MAJESTY LEGAL
Advocates & Solicitors

## ASSISTANCE OF ADVOCATE IN DRAFTING FIR DOES NOT AFFECT ITS CREDIBILITY

### *"JAGDAMBA HARIJAN V. STATE OF UTTAR PRADESH"*

Hon'ble Allahabad High Court in case of ***Jagdamba Harijan v. State of Uttar Pradesh***[1], ruled that an FIR does not lose its credibility merely because it is drafted with the assistance of an advocate. The appeal arose from the judgment of the Additional Sessions Judge whereby the appellant had been convicted under Sections 304, 326-A and 452 of the Indian Penal Code for an acid attack that led to the deaths of two women, and was sentenced to life imprisonment. The defence contended that the First Information Report (FIR) was lodged with delay, as the incident occurred on the night of May 7/8 while the FIR was registered on May 9. It was further argued that since the FIR had been prepared with the help of a private advocate, its authenticity was doubtful. On the other hand, the State submitted that the case involved a brutal double murder in which two women lost their lives due to a horrifying acid attack. The prosecution asserted that the guilt of the appellant stood firmly established through consistent eyewitness testimonies and supporting medical evidence.

Rejecting the contention of the defence, Hon'ble High Court observed that the informant was an illiterate villager who had just witnessed a tragic incident where two close family members suffered severe acid burns. In such a situation, it was natural for him to seek assistance from a literate person, even if that person was an advocate. Hon'ble Court further observed that when legal aid is permissible at every stage of criminal proceedings, including the stage of lodging an FIR, there can be no restriction on seeking assistance from a private advocate.

Accordingly, Hon'ble High Court held that prosecution had successfully proved the charges under Sections 304, 326-A and 452 of IPC beyond reasonable doubt and upheld the conviction.

***TEAM MAJESTY LEGAL***[2]

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[1] Neutral Citation: 2026:AHC-LKO:11040-DB

[2] Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.

2026:AHC-LKO:11040-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD**
**LUCKNOW**

**CRIMINAL APPEAL No. - 1841 of 2018**

**Jagdamba Harijan** …..Appellant(s)

Versus

**State of U.P.** …..Respondent(s)

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**Counsel for Appellant(s)** : Rajendra Prasad Mishra,
**Counsel for Respondent(s)** : Govt. Advocate,

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***Reserved on 12.11.2025***

***Delivered on 12.02.2026***

**Court No. - 9**

**HON'BLE RAJESH SINGH CHAUHAN, J.**
**HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

**(Per: Hon'ble Abdhesh Kumar Chaudhary, J.)**

**1.** Heard Shri R.P. Mishra, learned Counsel appearing for the appellant as well as Shri S.P. Singh, learned A.G.A. for the State and perused the materials available on record.

**2.** The present Criminal Appeal under Section 374(2) has been preferred by the appellant- **Jagdamba Harijan,** against the impugned Judgment and order dated 30.08.2018, passed by the Additional Sessions Judge-II, Court No.2, Pratapgarh, in Sessions Trial No. 08 of 2015 (*State vs. Jagdamba Harijan*), arising out of Case Crime No. 147 of 2014, relating to Police Station Aaspur Devsara, District Pratapgarh, whereby the appellant has been convicted under Sections 304, 326-A & 452 I.P.C. and sentenced under Sections 304 & 326-A I.P.C. for life imprisonment with fine of Rs.10,000/- and under Section 452 I.P.C. for rigorous imprisonment of 02 years with fine of Rs. 5000/- and to further undergo

six months' additional imprisonment in case of default in payment of fine. However, the learned Trial Court has acquitted the appellant for the offence under Section 323 I.P.C.

**CASE OF THE PROSECUTION**

**3.** The factual matrix leading up to the filing of the present Criminal Appeal is delineated herein-below:-

**3.1)** In the present case, with respect to an incident occurred in the intervening night of 07/08.05.2014 at about 2:00 AM, a written '*tehrir'* (**Exhibit-Ka-1**) was filed at Police Station Aaspur Devsara, District Pratapgarh, by the informant/complainant Dinesh Verma, who is the son/ brother-in-law of the deceased. In the said *tehrir*, it was alleged that while the informant was sleeping in a thatched shed (*chappar*) in front of his house, he heard screams raised by his mother, (Phoolan Devi) and sister-in-law (Suman Devi). Upon rushing inside the house, he noticed that acid had been thrown on the faces and bodies of his mother and sister-in-law.

**3.2**) It was further stated by Dinesh Verma (P.W.-1) that in the light of torch, he saw the present appellant- Jagdamba Harijan, at the place of occurrence, holding a stick in his hand. Another person was also present beside him, whose identity could not be ascertained as his face was covered with a cloth. P.W.-1 further stated that he recognised the appellant, as he had earlier visited informant's house on a couple of occasions and used to frequently visit the house of his sister-in-law, even prior to her marriage, a fact which came to the knowledge of the family only after the marriage. It was also alleged that the appellant had previously extended threats to kill the informant's brother *i.e.* husband of Suman Devi. The informant further stated that when he attempted to chase the assailants on the said date of incident from the crime spot, they assaulted him with a stick and thereafter, fled from the spot on a motorcycle. It was also alleged that the father-in-law of the informant's brother had been subjected to regular harassment by a neighbour belonging to the 'Pasi' caste.

**3.3)** On the basis of aforesaid written information/*tehrir* (**Exhibit-ka-1**), a F.I.R./Case Crime No. 147 of 2014, under Sections 323, 326-A and 452 I.P.C. was registered on 09.05.2014 at 11:00 am, against the present appellant at Police Station Aaspur Devsara, District Pratapgarh and the investigation commenced.

**3.4)** The Appellant was arrested by the Police on 13.05.2014 and during investigation Suman Devi succumbed to burn injuries on 22.05.2014 and Phoolan Devi on 29.05.2014. Thus, after completion of the investigation, the Investigating Officer submitted the charge-sheet against the appellant under Sections 304, 323, 326-A and 452 I.P.C. The learned Trial Court framed charges under the aforesaid Sections, to which the appellant pleaded not guilty and claimed for Trial.

**4. <u>PROCEEDINGS BEFORE THE TRIAL COURT</u>**

**4.1)** During trial, in order to prove the charges against the appellant, the prosecution examined the following witnesses:-

| | | |
|---|---|---|
| P.W.-1 | Dinesh Kumar Verma | Complainant (Son/brother-in-law of the deceased) |
| P.W.-2 | Mahesh Verma | Son of the deceased Phoolan Devi and brother-in-law of the deceased Suman Devi |
| P.W.-3 | Ram Samujh Verma | Father of the deceased Suman |
| P.W.-4 | Dr. Chandra Prakash Srivastava | Doctor, who conducted the postmortem of deceased-Suman Devi |
| P.W.-5 | Deen Dayal Singh | Investigating Officer |
| P.W.-6 | Ram Kripal Tripathi | Author of the Chik F.I.R. |
| P.W.-7 | Dr. Awadhendra Pratap Singh | Doctor, who conducted the postmortem of deceased-Phoolan Devi |
| P.W.-8 | Santosh Kumar Singh | Sub-Inspector |

**4.2)** Apart from the aforesaid oral evidence, the prosecution has also relied on the following documentary evidence, to substantiate its case:-

| | | |
|---|---|---|
| *(i)* | Written *Tehrir* | *Exhibit-ka-1* |
| *(ii)* | Inquest Report of deceased Suman | *Exhibit-ka-2* |
| *(iii)* | Postmortem report of deceased Suman | *Exhibit-ka-3* |
| *(iv)* | Site Map | *Exhibit-ka-4* |
| *(v)* | *Fard*/Recovery Memo of injured/deceased Suman | *Exhibit-ka-5* |
| *(vi)* | Charge-sheet | *Exhibit-ka-6* |
| *(vii)* | Chik F.I.R. | *Exhibit-ka-7* |
| *(viii)* | General Diary | *Exhibit-ka-8* |
| *(ix)* | Signature of Doctor, who has conducted the postmortem on the deceased Phoolan Devi | *Exhibit-ka-10* |
| *(x)* | Inquest Report of deceased Phoolan Devi | *Exhibit-ka-11* |
| *(xi)* | Copy of G.D. entry & G.D. *Ravangi* | *Exhibit-ka-12* |
| *(xii)* | *Chitthi C.M.O.* | *Exhibit-ka-13* |
| *(xiii)* | Police Information Sheet | *Exhibit-ka-14* |
| *(xiv)* | *Chitthi* R.I. | *Exhibit-ka-15* |
| *(xv)* | Police Papers | *Exhibit-ka-16* |
| *(xvi)* | Photo *lash* | *Exhibit-ka-17* |
| *(xvii)* | Sample Seal | *Exhibit-ka-18* |

**4.3)** Prosecution in order to prove its case before the Trial Court has produced eight witnesses, wherein **P.W.-1/Dinesh Verma**, being the informant and an ocular natural witness of the incident, deposed that in the intervening night of 07.05.2014 at about 2:00 AM, while he was sleeping in front of his house, he heard the cries of his mother and sister-in-law (Suman Devi). Upon rushing inside with a torch, he witnessed the appellant Jagdamba Harijan pouring a liquid substance on them, while both victims were lying on the same cot. He categorically identified the appellant in torchlight, stating that the appellant was previously known to him and had visited the house earlier. Further, when he attempted to apprehend the appellant, the appellant assaulted him with a stick and fled

away, accompanied by another unidentified person whose face was covered. His father also attempted to catch hold the appellant but failed. P.W.-1 narrated the prior conduct and motive, stating that the appellant had been persistently harassing his sister-in-law and had threatened his brother regarding her marriage. He proved the written complaint, affirmed his thumb impression thereon, and deposed about the medical treatment of both victims, their referral to S.R.N. Hospital, Allahabad, and their eventual deaths during treatment. He also stated that he later came to know that the liquid poured was acid. His deposition bears testimony of the presence, identification, manner of assault, motive, and immediate conduct of the Appellant during and after the incident.

**4.4) P.W.-2/Mahesh Verma**, brother of informant and eyewitness, corroborated the testimony of P.W.-1 on all material particulars. He stated that he woke up on hearing screams and saw Jagdamba Harijan, along with two unknown associates inside the house. He specifically identified the appellant in the Court and stated that the appellant was armed with a stick and a bottle. P.W.-2 also deposed about the prior presence and persistent interference of the appellant, before the marriage of deceased- Suman Devi, despite resistance from the family. He confirmed that both victims sustained severe burn injuries due to acid attack and later succumbed to death, during treatment at S.R.N. Hospital. He further proved the recovery of articles from the spot, his participation in the *panchayatnama* proceedings, and authenticated his signatures thereon. His evidence lends strong corroboration to the ocular version of P.W.-1 and supports the prosecution case regarding identity, manner of assault, and recovery.

**4.5) P.W.-3/Ram Samujh Verma**, who is the father of deceased-Suman Devi. He deposed regarding the death of his daughter due to acid burns, her treatment at S.R.N. Hospital, and the *panchayatnama* proceedings conducted in his presence. He proved his signatures on the *panchayatnama* and affirmed that the body was sealed and sent for post-mortem. Though not an eyewitness, P.W.-3’s testimony established

the identity of the deceased, cause of death, and compliance with procedural formalities, thereby strengthening the prosecution case.

**4.6) P.W.-4/Dr. Chandra Prakash Srivastava,** the medical expert/doctor, who conducted the post-mortem examination of deceased Suman Devi. He detailed the extensive deep burn injuries over the face, neck, chest, arms, eyes, and internal organs. He opined that death occurred due to *'septicemia'* resulting from deep burns. His testimony was scientific, unshaken, and fully supported the prosecution case that the injuries were ante-mortem, grievous, and sufficient to cause death in the ordinary course of nature.

**4.7) P.W.-5/Sub-Inspector, Deen Dayal Singh,** Investigating Officer of the case, has detailed the entire investigation chronology, including registration of F.I.R., Site inspection, recovery of articles, preparation of Site plan, recording of statements, *panchayatnama* proceedings and filing of charge-sheet. Significantly, he proved the Forensic Science Laboratory report, which conclusively detected *Sulphuric Acid* on the recovered clothes, carpet, blanket, and container. His evidence established a complete chain of investigation and provided a strong corroborative support to the ocular and medical evidence.

**4.8) P.W.-6/Head Constable *(Moharrir)*, Ram Kripal Tripathi,** proved the prompt registration of F.I.R. No. 67/14, based on the written complaint of P.W.-1. He confirmed the correctness of the F.I.R., G.D. entry, and dispatch of documents. His testimony ruled out the ante-timing or fabrication of F.I.R.

**4.9) P.W.-7/Dr. Awdhendra Pratap Singh** is an expert witness/Doctor, who conducted the post-mortem of deceased Phoolan Devi and found extensive superficial and deep burns, particularly over the chest, face, arms, and lungs. He opined that death occurred due to septic shock caused by post-burn infection. His medical opinion fully corroborated the prosecution version and established the fatal nature of the acid attack.

**4.10) P.W.-8/S.I.-Santosh Kumar Singh**, the *panchayatnama* witness proved the *panchayatnama* proceedings, sealing of the body, preparation of police forms, and compliance with statutory formalities. His testimony is formal but essential to establish procedural regularity. Conclusively, the ocular testimonies of P.W.-1 and P.W.-2 are natural, cogent, and trustworthy, duly corroborated by medical evidence, forensic confirmation of *Sulphuric Acid*, prompt F.I.R., and a consistent investigation. No material contradiction or embellishment has emerged to discredit the prosecution witnesses.

**5.** After conclusion of the evidence of the prosecution, the statement of the appellant/accused was recorded under Section 313 Cr.P.C., wherein he denied all the evidence produced by the prosecution and claimed that he has been falsely implicated, however, no evidence in defence was produced by the appellant.

**6.** The Trial Court after appreciating the evidence available on record convicted and sentenced the appellant, in the manner shown in paragraph number 2, of this judgment and has acquitted the appellant for the offence committing under Section 323 I.P.C.

**7.** Aggrieved by the aforesaid conviction and awarding of sentence, the appellant has preferred the instant Criminal Appeal under section 374(2) of the Criminal Procedure Code, 1973, against the impugned judgment and order dated 30.08.2018 passed by the learned Trial Court in the Sessions Trial No. 08 of 2015 (*State vs. Jagdamba Harijan*), arising out of Case Crime No. 147 of 2014 relating to Police Station Aaspur Devasara, District Pratapgarh.

## 8. SUBMISSION ON BEHALF OF THE PARTIES

**8.1)** Shri R.P. Mishra, learned Counsel appearing for the appellant, while drawing the attention of this Court towards the impugned judgment passed by the Trial Court, vehemently submits that the trial Court has committed manifest illegality in appreciating the evidence

available on record and only on the basis of surmises and conjectures the appellant has been convicted by the trial Court.

**8.2)** It has been submitted by the learned Counsel for the appellant that besides the fact that the F.I.R. is delayed, the entire case of the prosecution is premised on the version of P.W.-1 and P.W.-2, who have been stated to be ocular witnesses of the alleged incident. According to him, although the prosecution claimed P.W.-1 to be an ocular witness, however, it is veritable from his testimony that neither the said witness has seen the incident of throwing the acid on the deceased persons nor he was present at the time of incident. Further, it has been argued that since the said P.W.-1 was sleeping and surrounded by *Tattar*, there was no occasion for him to even see the said incident. He has challenged the version of the F.I.R. by submitting that the said F.I.R. was written by an advocate, who happens to be also a private advocate in the present case. Thus, he has disputed the veracity of the version of the F.I.R.

**8.3)** Taking the said issue further, the learned Counsel has also disputed the identity of the appellant in as much as it has been submitted that although P.W.-1 as being the ocular witness has stated in his cross-examination that he does not know the father of the appellant, however, the name of his father founds mentioned in the F.I.R. lodged by him. He has further submitted that P.W.-1 has stated in his cross-examination that appellant is resident of village Bhatti and he has never gone to his house, however in the F.I.R. address of the Appellant is mentioned as village Dhadhar, P.S. - Aaspur. Thus, he has submitted that even the identity of the applicant could not be ascertained with certainty and as such his presence at the crime spot was doubtful.

**8.4)** The learned Counsel has also sought to submit that the statement of P.W.-1 is in contradiction to the statement of P.W.-2 in as much as P.W.-1 has stated that he has seen the appellant in electric light. However, P.W.-2 in his statement has stated that the light has gone at 2 P.M. and the occurrence has happened after 5 to 10 minutes. Thus, according to the version of P.W.-2 it was dark and as such the identity of Appellant could not be established. He submits that even P.W.-2 can’t be

stated to be an ocular witness for the simple reason that he came to know about the occurrence only after 10 minutes, after the incident and both P.W.-1 and P.W.-2 would not had seen the appellant in the darkness of night. Thus, the main thrust of submission of the learned Counsel is that the entire case of the prosecution falls flat, as neither the P.W.-1 nor the P.W.-2 could be stated to be an eye witnesses and their testimony are not worthy to have the consequential effect of convicting the Appellant.

**8.5)** Moreover, according to the learned counsel, both the deceased have died due to *septicaemia* which might have been due to the result of insufficient medical treatment and thus, it has been submitted that the Appellant cannot be directly related to the alleged incident, as it is available from the records that incident is of the intervening night of 7/8th of May 2014, whereas deceased Suman Devi died on 22nd of May 2014 and deceased Phoolan Devi died on 29th of May 2014. Thus, he has vehemently argued that the acid attack is not proximate to the death of the deceased persons and as such conviction under Section 304 I.P.C. cannot be upheld in that regard.

**8.6)** The learned Counsel has also heavily relied on the testimony of the Investigating Officer to argue that he had not found any eye witness of the alleged occurrence of the incident and none of the witnesses have told him anything about the source of light. It has been argued that the entire prosecution case is based on the single testimony of P.W.-1, whose presence on the spot is highly doubtful as per F.I.R. as well as per the statement of the witnesses. Thus, he has submitted that the prosecution has failed to prove the case beyond reasonable doubt against the appellant and as such he has submitted that the Appellant is entitled to be exonerated both under Section 304 I.P.C. as well as Section 326A I.P.C. An alternative argument has been addressed by the Counsel for the applicant, praying for leniency in the present matter, in as much as it has been submitted that the appellant is in Jail for close to 14 years (*i.e.* 13 years, 9 months and 24 days, as on 11.11.2025) and as such he has been sufficiently been punished in the present case. He has submitted that the Appellant has a wife and son to support and in case the concept of

punishment in our country is titled towards reformative rather than retributive. The learned Counsel in that regard has also relied on the judgment of *Maniben v. State of Gujarat,* reported in *(2009) 8 SCC 796*; *Bengai Mandal v. State of Bihar,* reported in *(2010) 2 SCC 91*.

**8.7)** *Per contra*, Shri S.P. Singh, learned A.G.A. for the State has submitted that this is a case of double murder, wherein the life has been cut short of both the deceased person by the aghast act of the Appellant. He has vehemently submitted that both the deceased had been a victim of an acid attack by the appellant.

**8.8)** According to the learned A.G.A., the prosecution had been successful in proving the guilt of the appellant from the testimony of the various witnesses and the exhibits brought on records and as such the impugned judgment of the trial Court does not requires any interference. As far as the inconsistencies pointed out by the learned Counsel for the Appellant, it has been stated by the learned A.G.A. that these inconsistencies are not in any manner material, nor does it adversely affect the case of the prosecution. The learned A.G.A. has submitted that this is a case based on eye witness account, whose testimony has remained intact, even after his extensive cross-examination. He further submits that keeping in view the heinous crime committed by the Appellant, the present Appeal may be dismissed and no leniency be granted to the Appellant.

**DISCUSSION AND FINDINGS:**

**9.** This Court has heard the learned Counsel for the parties at length, perused the records and has given its anxious thoughts to the rival submissions.

**10.** Acid attacks in India predominantly target women and young girls, with perpetrators almost always men, making it a form of gender-based violence. The Hon'ble Supreme Court has time and again has taken the offence of acid attacks, which are on increase, very seriously. The Court even went to the extent of regulating the sale of the acid with stringent action, so that the same is not easily available to the people with perverse mind. In this regard, paragraph 13 of ***Parivartan***

***Kendra vs Union of India and Others,*** reported in ***(2016) 3 SCC 571****;* makes for an interesting read and the same is being extracted below:

> ***"13.*** *We have come across many instances of acid attacks across the country. These attacks have been rampant for the simple reason that there has been no proper implementation of the regulations or control for the supply and distribution of acid. There have been many cases where the victims of acid attack are made to sit at home owing to their difficulty to work. These instances unveil that the State has failed to check the distribution of acid falling into the wrong hands even after giving many directions by this Court in this regard. Henceforth, stringent action be taken against those erring persons supplying acid without proper authorisation and also the authorities concerned be made responsible for failure to keep a check on the distribution of the acid.****"***

**11.** The Supreme Court has consistently deprecated the acid attack as one of the cruellest and gruesome category of offences. The Court in ***Suresh Chandra Jana vs State of West Bengal and Others,*** reported in ***(2017) 16 SCC 466;*** while rejecting the acquittal of an accused as directed by the High Court in an acid attack case observed that the acid attack has transformed itself to a gender-based violence, which causes immense psychological trauma resulting in hurdle in overall development of the victim. Paragraph 30 thereof is extracted below:

> ***"30.*** *At the outset, certain aspects on the acid attack need to be observed. Usually vitriolage or acid attack has transformed itself as a gender based violence. Acid attacks not only cause damage to the physical appearance of its victims but also cause immense psychological trauma thereby becoming a hurdle in their overall development. Although we have acknowledged the seriousness of the acid attack when we amended our laws in 2013 [ The Criminal Law (Amendment) Act, 2013 (13 of 2013).], yet the number of acid attacks are on the rise. Moreover, this Court has been passing various orders to restrict the availability of corrosive substance in the market which is an effort to nip this social evil in the bud. [Parivartan Kendra v. Union of India, (2016) 3 SCC 571: (2016) 2 SCC (Cri) 143] It must be recognised that having stringent laws and enforcement agencies may not be sufficient unless deep-rooted gender bias is removed from the society.****"***

**12.** In the aforesaid prelude, when this case is examined, this Court finds that the following time-line of events to be very relevant to appreciate the evidence brought on record:

| | |
|---|---|
| Date and time of Incident | Intervening Night of 7/8th of May 2014 |
| Lodging of F.I.R. | 09.05.2014 u/s 452/326A/323 I.P.C. |
| Arrest of Appellant | 13.05.2014 |
| Death of Suman Devi (Sister-in-law of Complainant) | 22.05.2014 |
| Death of Phoolan Devi ( Mother of the Complainant) | 29.05.2014 |
| Report of Forensic Science Laboratory | 07.08.2014 stating traces of *Sulphuric Acid* in clothes and container. |

**13.** The present case is related to death caused by serious acid burn injuries of two women, namely *(i)* Suman W/o Ramesh Kumar; and *(ii)* Phoolan Devi W/o Maniram Verma. The F.I.R. has been lodged by the son of deceased Phoolan Devi, who is also the brother-in-law of deceased Suman. Initially the F.I.R. was lodged under Sections 452/326A/323 I.P.C. However, after the death of both the deceased, Section 304 I.P.C. was invoked against the Appellant.

**14.** Admittedly, there is no dispute relating to the cause of death of the deceased persons. The post-mortem reports of these two deceased marked as *Exhibit Ka-3* by the Learned Trial Court, mentions the immediate cause of death as "*Septicaemic Shock*" due to "*Ante mortem deep burn injury*". The said report also mentions the following injuries sustained by each of them being:-

> ***Suman Devi***
>
> ***"****1- Deep and extensive burn injuries on whole face, whole neck, on front of chest and extending to whole left upper limb and patchy on Rt upper arm, on back from back of neck to continued up to both super scapular areas; each eye ball is deeply burnt and upper face in disfiguring the face.*

*2- Multiple laceration patchy area of injury (burn) found on Rt thigh and lower limbs.***"**

***Phoolan Devi***

**"***1- Multiple superficial deep burn injuries present all over front & back of chest, involving both breasts, neck, Rt side of face & ear, B/L shoulders & proximal 1/2 of B/L around.*

*2- Whole of (L) Hand & distal 1/2 forearm is also injured (superficial deep burn injuries).***"**

**15.** P.W.-4, (Dr. Chandra Prakash Srivastava) proved the post-mortem report of the deceased Suman Devi and has testified that according to him the death of the deceased was due to *septicemic* wound due to deep burn injuries. He has also stated in his cross-examination that *septicaemia* can be caused due to lack of proper medical treatment and the burn can be caused by accidental fall of acid. P.W.-7, (Dr. Awadhendra Pratap Singh) has proved the post-mortem report of the deceased Phoolan Devi. In his cross-examination, he has stated that since the burn injuries were more than 50%, it caused *septicaemia*, which caused death. He denied the suggestion that *septicaemia* can be caused due to lack of proper medical treatment, leading to death of the deceased. He also stated that, besides the burn injuries there were no injuries found on the body of the deceased.

**16.** This Court finds that the cross-examination of both the expert Doctor's did not yield anything significant. The statement of both the witnesses remained intact. In view of the Medical Report and the testimony of the Doctors, this Court finds that both the deceased died due to '*septicaemia shock'* caused by deep burn injuries. The suggestive opinion that *septicaemia* can also be caused due to lack of proper medication, also does not help the case of the Appellant, in as much as lack of proper medication presupposes that medication was required and in the present case medication was required due to deep burn injuries. Here, the question is of causing death of the deceased persons due to acid burn injuries and not as to whether there was proper medication or not?, after the injuries were sustained due to serious acid attack. Further,

this Court cannot be oblivious to the nature and the part of the bodies, which were exposed to acid, thereby causing multiple burn injuries to the deceased persons as is borne out from the post-mortem report itself.

**17.** However, the learned Counsel for the Appellant has vehemently argued that since both the deceased person died due to *septicaemia,* which was due to lack of proper medical treatment, the Appellant can not be fastened with the offence of Section 304 I.P.C. Having said so, this Court finds that the post-mortem of the deceased Suman was conducted by witness Dr. Chandra Prakash Srivastava (P.W.-4) in which burn wounds were found on the entire face, neck, chest, from the left shoulder to the hand, which were spread till the wing at the back, and the globes of both the eyes were burnt from inside and the death of the deceased is stated to be due to *septicaemia* caused by deep burn wounds. The post-mortem of the dead body of deceased Phoolan Devi was conducted by Dr. Avdhendra Pratap Singh (P.W.-7) in which burn wounds were present on the face and right eye and several superficial burn wounds were found on the entire front and sides of the chest. As a result, both breasts, the neck, the right side of the face, both ears, the shoulders, and the upper half of both arms, front and back, were found to be burned. The entire left hand, including the lower half of the forearm, also bore superficial and deep burns. The deceased's death was due to septic shock resulting from post-burn infection in both lungs. This witness, in cross-examination, refuted the suggestion that she died from *septicaemia* resulting from lack of proper medical treatment. It is also important to note at this stage that in this case acid burn injuries is the immediate cause of *septicaemia*. Therefore, this Court does not find any merit in the said argument of the learned defense Counsel. Thus, it is safely concluded that both the deceased persons died due to *septicaemia* caused by deep acid burn injuries.

**18.** Having said so, the next question arises as to whether the Appellant was the person, who has caused the aforesaid acid attack, leading to the death and cutting short the life of Suman Devi, aged about 18 years and Phoolan Devi, aged about 50 years old.

**19.** This Court finds from the testimony of P.W.-1 that he has specifically named the Appellant and reported to have seen pouring acid on both the deceased. Apparently, he is the eye witness to the said incident. The learned Counsel for the Appellant has tried to challenge the testimony of P.W.-1 on four grounds, namely *(i)* F.I.R. was delayed as the same came to be lodged only on 09.05.2014, although the incident was of the intervening night of 7/8$^{th}$ of May, 2014; *(ii)* F.I.R. has been got lodged with the help of an Advocate; *(iii)* P.W.-1 had not seen the actual occurrence of throwing of acid on the deceased persons by the Appellant, as apparently the said P.W.-1 has stated in his testimony that when he reached the spot, acid was present on the face and body of the deceased person; and *(iv)* Discrepancies in the statement of P.W.-1 and other witness.

**20.** Further, the sanctity of the F.I.R. has also been sought to be challenged from the testimony of P.W.-1 to argue that the identity of the Appellant is doubtful. According to the learned Counsel, although P.W.-1 in his testimony recorded in the Court has stated that he does not know the name of the father of the appellant and that the Appellant belonged to village Bhati, however, there is a different version recorded in the F.I.R., in as much as the said P.W.-1 has not only named the father of the appellant as Sita Ram in the F.I.R., but has named the village of the Appellant as Dhandhar.

**21.** This Court proposes to deal with each of the arguments in seriatim. As far as the argument of Mr. Mishra, the learned defense Counsel that the First Information Report in the present case was filed on 09.05.2014, whereas the incident occurred on 07/08.05.2014 at approximately 2.00 A.M. and that the First Information Report was filed after legal consultation is concerned, this Court finds that dealing with the identical argument, the Learned Trial Court has correctly observed that the treatment of the seriously injured persons was prioritized juxtaposed with the timely lodging of the F.I.R**.** This Court finds substance in the said findings of the Learned Trial Court. Further, from the appreciation of the facts of the present case, which has come on

record, it is pertinently available that the incident in the present case occurred on the intervening night of 07/08.05.2014 at approximately 2.00 A.M., in which the informant's sister-in-law, Suman Devi, and mother, Phoolan Devi, were attacked by the Appellant with acid both the injured person were rushed initially to Amargarh Government Hospital, wherein they were referred to District Hospital, Pratapgarh. Further, since the doctor at District Hospital, Pratapgarh founnd the injuries serious, both the injured persons were referred and admitted to S.R.N. Hospital, Allahabad for treatment. Prioritizing the treatment of the injured was more important and natural. In such a situation, the delay in filing the First Information Report alone cannot refute the entire prosecution story. If the testimony of the witnesses presented by the prosecution is credible, this technicality alone does not adversely affect the prosecution. This court is of the view that the delay in lodging of F.I.R. has been sufficiently explained and a plain reading of the evidence recorded of the informant (P.W.-1), who is also an eye witness of the said incident does not create any doubt on the circumstances leading to the registration of the F.I.R.

**22.** The Hon'ble Supreme Court in the case of ***Ravinder Kumar and Anr. V/s State of Punjab,*** reported in ***(2001) 7 SCC 690;*** has held that:-

> ***"****..The attack on prosecution cases on the ground of delay in lodging FIR has almost bogged down as a stereotyped redundancy in criminal cases. It is a recurring feature in most of the criminal cases that there would be some delay in furnishing the first information to the police. It has to be remembered that law has not fixed any time for lodging the FIR. Hence a delayed FIR is not illegal. Of course a prompt and immediate lodging of the FIR is the ideal as that would give the prosecution a twin advantage. First is that it affords commencement of the investigation without any time lapse. Second is that it expels the opportunity for any possible concoction of a false version. Barring these two plus points for a promptly lodged FIR the demerits of the delayed FIR cannot operate as fatal to any prosecution case. It cannot be overlooked that even a promptly lodged FIR is not an unreserved guarantee for the genuineness of the version incorporated therein.*
>
> *When there is criticism on the ground that FIR in a case was delayed the court has to look at the reason why there was such a delay. There*

*can be a variety of genuine causes for FIR lodgment to get delayed. Rural people might be ignorant of the need for informing the police of a crime without any lapse of time. This kind of unconversantness is not too uncommon among urban people also. They might not immediately think of going to the police station. Another possibility is due to lack of adequate transport facilities for the informers to reach the police station. The third, which is a quite common bearing, is that the kith and kin of the deceased might take some appreciable time to regain a certain level of tranquillity of mind or sedativeness of temper for moving to the police station for the purpose of furnishing the requisite information. Yet another cause is, the persons who are supposed to give such information themselves could be so physically impaired that the police had to reach them on getting some nebulous information about the incident.*

*We are not providing an exhausting catalogue of instances which could cause delay in lodging the FIR. Our effort is to try to point out that the stale demand made in the criminal courts to treat the FIR vitiated merely on the ground of delay in its lodgment cannot be approved as a legal corollary. In any case, where there is delay in making the FIR the court is to look at the causes for it and if such causes are not attributable to any effort to concoct a version no consequence shall be attached to the mere delay in lodging the FIR. [Vide Zahoor vs. State of UP (1991 Suppl.(1) SCC 372;* Tara Singh *vs. State of Punjab (1991 Suppl.(1) SCC 536);* Jamna *vs. State of UP (1994 (1) SCC 185). In* Tara Singh *(Supra) the Court made the following observations:*

> *"It is well settled that the delay in giving the FIR by itself cannot be a ground to doubt the prosecution case. Knowing the Indian conditions as they are we cannot expect these villagers to rush to the police station immediately after the occurrence. Human nature as it is, the kith and kin who have witnessed the occurrence cannot be expected to act mechanically with all the promptitude in giving the report to the police. At times being grief-stricken because of the calamity it may not immediately occur to them that they should give a report. After all it is but natural in these circumstances for them to take some time to go to the police station for giving the report."*

**23.** No doubt, prompt lodging of F.I.R. is a significant step in ascertaining its reliability. However, there is no mathematical formulae by which an inference may be drawn either way merely on account of delay in lodging of F.I.R**.** In this connection it would be useful to note

that the Hon'ble Supreme court in ***Tara Singh vs. State of Punjab*** reported in ***(1991 Suppl.(1) SCC 536);*** and ***Jamna vs. State of U.P.*** reported in ***(1994 (1) SCC 185);*** observed that by now it was well settled that the delay in lodging the F.I.R. by itself cannot be a ground to doubt the prosecution case. The Hon'ble Court acknowledged the fact that knowing the Indian conditions as they are, it cannot be expected from villagers to rush to the Police Station immediately after the occurrence of the incidence. Human nature as it is, the kith and kin who have witnessed the occurrence cannot be expected to act mechanically with all the promptitude in giving the report to the police. At times being grief-stricken because of the calamity it may not immediately occur to them that they should give a report. After all it is but natural in these circumstances for them to take some time to go to the Police Station for giving the report.

**24.** In ***State of Himachal Pradesh Vs. Gian Chand,*** reported in ***2001 (6) SCC 71;*** a three-Judge Bench of Supreme Court has expressed that:

> ***"****Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the court on its guard to search if any explanation has been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to satisfactorily explain the delay and there is a possibility of embellishment in the prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case."*
>
> ***(emphasis added)***

**25.** Thus, when the present factual controversy is taken into consideration on the touchstone of aforesaid principles, this Court finds that the delay in lodging of the F.I.R. is due to focusing on the victim's treatment first, which according to this Court was more important at that point of time due to the kind of injury sustained by the deceased persons. It was more a call for duty to provide immediate medical treatment to the injured persons, then anything else, which has caused delay in lodging of the F.I.R. which seems to be very common and natural. The reasons for

delay in lodging of F.I.R. is sufficiently explained. Prioritizing the medical treatment over lodging of F.I.R. is natural human behavior as at that point of time it is the health and well being of the victim or the injured, which is of paramount significance and not the lodging of F.I.R. Further, this Court cannot be oblivious to the fact that the victims were patients of acid attack and were referred from one hospital to another. The timing and promptness in reaching to the different referred Hospital is of utmost importance, as it not only mitigates the extend of burn injuries caused by acid attack but would also try and subside the pain and agony due to the said attack. Accordingly, this Court holds that, providing of medical aid is and must be the step before lodging a F.I.R. in all such cases of acid attack and of cases, wherein urgent medical help is required like accident cases etc., and such delay ought to be construed as common and natural. Further, it has also come in the statement of P.W.-1 that since Amargarh Government Hospital lacked such treatment facilities, he took the injured to S.R.N. Hospital, Allahabad, where their treatment began and ultimately, they succumbed to death due to severe acid burn injuries. The said witness has also stated that due to the serious condition, the doctor of the District Hospital referred his mother and sister-in-law to S.R.N. Hospital Allahabad. Thus, it was natural to give priority to the treatment of the two seriously injured. It has also come in the testimony of the said witness that due to he being busy and worried with the medical treatment, he could not go to the Police Station and on 09.05.14, when he had some time, he came to Aaspur Devsara Police Station and lodged an F.I.R. of the incident. This Court is of the view that it was necessary to save the lives of the victims of the incident, who required immediate treatment and medical attention in the first place, before lodging of the F.I.R**.** Be that as it may, from the unfolding of the facts along with the time-line, this Court does not find any force in this argument of the learned Counsel for the defense that the F.I.R. was delayed and as such the same is rejected.

**26.** The next argument to attack the reliability of the F.I.R. lodged by the complainant is that the same was lodged with the help of a lawyer,

which is interlinked to the aforesaid argument of delay in lodging of F.I.R. First and foremost, it has to be understood the mental status of the informant at that point of time, when two of his kith and kins suffered severe acid burn injuries and urgently needed medical treatment. As far as the question of getting the F.I.R. written by the complainant from a private lawyer, who was appointed to represent him in this case is concerned, merely on the ground that the informant got the F.I.R. written through the said lawyer or got it written late, in such a situation, especially, when it has came on record that the informant himself is illiterate, it was natural to get the F.I.R. written through a literate person or a lawyer. Hence, merely on the ground that the F.I.R. was written through an assistance of a lawyer, it cannot be assumed that the informant has lodged a false First Information Report against the Appellant. Further, the F.I.R. being lodged with an advocate's assistance does not by itself dilute the credibility of the said F.I.R., the only caveat that the same requires careful scrutiny to ensure that the same is not malicious or motivated. This Court fails to understand that when legal aid is permissible, at every steps of a criminal legal proceedings and even at the stage of lodging an F.I.R., how can there be an embargo on seeking assistance from a private Advocate. Further as already stated supra, it has come in evidence that P.W.-1, who is the complainant of the present F.I.R. is an illiterate and poor rustic villager and it is but obvious that he required some assistance from a literate person to lodge the present F.I.R. Merely because in the present case, the said literate person, turned out to be an Advocate, the F.I.R. cannot be thrown out to the wind, especially, when the narration of facts amounts to commission of a cognizable offence. Therefore, this Court finds no cogent grounds for being suspicious to the lodging of the present F.I.R. on assistance of an Advocate.

**27.** Mr. Mishra in his usual tenor tried to argue that even the complainant was not able to tell in the Court as to the contextual details of the present F.I.R. and according to him, it is one thing to say that legal assistance was sought to get register an F.I.R. and an absolutely different

thing to say that the complainant was not aware of the contents of the F.I.R. and ostensibly the same was registered by the Advocate. It is his submission that although there cannot be any suspicion in the former kind of F.I.R., but he has serious doubts about the veracity of the F.I.R. lodged according to the later circumstances and as such he submits that the present F.I.R. is of the later kind and as such the same is doubtful. First and foremost, it has to be understood that F.I.R. is not meant to be an encyclopedia of facts and a detailed chronicle of all intricate and minute details. Further, it has also to be understood that F.I.R. is not even a substantive piece of evidence and is merely an instrument by which the criminal machinery is set into motion. As far as the inability of the P.W.-1 to answer, certain innocuous questions like what was the address in the complaint or what is written at the end or above of the complaint is concerned, the complainant has clearly stated in his written statement (*Exhibit A-1*) and in his examination-in-chief as P.W.-1 that on the night of 7/8$^{th}$ May at about 2 o'clock at night, the accused/appellant threw acid on the faces of his mother and sister-in-law. It has been also clearly stated that when the accused tried to catch the accused, he threw the box away and ran away. He also said that when his father tried to catch the Appellant, he also dodged him away and ran away. Therefore, the complainant who is not an educated person, not being able to tell the address of the written statement or what was written at the end, does not have any adverse effect on the prosecution story, especially when there is no discrepancy in the material facts stated by the said witness either in the F.I.R. or in his statement recorded in the Court. Therefore, the above argument of the learned defense lawyer has no force and as such the same is rejected.

**28.** The next argument of the learned Counsel for the Appellant is that the complinant-P.W.-1 is not an eyewitness to the incident. According to Mr. Mishra, learned Counsel for the Appellant, P.W.-1 has stated in the F.I.R. that on hearing the screams, he went to the spot and saw acid had already fallen on the faces of his mother and sister-in-law and as such he could not be the person, who would had seen the Appellant allegedly

pouring acid on the victim and as such the Appellant ought to be given the benefit of doubt. To examine the said contention of the learned Counsel, it would be profitable to scan through the testimony of the said P.W.-1. Admittedly, it is readily available from the records that the complainant Dinesh Verma (P.W.-1) has stated in F.I.R. (*Exhibit Ka-1*) and in his examination-in-chief as P.W.-1 that the incident occurred on the intervening night of 07.05.2014 and 08.05.2014 at 2.00 AM. At the time of incident, the said P.W.-1 was sleeping in a thatched shed (chappar) in front of his house and immediately rushed at the spot after hearing the scream and crying of his mother. Admittedly, the said P.W.-1 saw the Appellant pouring liquid like substance on the mother and sister/ in-law as both of them were lying on the same plank. He also admits that he saw the Appellant and another person at the spot who could not be identified as his face was covered. The said witness also stated that he recognized the Appellant as he had come to his house once or twice before the incident and was rebuked by the sister-in-law. The said witness has further stated that when he tried to catch hold the Appellant along with the said other person, the appellant shook him off and ran away. Further, the said witness has also stated that there was a stick lying nearby, with which the assailants hit him and ran away. He has also stated that at outside, when his father tried to catch hold the Appellant, they shook him off as well and ran away. Thus, the event by event narration of occurrence of the facts by the said P.W. cannot be shrugged aside, especially when nothing material contradiction is observed during his extensive cross-examination, therefore, the presence of the appellant, at the scene of the incident is quite plausible. In his cross-examination, it was stated that on hearing the screams, P.W.-1 ran with a lamp and saw two people. Some liquid like substance was being poured when he saw Appellant. Thus, the P.W.'s reaching the scene of the incident on hearing the screams of his mother and sister-in-law and seeing the accused/Appellant and another unknown person at the scene has been clearly stated, which appears natural and credible. However, Mr. Mishra insisted that the said P.W.'s statement that the appellant had pushed his

father away was not proven. Further, a doubt has been sought to be created relating to the presence of the P.W.-1 at the spot, and whole story of being attacked with a stick. It should be understood that it is the quality of evidence, which is important and not its quantity, as provided under Section 134 of the Indian Evidence Act. Therefore, this Court finds no merit in the above argument of learned defense Counsel that since father of the informant was not produced by the prosecution, the testimony of P.W.-1 is to be disbelieved. In fact, this Court finds that this argument rather goes against the Appellant, in as much as if he doubted the version of P.W.-1 and was confident that his father would had testified something else, it was incumbent on the Appellant to produce the father as a defense witness. The prosecution cannot be compelled by the accused to produce a particular witness or of a particular quality. On the other hand, this Court finds that there is a medical report on record which proves that the said P.W.-1 was beaten with a stick by the appellant. The said medical report was done on 09.04.2014 at 12.15 PM, which shows certain elbow injuries sustained by the said witness. Although, the said medical report has not been proved by the prosecution in the Court, however, that by itself cannot make the presence of the P.W.-1 at the scene of the incident or at the time of the incident doubtful. Thus, the above argument of the learned defense Counsel has to be noted only to be rejected.

**29.** Towards the end, the learned defense Counsel has made a feeble attempt to argue that no motive for the crime has been proved by the prosecution, which is fatal to the case propounded against the Appellant. Firstly, it has to be understood that proof of motive in a case premised on an eye-witness account is not fatal. Although Motive plays a pivotal role in cases based on circumstantial evidence, wherein it acts as an additional chain for the said evidence, however in cases based on eyewitness account, motive does not play any such significant role. Further, in any case, it has come in evidence of P.W.-1 that the Appellant had visited his house a couple of times and tried to have an affair with his sister-in-law. Even before the marriage, the Appellant used to visit

his sister-in-law's house and the said witness has stated in his examination-in-chief that when he asked sister-in-law about the said fact, the sister-in-law specifically disclosed that the Appellant wanted to have an illicit relationship with the sister-in-law and in fact, when she rebuked her, the Appellant intimidated her of dire consequences. According to this Court, this facts, clearly demonstrates the motive for the incident. Therefore, this Court finds the argument of the learned defense Counsel untenable.

**30.** Lastly, the learned Counsel for the Appellant tried to buttress that there are several discrepancies in the statements of the witnesses. According to him, in fact there exists discrepancy in the statement of P.W.-1 recorded in the Court and as mentioned in the F.I.R. According to the learned Counsel there exists confusion in the appellant’s father's name and his village name and therefore, according to him the main accused is someone else and not the Appellant. Although, the argument of Mr. Mishra seems to be very attractive in the first blush, however, after a deeper scrutiny of evidence, it is available from the records that in the present case, the accused Jagdamba Harijan, son of Sitaram Harijan, village Dhandhar, Police Station - Aspur Devsara, District Pratapgarh, has been named as the accused, and a charge sheet has been filed against him. The complainant- Dinesh Verma (P.W.-1), identified him at the scene of the crime. The Appellant had previously visited the house of the complainant, which is also the crime scene. His sister-in-law, Suman, told him that Jagdamba was from Dhadhar and he wanted to have an illicit relationship. It has also come in evidence that when the Appellant was reprimanded by the deceased sister-in-law, he had threatened to take revenge. Thus, the said witness clearly identified the accused, whose sister-in-law had told him about the Appellant. Therefore, this Court finds no force in the submission of the learned Counsel for the Appellant and as such the same is rejected.

**31.** The learned defense Counsel argued that the Investigating Officer did not prepare the torch report, the location of the complainant and the accused were not shown in the map, the time of commencement and

completion of the investigation was not recorded in any of the case diary sheets. The sample seal was not filed on the file. The dying declaration of the injured was not recorded. Therefore, due to the above mentioned deficiencies of the prosecution and the prosecution's story not being proven beyond reasonable doubt, the Appellant deserves to be acquitted. Recently, the Hon'ble Apex Court in case of ***Edakkkandi Dineshan @ P. Dineshan & Ors. V/s State of Kerala,*** reported as ***2025 INSC 28;*** while observing that the investigation had not taken place in a proper and disciplined manner refused to give any relief to the accused persons by referring to an earlier judgment of the Apex court in ***Paras Yadav & Ors. V/s State of Bihar,*** reported in ***1999(2) SCC 126***. The Hon'ble Apex Court in the ***Ekakkandi Dineshan (Supra)*** held as follows:

> ***"****....Hence, the principle of law is crystal clear that on the account of defective investigation the benefit will not inure to the accused persons on that ground alone. It is well within the domain of the courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eyewitnesses, medical report etc. It has been a consistent stand of this court that the accused cannot claim acquittal on the ground of faulty investigation done by the prosecuting agency.,****"***

**32.** The learned Counsel has also submitted that there is discrepancy in the statements of the eye witness P.W.-1 and P.W.-2, who is another son of the deceased Phoolan Devi, relating to the source of light for identifying the Appellant. Firstly, there appears to be no such discrepancy, which would be termed as material or would go to the root of the controversy. Secondly, the Hon'ble Supreme Court in the case of ***Birbal Nath v. State of Rajasthan,*** reported in ***(2024) 15 SCC 190;*** that mere variation in two statements would not be enough to discredit a witness. Further, it is trite law that only such omissions which amount to contradiction in material particulars can be used to discredit the testimony of the witness. Minor omission in the statement by itself would not necessarily render the testimony of witness unreliable. It is quite natural that there is bound to be some discrepancies between the narrations of different witnesses when they speak on details, and unless

the contradictions are of a material dimension, the same should not be used to jettison the evidence in its entirety. Incidentally, corroboration of evidence with mathematical niceties cannot be expected in criminal cases. Minor embellishment, there may be, but variations by reason therefore should not render the evidence of eye witnesses unbelievable. Trivial discrepancies ought not to obliterate an otherwise acceptable evidence. (*Leela Ram vs. State of Haryana, 1999 (9) SCC page 525*).

**33.** The learned Counsel for the defense has argued that the witnesses presented by the prosecution are interested witnesses and are the son and brother-in-law of the deceased women. No independent witness has been examined. Admittedly, the incident in the present case, occurred at around 2 O'clock in the night. The complainant- P.W.-1 has stated that he was lying in the shed in front of the house and hearing the sound of his mother's screams and shouting, he went inside and saw Appellant, pouring something like liquid on his mother and sister-in-law. The presence of the deceased's son at the scene of the incident is natural and reliable. Further, this witness are related and not interested. There is neither any evidence nor any proof as to why these related witness would frame the Appellant in the present case. Further, evidence of P.W.-1, who is the son of the deceased cannot be discarded only on the ground that he is interested witness. It is true that while considering the evidence of a close relative, the Court has to be cautious with such evidence but the entire evidence cannot be rejected only on the ground that he is close relative. The Supreme Court in the case of ***Masalti vs. State of U.P.,*** reported as ***AIR 1965 SC 202,*** has held as under:-

> ***"****14. But it would, we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses ... The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to failure of justice. No hard - and - fast rule can be laid down as to how much evidence should be appreciated. Judicial approach has to be cautious in dealing with such evidence; but the plea that such evidence should be*

> *rejected because it is partisan cannot be accepted as correct."*

Thus, this Court does not find any force in the submission of the the learned counsel for the defense and as such the same is rejected.

**34.** Thus, from the conceptus of the evidence brought on record and considering the testimony of the eye-witness, corroborated by the medical witness and the Investigation Officer, Court finds that the prosecution has been successful in proving beyond reasonable doubt the charges under Sections 304, 326A and 451 I.P.C. against the Appellant. A reading of the entire statement and cross-examination fully established the charges against the accused/appellant. It is trite that eye witness testimony is given importance and the trial Court has given due weight to the said evidences and this Court does not find any error in the Trial Court's appreciation of their evidences. Further, this Court finds that the learned Trial Court nowhere missed the woods for the tree in returning the findings of guilt against the Appellant. This Court does not find any infirmity in the Judgment dated 30.08.2018 of the Learned Trial Court passed in *Sessions Trial No. 08 of 2015* (*State vs. Jagdamba Harijan*), arising out of *Case Crime No. 147 of 2014*, relating to Police Station Aaspur Devsara, District Pratapgarh and as such the said judgment of conviction is *upheld*.

**35.** Now coming to the alternative submission of the learned Counsel for the appellant that if this Court comes to the conclusion that the charges against the appellant are proved in that event keeping in view the circumstances he may be treated leniently and sentence be reduced on the ground that he has no criminal history and there is a family behind him. It is further urged that keeping in view the fact that he is already in jail since 13.05.2014, his sentence may be reduced to the period of sentence already undergone. He has submitted that a fixed term sentence may be awarded to the appellant for and in place of life-imprisonment awarded by the learned Trial Court. The learned Counsel in this regard has relied on judgments of Hon'ble Supreme Court in the case of *Maniben v. State of Gujarat,* reported in *(2009) 8 SCC 796*; *Bengai*

*Mandal v. State of Bihar,* reported in *(2010) 2 SCC 91;* and *Goverdhan v. State of Chhattisgarh,* reported in *(2025) 3 SCC 378;* as well as judgment of this Court rendered in the case of *Mithlesh v. State of U.P., 2022,* reported in *SCC OnLine All 839.*

**36.** This Court in the aforesaid aspect, recently had an opportunity to deal with such a situation, although for an offence under Section 304-B I.P.C. in the case of ***Paras Nath Sahu and Another Vs. State of U.P.*** reported as ***2025:AHC-LKO:83391-DB****;* wherein the appellant in that case was awarded with life imprisonment. This Court, while discussing the law on the subject has held herein under:

> ***"42.*** *The Constitutional Bench of the Hon'ble Supreme Court, in the case of* ***Union of India v. V. Sriharan,*** *reported in* ***(2016) 7 SCC 1;*** *was dealing with on the issue, as to whether imprisonment for life in terms of Section 53 read with Section 45 of the I.P.C. means imprisonment for the rest of the life of the convict. The Constitutional Bench after referring to the various precedents, including* ***Swamy Shraddananda (2) v. State of Karnataka,*** *reported in* ***(2008) 13 SCC 767;*** *has answered the same in paragraph nos. 104 and 105 of the* ***V. Sriharan (Supra),*** *judgment which is quoted in verbatim herein below:*
>
> > ***"****104. That apart, in most of such cases where death penalty or life imprisonment is the punishment imposed by the trial court and confirmed by the Division Bench of the High Court, the convict concerned will get an opportunity to get such verdict tested by filing further appeal by way of special leave to this Court. By way of abundant caution and as per the prescribed law of the Code and the criminal jurisprudence, we can assert that after the initial finding of guilt of such specified grave offences and the imposition of penalty either death or life imprisonment, when comes under the scrutiny of the Division Bench of the High Court, it is only the High Court which derives the power under the Penal Code, which prescribes the capital and alternate punishment, to alter the said punishment with one either for the entirety of the convict's life or for any specific period of more than 14 years, say 20, 30 or so on depending upon the gravity of the crime committed and the exercise of judicial conscience befitting such offence found proved to have been committed."*
> >
> > ***(emphasis added)***
> >
> > *"105. We, therefore, reiterate that the power derived from the Penal Code for any modified punishment within the*

> *punishment provided for in the Penal Code for such specified offences can only be exercised by the High Court and in the event of further appeal only by the Supreme Court and not by any other court in this country. To put it differently, the power to impose a modified punishment providing for any specific term of incarceration or till the end of the convict's life as an alternate to death penalty, can be exercised only by the High Court and the Supreme Court and not by any other inferior court."*
>
> ***(emphasis added)***

> ***43.*** *Furthermore, the Hon'ble Supreme Court in the case of* ***Shiva Kumar v. State of Karnataka,*** *reported in* ***(2023) 9 SCC 817;*** *after considering both of the aforementioned judgments of* ***V. Sriharan (Supra)*** *and* ***Swamy Shraddananda (2) (Supra);*** *in paragraph no. 14, has held that:*
>
> > ***"14.*** *Hence, we have no manner of doubt that even in a case where capital punishment is not imposed or is not proposed, the constitutional courts can always exercise the power of imposing a modified or fixed-term sentence by directing that a life sentence, as contemplated by "secondly" in Section 53IPC, shall be of a fixed period of more than fourteen years, for example, of twenty years, thirty years and so on. The fixed punishment cannot be for a period less than 14 years in view of the mandate of Section 433-A Cr.P.C."*
> >
> > ***(emphasis added)***

**37.** As far as the present case is concerned, considering the aforesaid proposition of law and the overall facts and circumstances, keeping in view the evidence brought on record, by virtue of which the appellant was convicted, we in our considered view need to weigh a balance between the culpability of the convict on the basis of evidence collected and brought on record on the one hand with the quantum of punishment being inflicted due to the said culpability. No doubt, the crime committed is one of the most heinous crime, the offence is grave and has serious societal impact. Crimes of this nature strike at the foundation of civilized society and ordinarily does not calls for any leniency. However, this Court needs to strike a chord of justice to both the society at large by setting an example and the reformatory right of the individual convict and his apparent responsibilities.

**38.** This Court finds that, it has come on record that the appellant is in Jail for about 13 years 09 months and 24 days, with remission, as on 11.11.2025, as per the custody certificate brought on records. Further, the said certificate also shows that there is no criminal history of the Appellant, which means there is no other criminal case pending against him. It has also come on record that the Appellant has a wife and a son to support.

**39.** Keeping in view the overall facts and circumstances of the present case, this Court balancing the gravity of the offence with the principles of justice and need of the society to live in a peaceful, safe and congenial environment with chance of reformation and integrating the appellant into the society, this Court is of the considered view that justice would be met, if the appellant is awarded a fixed term of imprisonment in the present facts and circumstances of the case. Accordingly, while maintaining the conviction under Section 304, 326A, 452 I.P.C., the maximum sentence of life awarded to the appellant- **Jagdamba Harijan** is reduced to a fixed term of 14 (Fourteen years) Rigorous Imprisonment. However, the fine under Section 304 and 326A I.P.C. and the punishment and fine under Section 452 is not being disturbed and are affirmed.

**40.** Consequently, the present Appeal stands ***partly allowed*** in the aforesaid terms.

**41.** Having said so, it is directed that the appellant - Jagdamba Harijan shall be released only after undergoing the aforesaid sentence of punishment of 14 years, rigorous imprisonment, under the *Sessions Trial No. 08 of 2015*; arising out of *Case Crime No. 147 of 2014*; (*State V/s Jagdamba Harijan*), if he is not required in any other case. The Jail Authorities are accordingly directed to compute the period of custody, extending to the appellant the benefit of Section 427 and 428 Cr.P.C. in accordance with law.

**42.** There shall be no order as to cost(s).

**43.** The Registry is directed to send the lower Court record along with certified copy of this judgment to the learned trial Court, without any delay, preferably within two weeks from today.

**(Abdhesh Kumar Chaudhary,J.) (Rajesh Singh Chauhan,J.)**

**February 12, 2026**
Praveen

Digitally signed by :-
PRAVEEN KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench