the court might reverse an order of acquittal if the court finds that no person properly instructed in law could have, upon analysis of the evidence on record, found the accused to be "not guilty". When circumstantial evidence points to the guilt of the accused, it is necessary to prove a motive for the crime. However, motive need not be proved where there is direct evidence. In this case, there is no direct evidence of the crime.

12. The Supreme Court in the case of *Kali Ram Vs. State of H.P.*, (1973) 2 SCC 808 has observed as under:

"25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special

relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence."

13. The Supreme Court again examined in *State of Odisha v. Banabihari Mohapatra & Ors*, (2021) 15 SCC 268 the effect of the probability of two views in cases of appeal against acquittal and held that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused, and the other to his innocence, the view which is favourable to the accused should be adopted.

14. The Supreme Court in *Sujit Biswas v. State of Assam*, (2013) 12 SCC 406 has reiterated the position that suspicion, however strong, cannot replace proof. An accused is presumed to be innocent unless proven guilty beyond a reasonable doubt.

15. In the background of the law discussed herein above, we will examine the trial court's findings and evidence adduced during the trial by the witnesses to test the legality and validity of the impugned order.

16. We have heard learned counsel for the appellant and perused the material on record. We find that in the statement of PW-2, it has come that respondent had beaten the deceased repeatedly by throwing him on ground and also by legs and fists. PW-3 stated that respondent caught hold of the neck of the deceased and threw him after picking him up on the ground 2-3 times as result of which he suffered grievous head injuries but no such injury was found on the body or head of the deceased. No injury at all was found on the body of the deceased. PW-1 has denied his presence on the place of incident when he was present there. Hence lodging of report by PW-1 on the allegations made therein is doubtful. Prosecution failed to prove its case beyond reasonable doubts before the trial court.

17. After considering the evidence on record, this Court does not find any perversity in the findings recorded by the trial court. The trial court's judgement is a well merited one, this Court need not re-appreciate the evidence.

18. This leave to appeal application is rejected.

Order on Government Appeal Since leave to appeal application is rejected, therefore, the above noted government appeal is, hereby, dismissed.

Let the record of the trial court be returned and this judgement to be notified to the trial court, within two weeks.

Order Date :- 1.5.2025 Ruchi Agrahari (Ms. Nand Prabha Shukla,J.) (Siddharth, J.)