18. Section 4 of the Amended Act, 2024, expressly clarifies and permits "any person" to provide information in accordance with Chapter XIII of the *Bharatiya Nagarik Suraksha Sanhita, 2023 (B.N.S.S.),* confirms the legislative intent to widen the scope of informants and further clarify procedural access. This substitution must be read as *clarificatory* in nature, consistent with the principle that procedural amendments apply to pending actions and supports a harmonious construction with sections 173 & 175 of BNSS, 2023. It thereby reinforces that the police, or any person aware of the commission of a cognizable offence under the Act, 2021 is empowered to initiate proceedings, thus ensuring that the statute is not rendered otiose.

19. Thus, "*any person*" aggrieved by the unlawful conversion in infringement of Article 25 of the Constitution of India, in accordance with the provisions of Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, as amended by Act, 2024 entitled to file a complaint before the police to lodge a FIR to achieve its objectives.

20. Reverting to the present case, the allegations made in the FIR and on perusal of the statement of victim Gautam Yadav, besides other victims, do clearly constitute a cognizable offence justifying the registration of the case and the investigation thereon, and therefore, this case does not fall in any of the category of the cases formulated in ***State of Haryana v. Bhajan Lal and others11,*** calling for exercise of extraordinary or inherent powers of the High Court to quash the FIR and the proceedings arising out of the same.

20.1 It is further clarified, the expression contained in the order shall have no bearing on the merits of the case, however, it shall be open for the applicant to raise all the grounds at the appropriate stage before the trial court.

21. Accordingly, the application is hereby ***dismissed***. As the applicant has not been arrested by the police, therefore, it is made clear that the applicants shall not be taken into judicial custody, subject to the terms and conditions as may be decided by the trial court. In case, if the applicant does not cooperate with the trial, the trial court may proceed further in accordance with law.

(2025) 5 ILRA 654
APPELLATE JURISDICTION
CRIMINAL SIDE
DATED: LUCKNOW 28.05.2025

BEFORE

THE HON'BLE RAJNISH KUMAR, J.

Criminal Appeal No. 1326 of 2004

Shiv Narain & Ors. ...Appellants
Versus
The State of U.P. ...Respondent

Counsel for the Appellants:
S.C. Mishra, Anil Kumar

Counsel for the Respondent:
Govt. Advocate

(A) Criminal Law - Indian Penal Code, 1860 - Section 304(ii) -Culpable Homicide not amounting to Murder - Indian Penal Code, 1860 - Section 304(ii) - Code of Criminal Procedure, 1973 - Section 374(2) - Independent Witness not supporting prosecution fully - Not a ground to discard entire prosecution case - Conviction can be based on related witness if credible - FIR not an encyclopaedia of facts - FIR only corroborative, not substantive - Evidence of P.W.1 held reliable,

corroborated by medical and post-mortem evidence - "Related witness" not automatically "interested witness" - Conviction sustainable based on testimony of related witness found to be truthful, supported by medical evidence and corroborative facts. (Para 2 to 20)

FIR lodged on 22.12.1999 - alleging fatal assault by appellants - on the complainant's father with lathis due to prior enmity - victim sustained head injuries - died on 24.12.1999 - case converted from Section 308 to Section 304 IPC. (Para - 6, 7, 8)

HELD: - Contention that the independent witness (P.W.4) did not support the incident is totally misconceived and not tenable as the incident has been proved by P.W.1, and time and place of incident proved by P.W.4 – Findings recorded by the trial court do not suffer from any illegality, error or perversity warranting interference – Conviction and sentence upheld. (Para -19,20)

Appeal dismissed. (E-7)

List of Cases cited:

1. Amish Devgan Vs U.O.I., (2021) 1 SCC 1

2. Kartik Malhar Vs St. of Bihar, (1996) 1 SCC 614

3. Baban Shankar Daphal & ors. Vs St. of Maha., 2025 SCC OnLine 137

4. Karulal & ors. Vs St. of M.P., (2021) 13 SCC 391

(Delivered by Hon'ble Rajnish Kumar, J.)

1. Heard Sri Anil Kumar, learned counsel for the appellants and learned Additional Government Advocate (here-in-after referred as AGA).

2. This Criminal Appeal under Section 374(2) of Code of Criminal Procedure Code (here-in-after referred as CrPC) has been filed for setting aside the conviction and sentence awarded by Additional District and Sessions Judge, Fast Track Court No. 4, Hardoi by means of the judgment and order dated 21.05.2004 passed in Session Trial No. 300/2000; State of Uttar Pradesh versus Shiv Narain (now deceased) and others, arising out of Case Crime No. 232/99 under Section 304 of Indian Penal Code (here-in-after referred as IPC), Police Station Kachhauna, District Hardoi, by means of which the appellants have been convicted and awarded a punishment of 5 years rigorous imprisonment each and Rs. 3000 fine each and in violation of payment of fine, one year additional simple imprisonment each under Section 304(ii) of IPC.

3. This appeal has been filed by Shiv Narain son of Girdhari Lal, Santosh and Vinod both sons of Shiv Narain. The appellant no.1- Shiv Narain son of Girdhari Lal died during pendency of appeal, therefore, the appeal on his behalf abated.

4. Learned counsel for the appellants submitted that the appellants have been falsely implicated in the case. He further submitted that P.W. 4 Rakesh@ Kaalia, who was an independent witness, has not supported the prosecution case, therefore, the appellants could not have been convicted and awarded sentence, but without considering it the appellants have been convicted and awarded the sentence. Hence, the same is liable to be set aside.

5. Per Contra, learned AGA vehemently opposed the submissions of learning counsel for the appellants. He submitted that P.W. 1, who was an eyewitness to the incident, had lodged First Information Report. He has proved the incident. The place and time of incident has been proved by the P.W. 4 also. He further

submitted that the deceased had suffered head injury, on account of which, he died, which has been proved by the doctor, who appeared as a prosecution witness. Thus, merely because the P.W. 4 was not an eyewitness, it cannot be said that the incident is not proved and the conviction and sentence is liable to be set aside. The appeal has been filed on misconceived and baseless grounds, which is liable to be dismissed.

6. Brief facts of the case are that an FIR was lodged on 22.12.1999 on the basis of a written complaint at 00:15 A.M. at Police Station Kachhauna, District Hardoi alleging therein that in the month of July last year, a fight had taken place between the complainant i.e. P.W. 1-Shyama Kumar son of Shri Sonelal and Santosh and Vinod, both sons of Shiv Narain, in which he had suffered injury, on account of which, he had lodged a report in the Police Station Kachhauna, due to which the accused(s) were keeping enmity. On 19.12.1999, some persons came for his marriage i.e. of the complainant and Shiv Narain/the appellant no. 1 told them that the boy is drunkard and Goonda and it is not proper to marry with him. When it came to knowledge of his father Sonelal, then he asked to Shiv Narain as to why he used to say so, on account of which, on 21.12.1999 at about 8 in the night, when his father was coming from the door of Saanwal, back to his house after warmness from fire, the accused(s), who were having lathies have beaten father of the complainant with the same.

7. The medical examination of the injured was done on 22.12.1999 by In-Charge, Medical Officer, Primary Health Centre, District Hardoi at 01:00 A.M. on 22.12.1999 by Dr. R. B. Lal. He found a lacerated wound of 3 c.m.×1/2 c.m. open deep on back of his scalp 9.5 cm above medial end of left eyebrow. The sensorium was altered. Blood pressure/Pulse rate normal. As per the opinion of the doctor, the injury was caused by hard blunt object and it was kept under observation. He referred him to District Hospital, Hardoi for further investigation and treatment. It has also been recorded that nature of injury is fresh. From District Hospital Hardoi, he was referred to the Balrampur Hospital, District Lucknow.

8. Sonelal died in Balrampur Hospital, Lucknow on 24.12.1999, on account of injuries suffered by him in the aforesaid incident. His inquest and postmortem was done on 24.12.1999 in the evening, which was done by Dr. R.C. Prasad. He found contusion of 8 cm x 12 cm present on top of head and on opening achymosea present underneath the injury and on opening the same, deposited blood was found. He died on account of antimortem injury. In view thereof, the case was converted from Section 308 IPC to 304/34 IPC and investigation was done by Shri Saffruddin Khan, Station House Officer himself. After investigation, the chargesheet was filed. The case was committed to Session by means of the order dated 20.04.2000 passed by Civil Judge, Junior Division, Hardoi/Judicial Magistrate. The charge under Section 304/34 IPC was framed by court of Session on 05.05.2003. The accused(s) denied the charge and prayed for trial.

9. In the documentary evidence, the written report as paper no. ka-1, medical examination report as paper no. ka-2, chik report as paper no. ka-3, carbon copy of GD as paper no. ka-4, carbon copy of change in GD as paper no. ka-5,

postmortem report as paper no. ka-6, information regarding conversion as paper no. ka-7, chargsheet as paper no. ka-8, site plan as paper no. ka-9, panchayatnama as paper no. ka-10, challan dead body as paper no. ka-11, photo of dead body as paper no. ka-12, letter of Chief Medical Officer, Lucknow as paper no. ka-13 and sample of seal as paper no. ka-14 were placed on record. The oral evidence of complainant-Shyama Kumar as P.W. 1, Ram Ratan as P.W. 2, Dr. R.B. Lal as P.W. 3, Rakesh @ Kaalia as P.W. 4, Ramesh Chandra Shrivastava as P.W. 5, Dr. R. C. Prasad as P.W. 6 and Safruddin Khan as P.W. 7 was recorded. Thereafter, the statement of the complainant under Section 313 CrPC was recorded. All the accused(s) denied the allegations in one voice and stated that they have been falsely implicated on account of enmity, but they did not produce any evidence in their defense.

10. The learned trial court, after hearing the Assistant Government Advocate, Criminal and the Defense Counsel, decided the trial and convicted the appellants and sentenced with the aforesaid punishments. Hence this appeal has been filed.

11. P.W. 1-the comlainant stated that the accused Santosh and Vinod, sons of Shiv Narain and they reside in the same village. On 21/2-12-99 at about eight in the night, he went to call his father for dinner, who was sitting and warming his hands from fire near the door of house of Saamal Pradhan and when he was going back behind his father near the door of Chunna, accused(s) came with lathis in their hand and started beating his father. He further stated that he himself and his father had torch in their hands. On hearing the noise, Kallu, Rakesh and other persons of village came and on their call, accused(s) went back their home. His father had suffered injuries and fell unconscious. He took his father to home and then to Police Station Kachhauna on bullock cart. He wrote the complaint sitting outside and given it to the Munshi ji, on which the First Information Report was lodged. Thereafter, the police took his father to hospital, where his medical examination was done. However, since his condition was bad, therefore, the doctor referred him to the District hospital, Hardoi, where also his condition was serious, therefore, he was referred to Balrampur Hospital, District Lucknow, where he died. He further stated that prior to aforesaid incident, in the month of July, there was a fight between him and Santosh and Vinod, in which he had suffered injuries, on account of which the F.I.R. was lodged at Police Station Kachhauna, therefore, Santosh and Vinod were keeping enmity with him, therefore, when some persons came for his marriage then the accused Shiv Narain told to them that the boy is drunkard and Goonda and he does not do any work. When it came into the knowledge of his father, his father asked to Shiv Narain as to why he says so, on account of said enmity, the accused(s) had beaten his father. His evidence was questioned on the ground that the allegation has not been shown in the First Information Report. However, the learned trial court, after considering the evidence and the fact that nothing can be extracted from him in his cross examination, held that the incident was of about eight in the night, when the deceased was called by his son for dinner from the place where he was having warmness in front of fire and when he reached in front of house of Munna, the incident had taken place and usually at that time, people in village do not go for sleep, therefore, lights in front of their house were

not put off and since then, the accused were known to the complaint, therefore, it cannot be said that he could not have recognized them. Thus, he proved the incident.

12. It is settled law that FIR is not an encyclopedia disclosing all facts and details relating to the office. First Information Report is not even considered to be a substantial piece of evidence and can only be used to corroborate and construct the informant's evidence in the Court. The Hon'ble Supreme Court in the case of Amish Devgan Versus Union of India; (2021) 1 SCC 1 has held that the First Information Report is not meant to be a detailed document containing the chronicle of all intricate and and minute details.

13. P.W. 4-Rakesh @ Kalia, though could not prove the incident as he had not seen, but he proved the time and place of incident as he stated that after hearing the noise, he reached near house of Munna and saw Sonelal in the injured condition. Thus, he has proved time and place of incident and considering his evidence, the learned trial court has recorded finding that he has not proved the incident but he has supported the time and place of incident because he had reached on the spot after hearing the noise. This Court does not find any illegality or error in the finding recorded by the learned trial court because the incident has been proved by P.W. 1 and P.W. 4 has also proved the time and place of incident because when after hearing noise, he reached in front of the door of Munna, then he saw Sonelal in injured condition, therefore, he proved not only time and place of the incident but also that Sonelal, the deceased was lying there in injured condition, which also supports the evidence of P.W. 1, therefore, merely because P.W. 1 is the son of the deceased and a relative, his evidence cannot be discarded on the ground that he is an interested witness.

14. The Hon'ble Apex Court, in Kartik Malhar vs. State of Bihar; (1996) 1 SCC 614, observed that there is a distinction between a witness, who is related and interested witness. A relative is a natural witness. The Hon'ble Apex Court has opined that a close relative who is a natural witness can not be regarded as an interested witness. The term "interested" postulates that the witness must have some direct interest in having the accused somehow or the other convicted for some animus or for some other reason.

15. The Hon'ble Supreme Court, in the case of Baban Shankar Daphal and others vs. State of Maharashtra; 2025 SCC OnLine 137, has observed that the law nowhere states that the evidence of the interested witness should be discarded altogether. The law only warrants that their evidence should be scrutinized with care and caution. It has been held by this Court in the catena of judgments that merely if a witness is a relative, their testimony cannot be discarded on that ground alone.

16. A three judge Bench of the Hon'ble Supreme Court, in the case of Karulal and others vs. the State of M.P.; (2021) 13 SCC 391, has held that the testimony of the related witness, if found to be truthful, can be the basis of conviction.

17. P.W. 2 is the witness to the inquest. P.W. 3 is Dr. R. B. Lal, who has proved the medical examination done by him on 22.12.1999 and the injury and the condition of the deceased at that time. P.W. 5-Ramesh Chandra Shrivastava has prove the lodging of FIR, conversion of case from

Section 308 IPC to Section 304 IPC and the documents in support thereof. P.W. 6-Dr R.C. Prasad has proved the postmortem report and the injuries shown by him in the postmortem report. The evidence of P.W. 6 was questioned on the ground that the lacerated wound was shown by the doctor in his medical report dated 22.12.1999, whereas blue mark was found by him but the learned trial court found it at the same place where the medical officer had found lacerated wound and P.W. 6 after opening the same, had also found the deposited blood. Thus, it is only a matter of opinion and it may be on account of fact that at the time of medical examination on 22.12.1999, it was a fresh injury and the postmortem was done after his death on 24.12.1999, during which period it cannot be said that the status of injury would remain same and it might have been dried. This Court does not find any legality or error in the findings recorded by the learned trial court.

18. P.W. 7-Saffruddin, who investigated the matter after conversion of case after death of Sonelal from Section 308 IPC to Section 304 IPC, proved the conversion, statement of witnesses, inquest report and arrest of the accused(s) on 31.12.1999 and filing of chargesheet after investigation in accordance with law in the matter.

19. In view of above and considering the overall facts and circumstances of the case, the contention of learned counsel for the appellant, that the independent witness P.W. 4-Rakesh @ Kalia has not proved the incident, therefore, the appellants could not have been convicted, is totally misconceived and not tenable as the incident has been proved by the P.W. 1 and time and place of incident has been proved by P.W. 4 also and it is also proved from his evidence that at that time and place, the deceased was injured and was lying in injured condition, on account of which he died subsequently. Thus, he supported the evidence of P.W. 1. The learned trial court has recorded finding after considering the evidence and material on record in accordance with law. The findings recorded by the learned trial court does not suffer from any illegality, error or perversity, which may call for any interference by this Court. The conviction and the punishment awarded is also commensurate to the charge, which has been proved by cogent evidence. The appeal has been filed on misconceived and baseless grounds.

20. The appeal is, accordingly, dismissed upholding the impugned judgment and order passed by the trial court.

21. Let a copy of this order along with the records be sent back to the concerned court forthwith for compliance.

(2025) 5 ILRA 659
APPELLATE JURISDICTION
CRIMINAL SIDE
DATED: ALLAHABAD 28.05.2025

BEFORE

THE HON'BLE VIVEK KUMAR BIRLA, J.
THE HON'BLE PRAVEEN KUMAR GIRI, J.

Criminal Appeal No. 1585 of 1983

Kalloo ...Appellant
Versus
State of U.P. ...Respondent

Counsel for the Appellant:
K.N. Dwivedi,Kaustubh Tewari,Shrinath,Sri Nath Dwivedi

Counsel for the Respondent: