

Arun vs State Of Madhya Pradesh on 27 March, 2025

Author: Sanjay Kumar

Bench: Sanjay Kumar

2025 INSC 406

Non-reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.OF 2025
(@ S.L.P.(CrI.) No. 5493 of 2024)

Arun

... Appellant

Versus

State of Madhya Pradesh

...Respondent

with
CRIMINAL APPEAL No. OF 2025
(@ SLP(CrI.) No. 6060/2024)
&
CRIMINAL APPEAL NO.OF 2025
(@ SLP(CrI.) No. 8627/2024)
&
CRIMINAL APPEAL NO.OF 2025
(@ SLP(CrI.) No. 8628/2024)

JUDGMENT

SANJAY KUMAR, J

1. Leave granted.

2. Mohan Singh was killed on 06.11.2009 during the evening hours. F.I.R. No. 458 of 2009 was thereupon registered by his father, Devisingh, on the file of P.S. Kishanpura Ganj, District Indore. The time of registration of the F.I.R. was mentioned therein as 08:30 pm on 06.11.2009 while the time of occurrence of the offence was shown as 06:30 pm on that day. Five men, viz., Arun, Radheshyam, Narendra, Abhay Singh and Ramlal (the last was the only one named as an accused in the F.I.R.) stood trial for the murder of Mohan Singh and other offences. By judgment dated 27.06.2013 in Sessions Trial No. 213 of 2010, the learned II Additional Sessions Judge, Mhow, District Indore, held them guilty on all counts. They were sentenced to rigorous imprisonment for life for the murder of Mohan Singh under Section 302 IPC read with Section 34 IPC. They were visited with lesser sentences for the other offences along with fines, coupled with default imprisonment.

3. Assailing the judgment of the Trial Court, all five of them jointly filed Criminal Appeal No.932 of 2013 before the High Court of Madhya Pradesh at Indore. By judgment dated 25.01.2024, a Division Bench of the High Court allowed the said appeal insofar as it pertained to Abhay Singh and acquitted him of all charges but dismissed the appeal apropos the remaining four appellants and confirmed their convictions and sentences. Aggrieved thereby, Arun, Radheshyam, Narendra and Ramlal are before us by way of these appeals by special leave.

4. The prosecution's case was that, at about 05.00 pm on that fateful day, Vijay Dongre came to visit his friend, Mohan Singh, at his village, Bhatkhadi. After some time, Vijay Dongre requested Mohan Singh to drop him at Chowpatty on his motorcycle. Abhay, son of Gopal, the brother of Mohan Singh, also accompanied them to get a haircut. All three of them accordingly proceeded on the motorcycle to Chowpatty. After dropping Vijay Dongre there and after Abhay got his haircut at a saloon near Chowpatty, Mohan Singh and Abhay started back on the motorcycle. The fatal attack on Mohan Singh is stated to have taken place at that time.

5. The homicidal death of Mohan Singh stands confirmed by the post-mortem report (Ex. P-3) and the evidence of Dr. L.S. Verma (PW-2), who was one of the doctors who conducted the post-mortem. He confirmed that Mohan Singh had sustained 5 wounds and that the cause of his death was shock and internal and external hemorrhage due to a gunshot wound and other injuries to vital organs. During his cross-examination, however, Dr. L.S. Verma (PW-2) conceded to the effect that Wound No.1 was not a gunshot wound but was caused by a stabbing weapon.

6. Devisingh, father of Mohan Singh, had lodged the F.I.R. shortly after his death. Therein, he stated that, at around 06.30pm, Abhay said to him that 3-4 persons were beating his 'elder father', Mohan Singh, and that blood was oozing out from his abdomen. Devisingh said that he went running there and, in the meanwhile, his daughter-in-law also reached there. He found the vehicle of Mohan Singh parked along the road and he saw two persons absconding - one was Ramlal, son of Devaji, and the other was dressed in a suit and was wearing shoes. They were running towards Manpur. Devisingh said that Mohan Singh was shot and his head was crushed with stones and he had been murdered by firing a bullet into his abdomen. This was the initial information given by Devisingh.

7. As many as twenty-five witnesses were examined by the prosecution to prove its case. However, the oral evidence that was adduced before the Trial Court by Devisingh and his family members was, in our opinion, clearly embellished and augmented so as to implicate and indict the five men who stood accused of the murder of Mohan Singh.

8. Devisingh deposed as PW-1. He stated that after Mohan Singh left to Chowpatty with his nephew, Abhay, and Vijay Dongre, the five accused passed by their field at about 05.30 pm, heading towards Chowpatty. He, along with Madhubala, his daughter-in-law, and his son, Mehar Singh, saw them. He stated that Madhubala entertained a doubt as these persons had enmity with them due to a land dispute and she, along with his other son, Gopal, went towards Chowpatty. He claimed that he also went behind them. He further stated that about 10 feet away from the place of the incident, Abhay met them and told them that 4-5 persons were beating his 'elder father' and his abdomen was bleeding. They also reached the place of the incident and saw that there were people beating the

deceased. Upon seeing him, Ramlal and Abhay Singh ran away towards Chowpatty while Arun and others ran towards their fields nearby. Devisingh claimed that he saw them hitting with stones. He said that his son was lying dead in a 10 feet deep pit and his head was crushed by stones.

9. In his cross-examination, Devisingh said that it would take 5 to 7 minutes from his field to reach the spot where his son's body was found. He stated that his son had left for Chowpatty between 05.00 – 05.30 pm. He said that Madhubala, Gopal and Mehar Singh did not leave 2-3 minutes after Mohan Singh left and added that he himself left at 06.00 pm for Chowpatty and Gopal, Mehar Singh and Madhubala were with him. They reached the place of the incident within 5-7 minutes. Devisingh's version before the Trial Court was, therefore, entirely different from what he had originally stated and was recorded in the F.I.R.

10. Madhubala, the wife of Mohan Singh, deposed as PW-4. She said that the incident took place at 06.00 - 06.30 pm on 06.11.2009. According to her, Mohan Singh, along with Vijay Dongre and Abhay, left for Chowpatty at 05.30 pm on a motorcycle. She claimed that after their departure, all the accused went towards Chowpatty and she felt suspicious about them, as they had enmity with her husband. She told her father-in-law, Devisingh, and brother-in-law, Gopal, and they all started towards Chowpatty. When they were nearing Chowpatty, Abhay, who was standing on the road, came running and told her that his uncle was being beaten by some people of the village. She ran and crossed the road. At that time, she heard the sound of a gunshot. When she reached near, Ramlal of their village was throwing stones at her husband's back while Arun had a pistol in his hand and he was also throwing stones. Radheshyam was picking up stones and hitting her husband on his back and Narendra Singh was also doing so. When her brother-in-law and father-in-law came near, the accused ran away.

11. Mehar Singh, brother of Mohan Singh, deposed as PW-6. He spoke on the same lines as his sister-in-law, Madhubala. Significantly, Devisingh did not say he heard a gunshot but Madhubala and Mehar Singh said so. Gopal, the other brother and father of Abhay, the child witness, deposed as PW-8. He also did not hear a gunshot but stated that he saw the accused, Arun, holding a revolver in his hand. He further stated that he saw the other four accused throwing stones at Mohan Singh and that the accused ran away when they shouted.

12. Abhay (PW-11) was a crucial witness as he was the one who is stated to have accompanied Mohan Singh and would have been with him at the time of the attack. He was about 07 years of age when he deposed before the Trial Court on 24.02.2011. He would have, therefore, been about 06 years old on 06.11.2009. He also gave graphic details of the accused attacking Mohan Singh. According to him, the accused hit their motorcycle but even after the collusion they were still sitting on it. Arun, one of the accused, then shot his uncle in the stomach while the other four accused threw stones on his face. He started running from there and found his mother nearby. He also claimed that he informed the police about these details.

13. In his cross-examination, Abhay unwittingly spoke of the events at Chowpatty. He stated that Mohan Singh took him along with his friend to a friend's hotel at Chowpatty where they had tea. According to him, they stayed there for half an hour and it was only thereafter, they started to the

Housing from Chowpatty to get him a haircut. He said that it took about half an hour to get his haircut. Abhay further stated that the police had interrogated him only once and his statement was recorded.

14. Notably, D.S. Parmar, the Investigating Officer, who deposed as PW-20, admitted that Abhay's statement under Section 161 Cr.P.C. was recorded only on 23.11.2009, that is, 17 days after the incident. Similarly, the statement of Madhubala (PW-4) was also recorded after 17 days and the statement of Gopal (PW-8) was recorded after 7 days. This delay on the part of the Investigating Officer in recording the statements of these so-called crucial witnesses is unfathomable, given their availability and the versions given by them. It casts a cloud on the very veracity of their testimonies. Further, the discrepancies in the timelines brought out by them demonstrates in no uncertain terms that the narratives of these witnesses are not free from suspicion and doubt.

15. According to Devisingh, they left at 06.00 pm and it only took about 5 to 7 minutes from their field to reach the spot where the deceased was found. According to all these witnesses, Mohan Singh, along with Vijay Dongre and Abhay, left for Chowpatty at 05.30 pm. Abhay, the child witness, said that they spent half an hour having tea and another half an hour at the barber's shop. Therefore, they could not have started back to the village before 06.30pm. However, the incident is stated to have occurred at that time or even earlier, going by their timelines. To compound matters further, Vijay Dongre, the friend of Mohan Singh, who deposed as PW-5, stated that he had gone to meet Mohan Singh at 05:30-05:45 pm in the evening on 06.11.2009 and stayed with him at his farm for about 15-20 minutes. He stated that he, along with Mohan Singh and Abhay, left the farm thereafter to go to Chowpatty. According to him, the distance from the farm to Chowpatty is about 2 ½ kms but it would be 3 kms by the road leading to the Housing Square. He stated that, after leaving him at Chowpatty, Mohan Singh told him that he would go to the Housing Square for Abhay's haircut. He said that when Mohan Singh left him at Chowpatty, it was about 06:15- 06:30 pm. Juxtaposing the versions of Vijay Dongre (PW-5) and Abhay (PW-11), it is clear that Mohan Singh and Abhay could not have been at the spot where the attack took place by 06:30 pm. Abhay had stated that the haircut took half an hour and, at the very least, it would have been 06:45 pm by the time the haircut was completed. The timelines, therefore, do not match.

16. As the maxim 'Falsus in uno, falsus in omnibus' (false in one thing, false in everything) is not part of Indian law and jurisprudence and is, at best, a rule of caution, the entire evidence of these witnesses need not be discarded because some of their statements are proved to be factually incorrect. However, their depositions would have to be viewed with care and caution before they are accepted and acted upon. In this regard, we may note that the enmity between the family of the deceased and some of the accused was admitted by the family members themselves. Their depositions before the Trial Court, naming all the accused and attributing specific overt acts to each of them, would have to be examined very carefully, given the variance in the initial version in the F.I.R. In fact, this inconsistency dented the prosecution's case in entirety even against Ramlal.

17. All that Devisingh had reported at the time of registration of the F.I.R. was that he saw Ramlal, one of the five accused, and a man wearing a suit and shoes, who remained unknown, running away from the spot. He did not name any of the other accused but his deposition before the Trial Court

was very much to the contrary, as he not only named them but also attributed specific overt acts to them. Similarly, the other family members, whose very presence at the spot becomes rather doubtful, furnished full-fledged details of how the accused attacked Mohan Singh. In this regard, the evidence of D.S. Parmar, the Investigating Officer (PW-20), assumes great significance. He categorically asserted that none of these witnesses had stated the versions that they put forth before the Trial Court in their Section 161 Cr.P.C. statements. He affirmed that Devisingh, in his statement (Ex. D-

1), had stated as was recorded in the F.I.R. and did not mention anything about Madhubala, his daughter-in-law, becoming suspicious and about he, along with his other family members, going towards Chowpatty.

18. The only other incriminating circumstance relied upon by the prosecution was the recovery of a 12-bore country made pistol from Arun, one of the appellants. However, surprisingly, no bullet was recovered from the body of Mohan Singh, the deceased, though there is no evidence of any exit wound. Further, Dr. L.S. Verma (PW-2) candidly admitted to the effect that what was initially stated by him to be a gunshot wound was actually caused by a stabbing weapon. In consequence, the cause of Mohan Singh's death being a 'gunshot wound' is itself open to question and, therefore, the so-called recovery of the pistol from Arun does not help the prosecution.

19. As matters stand, the entire case of the prosecution hinges only upon the oral evidence of the family members of Mohan Singh, the deceased. However, as already noted hereinbefore, their evidence is found to be completely untrustworthy and specious. Conviction of the appellants cannot rest solely on such doubtful testimonies. The Trial Court and the High Court erred in the appreciation of this dubious oral evidence and in drawing the proper inferences therefrom. The appellants would invariably have to be given the benefit of doubt in such circumstances, as the prosecution failed to prove the charges levelled against them beyond reasonable doubt.

20. On the above analysis, the appeals are allowed, setting aside the judgment dated 25.01.2024 passed by the High Court of Madhya Pradesh at Indore in Criminal Appeal No. 932 of 2013 as well as the judgment dated 27.06.2013 passed by the learned II Additional Sessions Judge, Mhow, District Indore, in Sessions Trial No. 213 of 2010. All the appellants shall stand acquitted of the charged offences.

By order dated 12.02.2025, we had suspended the sentences of Arun, Narendra and Radheshyam and directed their release on terms and conditions to be fixed by the Trial Court. Therefore, as on date, only Ramlal remains in custody. Ramlal shall also be set at liberty forthwith, unless his continued incarceration is lawfully required in connection with any other case. Bail Bonds and sureties furnished by the other appellants shall stand discharged. Fine amounts paid by the appellants, if any, shall be refunded to them.

....., CJI.

Sanjiv Khanna, J.

Sanjay Kumar, J.

K.V. Viswanathan March 27, 2025 New Delhi.