

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1553/2024

PAWAN KUMAR

Appellant(s)

VERSUS

STATE NCT OF DELHI

Respondent(s)

O R D E R

We have heard the learned senior counsel appearing for the appellant and the learned ASG appearing for the respondent.

The appellant has been concurrently convicted by the Trial Court and the High Court for the offence punishable under Section 302 of the Indian Penal Code, 1860 (for short 'IPC') and seeks to assail the same along with the fine imposed.

We have taken note of the fact that the appellant has already undergone 13 years and 9 months of incarceration and are inclined to deal with the matter on merits.

The alleged occurrence took place on 14.04.2010. The case of the prosecution, in a nutshell, is that the appellant, along with the two co-accused, committed the alleged offence with a specific overt act against him to the effect that he poured Kerosene

over the deceased. The co-accused, who is the sister of the appellant, is alleged to have caught hold of the deceased, and the other accused is alleged to have lit the fire. This was witnessed by PW-15, who is the daughter of the appellant and the deceased.

Thereafter, the deceased is said to have run towards the bathroom. The appellant had then followed her there and took her to the hospital, and he is the only one who was injured as a result of the occurrence, apart from the deceased herself. There was no recovery of any material indicating storage of Kerosene. The post-mortem certificate and the FSL report also do not indicate, with any specific reference, regarding the usage of Kerosene in committing the offence. However, the post-mortem report merely states that the smell of Kerosene was found.

Before the Trial Court, 20 witnesses were examined, while 17 documents were marked on behalf of the prosecution. In his statement, under Section 313 of the Code of Criminal Procedure, 1973 (for short 'CrPC), the appellant has specifically denied the charges framed against him.

We take note of the fact that even the prosecution did not believe the evidence of PW-15 *qua* a fourth person. In this regard, PW-15 has stated in her Chief Examination before the Trial Court that

there were four accused persons who allegedly committed the offence. As per her statement under Section 164 of the CrPC and during her Cross Examination, PW-15 has also stated that she tried to talk to the deceased so as to ascertain who committed the offence, but the deceased did not speak up. It is only pursuant to the order under Section 319 of the CrPC, that the co-accused have been arrayed.

The High Court was pleased to acquit all the other co-accused, while convicting the appellant alone for the offence punishable under Section 302 of the IPC. For coming to the aforesaid conclusion, the High Court was pleased to hold that the deceased had suffered 95 per cent burn injuries and the appellant, having suffered a burn injury on his hands, cannot contend that he did not commit the offence, as his presence at the place of occurrence at the time of the offence is not in dispute.

It is a settled position of law that a mere suspicion, however strong it may be, cannot be the basis of conviction. It is also well settled that the principle governing '*falsus in uno, falsus in omnibus*' cannot have an application to the Courts in India. However, while removing the chaff from the grain, the Courts must be rather circumspect and slow in satisfying themselves before deciding to rely upon the evidence adduced under those circumstances.

We have perused the entire record, including the evidence of PW-15 who is the material witness. The evidence of PW-15 does not inspire the confidence of this Court. Perhaps, that is the reason why the prosecution has not chosen to rely upon it *qua* the other co-accused. As aforementioned, PW-15 had stated that four persons had committed the offence. None of the other co-accused have been convicted, other than the appellant, despite PW-15 having stated about the specific overt acts attributable to them.

It is also her statement in Chief Examination before the Trial Court and under Section 164 of the Cr.P.C. that the deceased did not speak to her. Hence, the question which PW-15 had put to the deceased with respect to asking her who was responsible for committing the offence lends credence to the defence of the appellant that PW-15 was not, in fact, present at the place of occurrence.

Insofar as the aspect of recovery is concerned, except for some burnt clothes, there is no recovery of any utensil within which Kerosene or Diesel was kept. We are inclined to give more importance to the statement made by the deceased herself. Though it is contended by the learned ASG, appearing for the respondent, that the deceased had suffered 95 per cent burn injuries, and was hence unfit for giving a statement, the fact remains that she did, in fact,

give a statement to the doctor which is admissible in law under Section 32 of the Indian Evidence Act, as it then was, to the effect that when she was doing kitchen work she suffered the burns. No further explanation has been given by the prosecution on this aspect, including by way of examining the Doctor before whom such statement was given.

We are conscious of the fact that the appellant taking the deceased to the hospital cannot, by itself, be a factor for giving an acquittal, but it remains a relevant fact to be considered.

He was indeed injured during the course of the incident which makes us believe the probability of him actually trying to save her. The recovery of a burnt sack also confirms the aforesaid fact. The High Court itself was pleased to hold that Section 498A of IPC is not made out against the appellant. In fact, a finding has been given on the cordial relations between the appellant - husband and the deceased.

Suffice it is to state that on a conspectus of the above, the materials are clearly lacking to sustain the conviction of the appellant and prove his guilt beyond reasonable doubt. The aspects that have been discussed by us, have clearly not been taken note of by both the Courts in their correct perspective. Therefore, we are inclined to give the benefit of doubt to the appellant.

Accordingly, the conviction of the appellant stands set aside and the appeal stands allowed.

Bail bonds, if any, shall stand discharged.

Pending application(s), if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[NONGMEIKAPAM KOTISWAR SINGH]

NEW DELHI;
JANUARY 22, 2026.

ITEM NO.110

COURT NO.5

SECTION II-D

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1553/2024

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Appellant(s)

VERSUS

STATE NCT OF DELHI

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Date : 22-01-2026 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Appellant(s) Mr. Yatinder Singh, Sr. Adv.
Mr. D.V. Singh, Adv.
Mr. Ajay Kumar Singh, AOR
Mr. Yatharth Singh, Adv.
Mr. Manindra Dubey, Adv.
Mr. Aman Kr., Adv.
Ms. Shrishti Gautam, Adv.
Mr. Divyansh Singh, Adv.

For Respondent(s) Ms. Aishwarya Bhati, A.S.G.
Ms. Ritika Singhal, Adv.
Mr. Abhijeet Singh, Adv.
Mr. Mukesh Kumar Maroria, AOR
Ms. Chitrangda Rastravara, Adv.
Ms. Rashmi Singhanian, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Annirudh Sharma Ii, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The appeal stands allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of

(ASHA SUNDRIYAL)
DEPUTY REGISTRAR

(POONAM VAID)
ASSISTANT REGISTRAR

[Signed order is placed on the file]