

**Ranvir Singh Vs. State of U.P.**

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**Court :** Allahabad

**Decided On :** Aug-12-1999

**Reported in :** 2000CriLJ521

**Judge :** G.P. Mathur and ;U.S. Tripathi, JJ.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 120B and 302

**Appeal No. :** Crl. Appeal No. 2781 of 1980

**Appellant :** Ranvir Singh

**Respondent :** State of U.P.

**Advocate for Def. :** Dy. G.A.

**Advocate for Pet/Ap. :** G.P. Dikshit, ;S.S. Tiwari and ;A.C. Chaturvedi, Advs.

**Disposition :** Appeal dismissed

**Judgement :**

**U.S. Tripathi, J.**

1. This appeal has been preferred against judgment and order dated 2-12-1980 passed by Sri S. K. Verma, the then learned VIIth Additional Sessions Judge, Etawah in Sessions Trial No. 38 of 1980, convicting the appellant Ranvir Singh under Section 302, I.P.C. and sentencing him to undergo imprisonment for life.

2. The prosecution case, briefly stated, is that Gur Narain, (38), deceased, brother of Mahraj Singh, (P.W. 1) was resident of village Makrandpur, P. S. Airwa Katra. Smt. Munni Devi, (27), co-accused, who was acquitted by the Trial Court, was aunt of Gur Narain, deceased and belonged to his family. She was widow having two children and was residing separately in separate house. Towards north of house of Smt. Munni Devi, there was some open land belonging to Sobha Ram, uncle of Gur Narain, deceased. Sobha Ram had given his above land, towards north of house of Smt. Munni Devi, to the deceased in exchange. Smt. Munni Devi, co-accused wanted to grab said land and in this connection she had pressurised the deceased through appellant Ranvir Singh with whom she had illicit connection, to leave the said land. The deceased was not ready to part with the said land in favour of Smt. Munni Devi and on account of it Munni Devi as well as Ranvir Singh, appellant were inimical with the deceased.

3. On the morning of 11 -7 1979 at about 5 A. M. Gur Narain, deceased was sitting on a Charpai in his Chhappar, adjacent to his house, after providing fodder to his cattle. His wife Smt. Prema Devi, (P.W. 2) was also standing near him. In the meantime, appellant Ranvir Singh came near the Charpai of deceased and started abusing him saying that since he had not left the land, he would be told its consequence, hearing the abuses extended by Ranvir Singh, appellant, Mahraj Singh, (P.W. 1), brother of deceased, his mother and sister came to the spot from the house. Zalim Singh, (P.W. 3) and Sobha Ram also came to the spot. Ranvir Singh, appellant fired a shot on deceased from a country made pistol. Sustaining firearm injury. Gur Narain, deceased bowed down on Charpai and died. Mahraj Singh, (P.W. 1) caught hold of appellant Ranvir Singh, but he pushed his aside and ran away.

4. Mahraj Singh, (P.W. 1) went to village Airwa and got his report scribed from Radha Kishan and lodged the same at P.S. Airwa Katra at 7.15 A.M. Head Constable Puttu Singh, (P.W. 10) prepared Chik F.I.R. (Ext. Ka-10), made an endorsement of the same at G. D. report (Ext. Ka-11) and registered a case against Ranvir Singh, appellant and Munni Devi under Sections 302 and 120B, I.P.C. The investigation of the case was taken up by Yogendra Prasad Sharma, I.O., (P.W. 11). He proceeded to the place of occurrence along with police force,

where he conducted inquest of the dead body of Gur Narain, deceased and prepared inquest report (Ext. Ka-12) and other relevant papers (Ext. Ka-13 to Ka-16). He sealed the dead body and handed over to Constable Dinesh Kumar, (P.W. 8) for taking it for postmortem. The investigating Officer also took into possession the blood-stained and simple earth from the spot and prepared recovery memo (Ext. Ka-2). He also took into possession blood-stained Dari and prepared recovery memo, (Ext. Ka-3). Charpai on which deceased was sitting was given in the supurdagi of Mahraj Singh, vide supurdaginama, (Ext. Ka-4). The investigating Officer then interrogated Mahraj Singh, (P.W. 1), Smt. Prema Devi, (P.W. 2), Zalim Singh, (P.W. 3), Benchey Lal, (P.W. 4) and other witnesses. He apprehended co-accused Munni Devi and interrogated her. Then he visited the place of occurrence and prepared site plan, (Ext. Ka-19). House of Munni Devi was searched from where two letters were recovered.

5. The autopsy on the dead body of Gur Narain, deceased was conducted on 12-7-1989 at 1.50 P.M. by Dr. P.K. Verma, (P.W. 6), who found a gunshot wound of entry 2 x 1 Cms x Thoracic cavity deep in front of left shoulder 5 Cms. above anterior fold of axilla. Margins of wound were inverted, scorching and singeing of hairs present. Blackening and tattooing present all around the wound of entry in an area of 12 x 10 Cms. No wound of exit found. The humerus underlying the wound of entry eroded. Bullet found embedded in the left lung tissue. Direction of the bullet from left to right obliquely from above downwards and backwards. On internal examination left pleura was found punctured. Left lung was punctured and lacerated. Pulmonary vessels lacerated at the site of injury. Thoracic cavity contained one litre clotted blood. Stomach was empty. Large intestines contained fecal matter and gases. Cause of death was shock and haemorrhage as a result of gunshot injury sustained. Doctor prepared postmortem report, (Ext. Ka-5).

6. Letters recovered from the house of Smt. Munni Devi were sent to Fingerprint and Handwriting Expert for comparison and report. On completion of investigation the investigating Officer submitted charge sheet, (Ext. Ka-20) against appellant Ranvir Singh and Smt. Munni Devi.

7. The case was committed to the Court of Sessions by the Committal Court. Ranvir Singh, appellant was charged with the offence punishable under Section 302, I.P.C., while co-accused Smt. Munni Devi was charged with the offence punishable under Section 120B, I.P.C. The appellant pleaded not guilty, denied his intimacy with Smt. Munni Devi and contended that he was falsely implicated due to party bandi. The appellant examined Nawab Singh, (D.W. 1) in the defence.

8. The prosecution in support of its case examined Mahraj Singh, (P.W. 1), Smt. Prema Devi, (P.W. 2), Zalim Singh, (P.W. 3), Banchey Lal, (P.W. 4), Chhote Lal, (P.W. 5), Dr. P. K. Verma, (P.W. 6), Constable Ram Charan Singh, (P.W. 7), Constable Dinesh Kumar, (P.W. 8), Rajendra Singh Yadav, Government Handwriting Expert, (P.W. 9), Head Constable Puttu Singh, (P.W. 10) and Yogendra Prasad Sharma, I.O., (P.W. 11), Mahraj Singh, (P.W. 1), Prema Devi, (P.W. 2) and Zalim Singh, (P.W. 3) were witnesses of fact, while evidence of remaining witnesses was formal in nature.

9. Learned Additional Sessions Judge on appreciation of evidence of the prosecution disbelieved the evidence of conspiracy against a co-accused Munni Devi. He believed the evidence of Mahraj Singh and Prema Devi, eye-witnesses, but disbelieved the evidence of Zalim Singh, (P.W. 3). He concluded that the prosecution successfully proved the guilt of Ranvir Singh, appellant for the offence punishable under Section 302, I.P.C, but failed to prove its case against Smt. Munni Devi. With these findings he acquitted Smt. Munni Devi, but convicted Ranvir Singh, appellant under Section 302, I.P.C. and sentenced him to undergo imprisonment for life.

10. Aggrieved with his above conviction and sentence Ranvir Singh, appellant has come up in this appeal.

11. We have heard Sri S. S. Tiwari, learned counsel for the appellant and learned A. G. A. for the State and have gone through the evidence on record.

12. The case of the prosecution is that Gur Narain, deceased died due to gunshot injury. The appellant has not disputed the identity, death and cause of death of the deceased. The ocular witnesses Mahraj Singh, (P.W. 1), Smt. Prema Devi, (P.W.

2) and Zalim Singh, (P.W. 3) stated that gunshot was fired on deceased. Dr. P. K. Verma, who conducted autopsy on the dead body of the deceased found gunshot wound of entry 2 x 1Cms. x Thoracic cavity deep in front of left shoulder 5 Cms. above anterior fold of axilla. Margins of the wound were inverted, scorching and singeing of hairs present, blackening and tattooing present. The above gun shot injury resulted in puncturing and lacerating left lung and pleura. The cause of death according to Dr. P.K. Verma, (P.W. 6) was shock and haemorrhage due to above injury. The ocular testimony and medical evidence in this regard has not been challenged and therefore it is amply proved that Gur Narain, deceased died due to gunshot injury on his front portion of the body.

13. The prosecution has set up a motive against the appellant. According to evidence of Mahraj Singh, (P.W. 1) and Smt. Prema Devi, (P.W. 2), Sobha Ram had given his land to Gur Narain, deceased, which was lying towards north of house of Smt. Munni Devi, in exchange, Munni Devi wanted to grab said land and she had persuaded Ranvir Singh, appellant, who had illicit connection with her, to oust Gur Narain, deceased from said land. Gur Narain was not ready to part with the said land and this was the motive for the deceased to finish him, Mahraj Singh, (P.W. 1) and Smt. Prema Devi, (P.W. 2) have stated above motive in their evidence. This fact is also mentioned in the F. I.R.

14. The learned counsel for the appellant contended that according to admission of Mahraj Singh, (P.W. 1) and Prema Devi, (P.W. 2) no deed was executed regarding alleged exchange and Sobha Ram had got the land prior to 10 years, but the land was given to Gur Narain in exchange only three years -before the occurrence of the case. He also contended that there could be no exchange without execution of deed and, therefore, theory of alleged exchange of land is not correct. Having considered the evidence of above two witnesses we find no force in the above contention. It is true that no document regarding exchange was executed, but it is clear from the evidence on record that Sobha Ram was cousin of Gur Narain, deceased. Oral exchanges also take place between family members or near relatives. The suggestion given by defence to Mahraj Singh, (P.W. 1) was that the land, which Sobha Ram had given to him (Mahraj Singh) did not belong to Sobha Ram, but to Smt. Munni Devi. This suggestion itself shows

that Sobha Ram had given land to deceased and Mahraj Singh, (P.W. 1), which is situate towards north of house of Munni Devi. It is true that Sobha Ram had taken land from Gur Narain, deceased prior to 10 years and he gave his land in exchange only three years before the occurrence of this case, but this does not appear improbable, as the lands are taken when necessity for the same arises. The possibility that Sobha Ram needed land earlier and obtained the same from the deceased with a promise to give his land in exchange subsequently, cannot be easily ruled out specially when they are pattidars and were having cordial relations.

15. It was, further, suggested by defence to Mahraj Singh, (P.W. 1) that he was trying to take the land (allegedly belonging to Smt. Munni Devi) forcibly. This suggestion itself shows that there was enmity between Munni Devi and deceased and his family members about the land near the house of Munni Devi. Admittedly, Munni Devi was widow having two minor children. In the above context she must have sought help of someone to protect the said land. Mahraj Singh, (P.W. 1), Smt. Prema Devi, (P.W. 2) stated that Ranvir Singh, appellant had illicit connection with Smt. Munni Devi and he often visited her house. It has also come in the evidence of above witnesses that prior to occurrence once Ranvir Singh, appellant had called the deceased to his house and by putting gun on his chest asked him to vacate the land. This is also in their evidence that on the day of occurrence when appellant came to the Charpai of the deceased, again he reminded Gur Narain, deceased that he had not vacated the land despite asking by him, Ranbir Singh, appellant is, admittedly, resident of another village Faizulapur, which is at a distance of 1 Km. from the village of deceased and witnesses. If Ranvir Singh had nothing to do with Smt. Munni Devi and her land, the prosecution witnesses would have not levelled such allegations against him, because they were having no other enmity or any other ground to falsely connect the appellant with Smt. Munni Devi. Mahraj Singh, (P.W. 1) has also stated in his cross-examination that towards west of land, which he got in exchange, there was land of Zalim Singh, (P.W. 3), which Smt. Munni Devi got forcibly surrounded by walls. Zalim Singh, (P.W. 3) also stated in his cross-examination that his land was taken by Ranvir Singh, appellant three years ago. This further indicates that Ranbir Singh was helping Smt. Munni Devi in forcible occupation of land near her house. It is true that threatening to

deceased by Ranvir Singh, appellant on point of gun and asking him to vacate the land was not mentioned in the F.I.R., but the factum of threat is mentioned in it. F.I.R. is not an encyclopedia of prosecution story and all minute details are not expected to be mentioned in the F. I.R. The F. I.R. was lodged after the murder of deceased and at such time the informant was not expected to mention each and every minute detail. As such above omission does not materially affect the motive alleged by the prosecution.

16. From the above evidence on record and previous conduct of Ranvir Singh, appellant, the prosecution has established motive against the appellant.

17. The date of occurrence i.e. 11-7-1979 is not disputed. The postmortem on the deadbody of the deceased was conducted on next day i.e. 12-7-1979 at 1.15 P.M. the probable time since death, given by Dr. P. K. Verma, (P.W. 6) was one and half day. The above time, tallies with the time and date of the occurrence set up by the prosecution.

18. The occurrence, according to prosecution took place at about 5 A.M. Report of the occurrence was lodged at 7.15 A.M., while the police station was at a distance of 4 miles (6 Kms.). Informant Mahraj Singh, (P.W. 1) stated that after the occurrence he directly went to village Airwa, where police station is situate and got prepared report from one Radha Kishan and lodged the same at the police station. He has also offered explanation for not getting prepared report in his village by stating that after the occurrence no literate person of his village was available. No enmity had been suggested with Radha Kishan. He also stated that the place where he got the report prepared was at a distance of 4-5 furlongs from the police station. The mode of travelling the distance of police station has not been elicited in the cross-examination. Taking into consideration the manner in which the report was lodged there was no inordinate delay in lodging the same.

19. The learned counsel for the appellant contended that Zalim Singh, (P.W. 3) admitted in his cross-examination that Chaukidar was sent to call Daroga (Sub Inspector) and he returned with Daroga at about 8 A. M. This shows that firstly I.O. was called and then with his deliberations report was got prepared. There appears no force in the above contention, as Mahraj Singh had stated that he proceeded to

police station just after the occurrence. Smt. Prema Devi, (P.W. 2) also stated that Mahraj Singh proceeded to police station just after the occurrence. Chaukidar would have come after the occurrence and if he was asked to call Daroga, it does not mean that Mahraj Singh had not gone to police station prior to it for lodging the report. This is so also because it was not clarified from the witnesses whether Maharaj Singh was present on the spot when Chaukidar went to call Daroga. Therefore, there is nothing on record to show that report was subsequently lodged after arrival of the Investigating Officer on the spot. The F.I.R. was promptly lodged, and therefore the informant, Mahraj Singh, (P.W. 1) had no occasion to make deliberations about the assailant.

20. No doubt, it was suggested to ocular witnesses that occurrence had taken place at 1 or 1.30 A. M. in the night, but except bald suggestion there is no other evidence or circumstances to prove the same. The medical evidence shows that large intestine contained fecal matters and gases and stomach was empty. No digested food was present in small intestine. Mahraj Singh, (P.W. 1) and Smt. Prema Devi, (P.W. 2) stated that deceased had not eased prior to the occurrence. The condition of stomach, large and small intestines of the deceased corroborates the time of occurrence stated by the witnesses and falsifies the time of occurrence suggested by the appellant, because if the occurrence had taken place at 1.30 A. M. the small intestine must have contained digested food, assuming that food had passed from stomach.

21. There is no dispute regarding place of occurrence. According to prosecution the deceased was gunned to death on his charpai beneath the Chhappar on which he was sitting. The Investigating Officer found the deadbody on the Charpai. He also found blood in the Chhappar near the Charpai. No counter place of occurrence has been suggested by the appellant.

22. The correctness of prosecution story depends on reliability of ocular witnesses. The prosecution has relied on evidence of eye-witnesses Mahraj Singh, (P.W. 1), Prema Devi, (P.W. 2) and Zalim Singh, (P.W. 3).

23. Mahraj Singh, (P.W. 1) after stating about the motive further stated that at time of occurrence he was inside his house. Hearing abuses he came in the Chhappar.

His mother and sister also came. Zalim Singh, (P.W. 3) and Sobha Ram also came there. He observed appellant Ranvir Singh abusing his brother Gur Narain, deceased and in the meantime he fired country made pistol (Tamancha) shot on his brother, due to which he bowed down dead on the Charpai. He caught hold of the appellant, but the latter pushed him aside. He fell down and the appellant ran away. In his cross-examination, he clarified that he and his other members of the family used to get up at 4/4-30 A.M. His sister-in-law (Bhabhi) in the night of occurrence was sleeping besides Charpai of deceased and at the time of occurrence she was standing besides his Charpai. Shot was fired from close range i.e. at a distance 1 Balist.

24. Smt. Prema Devi, (P.W. 2) stated that on the night of occurrence she was sleeping on the ground besides charpai of her husband. Her husband, after providing fodder to cattle, was sitting on Charpai beneath the Chhappar. At about 5 a.m. appellant Ranvir Singh came near the deceased and started abusing him that his mind was upset, as he has not left the land till then and he would be taught for it. Hearing abuses her brother-in-law Mahraj Singh, (P.W. 1), mother-in-law and sister-in-law also came in the Chhappar. Zalim Singh and Sobha Ram also came. Ranvir Singh, appellant fired on deceased, due to which he bowed down on Charpai and died. Mahraj Singh caught hold of appellant, but pushing him aside he ran away towards east. In her cross-examination she stated that in the night of occurrence she was sleeping on the ground without any bedding, besides the Charpai of her husband. Daroga came to spot at about 8 A. M. She has also given details of motive against the appellant.

25. Zalim Singh, (P.W. 3) stated that at the time of occurrence he was providing fodder to his cattle. He heard abuses extended by Ranvir Singh appellant to the deceased, Gur Narain. He came to the spot and observed the deceased sitting on Charpai, Prema Devi, (P.W. 2) standing near his Charpai and Mahraj Singh, (P.W. 1) and his other family members standing in Chhappar. Sobha Ram had also come, Ranvir, appellant fired pistol shot on the deceased due to which he bowed down on Charpai and died. Mahraj Singh caught hold the appellant, but he ran away pushing him aside.

26. Mahraj Singh, (P.W. 1) is real brother of deceased. According to his evidence he was inside his house when he heard abuses of appellant at about 5 A.M. Hearing the abuses he and his other family members came out and stood in Chhappar where deceased was sitting on a Charpai. He has also clarified in his evidence that he and members of his family used to get up at 4/4.30 A. M. He further clarified that he was just to come out of house when he heard abuses. Therefore, in all probabilities Mahraj Singh, (P.W. 1) was present on the spot at the time of occurrence and was in a position to observe the occurrence, which took place at about 5 A. M. in the month of July.

27. According to Smt. Prema Devi, (P.W. 2) she was sleeping near the Charpai of deceased and had awakened before the occurrence and at the time of occurrence was sitting on the ground near the Charpai of deceased. The deceased was also sitting on Charpai after providing fodder to cattle. Sri S. S. Tiwari, learned counsel for the appellant contended that it is highly improbable that Smt. Prema Devi, (P.W. 2) would sleep on the ground without any Charpai or bedding specially in the rainy season and it shows that she was sleeping inside her house. But considering the social status of deceased and Smt. Prema Devi her above evidence cannot be disbelieved. Prema Devi was Kahar by caste. There is nothing on record to show that her financial status was very sound. It has come in the evidence of Mahraj Singh, (P.W. 1) that it had not rained in the night preceding to the occurrence. In the village people having no sound financial status often sleep on the ground without bedding specially in summer and rainy season. Therefore, the mode of sleep stated by the witness was not improbable. In case she was inside her house she would have also come to the spot at 5 A. M. as by that time she had arisen and would have gone to her husband.

28. It was, further, contended that the time of occurrence alleged by prosecution was such that by that time the ladies of the family would be busy in working inside house and, therefore, Smt. Prema Devi, (P.W. 2) in all probabilities must be inside her house. This argument is also presumptive. Prema Devi, (P.W. 2) had clarified that she had no children. She had also sisters-in-law. There were other female members in her family. Her husband was elder to his brother. 5 A.M. was not such a time when she had great deal of work inside the house. Therefore her sitting

near her husband, considering her family condition, was natural and probable.

29. Again it was pointed out that theory of abuses extended by appellant was not probable. That the deceased had sustained only one gunshot injury and if a person had to commit murder of the deceased, he would have come stealthily, fired the shot and would have ran away. It was a case of hit and run. None had seen the occurrence. The prosecution, therefore, has set-up theory of abuses just to secure the presence of witnesses. This argument does not fit in the case in view of testimony of ocular witnesses, background in which the offence was committed and other circumstances. Ranvir Singh, appellant was much superior than the deceased and witnesses in money and social status. His conduct, as stated by prosecution witnesses, was that he had forcibly taken the land of Zalim Singh for Smt. Munni Devi. It has also come in the evidence of prosecution witnesses that he was pressurising Gur Narain, deceased to vacate the land, for last three months. About 15 days before the occurrence he called the deceased at his house and on the point of gun threatened him to vacate the land near the house of Munni Devi. But the deceased had not given due weight to the threats of the appellant. It appears that on the day of occurrence the appellant had come to the deceased to settle the matter regarding land finally. If the conduct of the appellant was such, in all probabilities he had abused and told the deceased that he had not cared for his advice, therefore, he would teach him a lesson. Thus, in the above background of the case it can be safely inferred that on coming to the deceased, he had abused and threatened the deceased and, therefore, the evidence of the prosecution witnesses that appellant abused prior to firing on the deceased is believable. As such, prior to firing on the deceased, the appellant had abused and extended threats and the abuses etc., would, in all probabilities had attracted the attention of family members of the deceased as well as neighbours, namely Zalim Singh and Sobha Ram.

30. Zalim Singh, (P.W. 3) at the time of occurrence was providing fodder to his cattle. His house is just after one house of the deceased. In front of the house of deceased and Zalim Singh, (P.W. 3), there is open land in which catties are tethered. If the witness was in his sahan, he must have heard the abuses given by appellant and would have come to the spot. In these circumstances, the presence

of Mahraj Singh, (P.W. 1), Prema Devi, (P.W. 2) and Zalim Singh, (P.W. 3) on the spot was natural and probable. The evidence of Mahraj Singh and Prema Devi was rightly believed by the learned Additional Sessions Judge.

31. The learned Additional Sessions Judge has disbelieved the evidence of Zalim Singh, (P.W. 3) firstly on the ground that he stated that at the time of occurrence he was busy in providing fodder for his cattle, hence his attention easily could not have been focussed to the quarrel between the deceased and accused Ranvir Singh and secondly that he had filed affidavit (Ext. Kha-1) that he did not see the occurrence. Having considered the evidence of the witnesses, we are not in agreement with the above observation of the learned Additional Sessions Judge. As mentioned above, the house of Zalim Singh, (P.W. 3) is just after one house of the deceased. Place in front of house of deceased and witnesses is open. He was providing fodder to his cattle hardly at a distance of 15 to 20 paces. Thus, the abuses given by the appellant was clearly audible to the witnesses and observing that a person of other village, who had forcibly taken his land from Smt. Munni Devi was abusing, he must have come to the spot to observe as what was going on. It is true that the witness had admitted his signature on affidavit, (Ext. Kha-1), but he has clarified in his cross-examination that he was not knowing what was written in the affidavit. When the contents of affidavit were read over to him, he stated that all that was mentioned, was wrong. He also clarified that the affidavit was not read over and explained to him and simply he put his thumb impression without knowing for what he was putting his thumb impression. He, further, clarified that he put his thumb impression on the affidavit due to fear of appellant. In this way, the affidavit cannot be treated a voluntary act of the witness and he was rather forced by the appellant to put his thumb impression on the affidavit. This also shows as to what type of man the appellant was. Therefore, evidence of Zalim Singh was also reliable and the learned Additional Sessions Judge wrongly rejected the same on insufficient ground.

32. The evidence of ocular witnesses also finds corroboration from medical evidence. According to Mahraj Singh, (P.W. 1) and Prema Devi, (P.W. 2), at the time of occurrence the deceased was sitting on Charpai facing towards west. The appellant came from gali towards west of the Chhappar of the deceased fired on

the deceased on his front side. The gun shot wound of entry on the person of deceased was in front of left shoulder 5 Cms. above anterior fold of axilla. The seat of injury was, thus, front side, which shows that shot was fired from front side of the deceased. The learned counsel for the appellant contended that the seat of injury indicates that the deceased sustained injury, while he was sleeping. In view of evidence of ocular witnesses as well as the evidence of Dr. P.K. Verma, (P.W. 6), there is no force in the above contention. Dr. P. K. Verma, (P.W. 6) stated in his cross-examination that the assailant ought to have been slightly front and left side of the victim. His above statement tallies with the statement of ocular witnesses that assailant was in front side of the deceased at the time of firing shot because slightly left does not indicate completely left side. Mahraj Singh, (P.W. 1) further stated that shot was fired from a distance of one Balist. Evidence of Dr. P.K. Verma, (P.W. 6) shows that shot would have been fired from a distance within three feet. Blackening, Tattooing scorching and singeing of hairs around wound also indicate that it was fired from close range. Thus, in this way, the ocular testimony is also in conformity with medical evidence.

33. It was contended by the learned counsel for the appellant that in order to grab the land of Smt. Munni Devi, the witness had falsely deposed against Ranvir Singh and they had also roped in Smt. Munni Devi in the conspiracy of murder, but she was acquitted and, therefore, their evidence was not reliable on the ground of enmity. It is true that there was enmity between the parties regarding land, but that enmity was also alleged motive for the appellant. Mahraj Singh, (P.W. 1) is the real brother of the deceased and Smt. Prema Devi, (P.W. 2) is the widow of the deceased. These witnesses, being near relative of the deceased, would have not spared the real assailant and would have not preferred to falsely Implicate innocent person. If they had to falsely depose, their target must have been Smt. Munni Devi first and they would have stated that Munni Devi was also present and exhorting. But the prosecution witnesses raised their suspicion against Munni Devi and the alleged conspiracy against her could not be proved. No other person except the appellant had been made accused in the commission of the offence. As mentioned above, the appellant had also motive and in view of the facts and circumstances of the case it was more probable for the appellant to commit murder of the deceased.

34. It is true that Munni Devi was acquitted by the trial Court on the ground that evidence of conspiracy stated by Benchey Lal, (P.W. 4) was not believable on the ground of improbability. But her acquittal does not falsify the motive set-up by the prosecution against the appellant. Therefore, case of prosecution against appellant is not affected by acquittal of Munni Devi as it was on different footing.

35. It was suggested to Smt. Prema Devi, (P.W. 2) that appellant was falsely implicated by the local police under the influence of Jaihind and Raja Singh, who are residents of village of appellant. No doubt, Prema Devi, (P.W. 2) admitted in her evidence that Jaihind of village Faizulapur had land in her village, but she was not knowing whether Raja Singh was his relative or not. She was also not knowing Jaihind. She repelled the above suggestion of appellant that he was falsely implicated by police by Jaihind and Raja Singh. What influence Jaihind had on the complainant and witnesses was not elicited. Prema Devi, (P.W. 2) stated that she was not knowing Jaihind, therefore, she could not be said under influence of Jaihind or his relative Raja Singh and she had no occasion to falsely implicate the appellant.

36. In view of what has been discussed above we are of the view that prosecution has successfully proved guilt of appellant Ranvir Singh for committing murder of Gur Narain. The trial Court, therefore, rightly convicted and sentenced the appellant Under Section 302, I.P.C.

37. We, accordingly, dismiss the appeal and confirm the conviction and sentence of the appellant Under Section 302, I.P.C, The appellant is on bail granted by this Court. His bail bonds are cancelled and sureties are discharged. He shall surrender before the Chief Judicial Magistrate, Etawah to serve out the sentence failing which the Chief Judicial Magistrate, Etawah, shall issue non-bailable warrant for securing his arrest and sending him to jail to serve out the sentence.

38. Officer is directed to send a certified copy of the judgment to Chief Judicial Magistrate, Etawah, within a week.