

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL No. 156 OF 2024**

**State of U.P.**

**... Appellant(s)**

**VERSUS**

**Mohd. Ashraf & Ors.**

**... Respondent(s)**

**ORDER**

1. The appellant-State lays a challenge to the judgment and order dated 24<sup>th</sup> August, 2016 passed by the High Court of Judicature at Allahabad in Criminal Appeal No.6798 of 2007 titled “*Mohd. Ashraf & Ors. v. State of U.P.*”.

2. Based on the FIR dated 1<sup>st</sup> April, 2005 being case Crime No.90/2005 lodged at PS Rail Bazar, Kanpur Nagar, the accused were faced to suffer trial for having committed murder of Mohammad Aneesh. The evidence led by the prosecution persuaded the Trial Court to convict the accused, namely, Mohd. Ashraf, Mohd. Aslam and Mohd. Shonu for having

committed offence punishable under Sections 302/34, 201/34, 392 and 412 of the Indian Penal Code and sentence them to suffer imprisonment of different periods with the maximum being of life.

3. In an appeal preferred by the convicts, the High Court, in terms of the impugned judgment, has reversed findings of conviction of fact and the judgment of conviction and sentence and by setting off all the convicts free on all counts.

4. Having appreciated the material placed on record and the submissions made across the Bar, we are of the considered view that no fault can be found with the findings returned both on fact and on law by the High Court.

5. In our considered view, the High Court has appreciated the material in its entirety and correctly applied the settled principles of law. It is a case of circumstantial evidence. What led to pointing fingers at the guilt of the accused, was just a mere suspicion of the father of the deceased. The High Court correctly observed that the factum of recovery of a motorcycle and the dead body, based on the alleged confession statement, cannot be said to have been proven for there being no signatures on the recovery memo or the parties to such recovery having corroborated such fact. Assuming hypothetically, that such a recovery stood effected based on the confession statement of the accused, even then, there is nothing on record to establish the

accused having committed the murder of the deceased, for there being no linkage or tell-tale sign(s), of the use of motorcycle by the accused in the crime.

6. Recovery of a dead body alone cannot be a circumstance for convicting the accused, more so, when there is an unexplained delay of more than 22/23 days in not only lodging the formal FIR, but also disclosing the absence of the deceased by the family members to no one else.

7. It is not the case of the prosecution that the accused had harboured any proven animosity against the deceased or that there was any previous altercation amongst the parties pointing a finger of suspicion towards the guilt of the accused.

8. Remotely though, the prosecution has suggested the theory of last-seen. But even then, the same was not immediately prior to the occurrence of the incident. In a village people do know and often meet each other. Also, the alleged motive of deceiving the deceased over a sum of Rs.70,000/- stands unproven on record. Still further, there is nothing on record to establish yet another alleged motive of animosity emanating out of a liking which the deceased had towards the sisters of the accused. Also, there is no scientific evidence on record linking the accused with the deceased.

9. In view of the above, we are not inclined to entertain this appeal and the same is, accordingly, dismissed.

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

.....J.  
(Sanjay Karol)

.....J.  
(Satish Chandra Sharma)

**6<sup>th</sup> June, 2025;**  
**New Delhi.**