

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.99 of 2011**

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Bijali Choudhary, S/o Late Karu Choudhary, Resident of Village- Inguna, P.S- Akbarpur, Distt- Nawada. Appellant/s

Versus

The State of Bihar Respondent/s

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Appearance :

For the Appellant/s : Mr. Prabhakar Singh, Advocate
Mr. Sumit Kumar, Advocate
Ms. Ritika Kumari, Advocate
Mr. Anubhav Vatsa, Advocate
Mr. Pranav Bhaskar, Advocate
For the Respondent/s : Mr. Abhay Kumar, APP

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**CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT**

Date : 03-02-2026

This appeal has been preferred by the appellant for setting aside the impugned judgment of conviction and order of sentence dated 08.12.2010 and 14.12.2010 respectively passed by learned Additional Sessions Judge, F.T.C., Nawada in S.Tr. No. 148/09/95/09 arising out of Akbarpur P.S. Case No. 59 of 2008, whereby the concerned Trial Court has convicted the appellant and sentenced under Section 324 of the Indian Penal Code (for short 'I.P.C.') with R.I. for one year, under Section 307/34 IPC with R.I. for 10 years and fine of Rs. 10,000/- (in default of payment of fine he will further go R.I. of six months) and under Section 27 of the Arms Act and sentenced to undergo rigorous imprisonment for three years and fine of Rs. 5,000/- (in default of payment of fine he will further go R.I. for three months).



2. The brief case of the prosecution, as per *fardebayan* of informant, namely, Rambalak Yadav (P.W.-6) is that on 07.07.2008 in the night when he was sleeping at Verandah alongwith his son Indradeo Prasad (P.W. 1) at about 11.30. P.M. he heard a sound of crying to shoot upon which he awakened and saw in the light of lantern that his villagers Dinesh Chaudhary and Bi-jali Chaudhary were standing armed with pistol with intention to kill him and they opened fire twice out of which one bullet was shot at left side neck and second shot did not hit him. Thereafter, they sought for rescue and on hearing the shouting his wife, Sugiya Devi and other neighbours Sarjug Mahto, Sanjay Mahto, Rambachan Yadav and others came there and they saw the accused persons fleeing in light of torch, thereafter, he was taken to the hospital.

3. After completion of investigation and on the basis of materials collected during investigation, the Investigating Officer of this case submitted charge-sheet on 31.12.2008 under Sections 447, 324, 307/34 of the IPC and Section 27 of the Arms Act against the appellant before the learned Trial Court.

4. The learned trial court after perusal of materials collected during investigation and hearing the accused/appellant framed the charges under Sections 324 and 307/34 IPC and Sec-



tion 27 of the Arms Act against the appellant, which was explained to the appellant, to which, he pleaded not guilty and claimed to be tried.

5. To substantiate its case, the prosecution has examined altogether eight witnesses. They are:-(i) **PW-1 Indradeo Prasad** (Son of the Informant) supported the prosecution story and stated that he was sleeping with his father and saw the occurrence (ii) **PW-2 Ram Sugia Devi** (Wife of Informant) has supported the prosecution story; (iii) **PW-3 Sanjay Yadav** has supported the prosecution story; (iv) **P.W. 4 Ganesh Yadav** (Nephew of the informant) has stated that he had not seen the occurrence and he came after hearing sound of firing and found the informant in injured condition; (v) **P.W. 5 Sanjay Mahto (Nephew of the informant)** had not seen the occurrence and came after hearing sound of firing and found the informant in injured condition; (vi) **P.W. 6 Rambalak Yadav** (Informant) was sleeping at his Dalan along with his son (P.W. 1) and saw the accused person who were armed with pistol. Both of them made firing and one of the bullet injured the informant at his neck; (vii) **P.W. 7 Doctor (Narender Sharma)** has proved the injury report and (viii) **P.W. 8, Dhananjay Jha, Investigating Officer** has supported the case of the prosecution and proved the same true.



6. The defence has also examined four witnesses. They are:- (i) **DW 1 Lakhon Chaudhary** has deposed that his son (father of Dinesh Choudhary) was doing job in Calcutta at the time of occurrence and the informant is a veteran criminal whose hand was damaged by a bomb in a dacoity. He further deposed that informant was sleeping at the place which is Gair Majaruwa land and 1/2 KM away from his house which has been grabbed by him. **D.W. 2, Gore Lal Rajwanti** has deposed that appellant is of good character and informant is criminal. **D.W. 3 Santosh** has stated about the criminal activities of the informant and about innocence of the appellant and has also deposed that the informant was involved in dacoity and when he was throwing bomb his hand was damaged. **D.W. 4, Baudhu Rajwanti** has deposed about the criminal activities of the informant and has also deposed that the hand of the informant was damaged in a bomb injury.

7. Apart from the oral evidence, the prosecution has also relied upon following exhibits/documentary evidences, which are:-

Sl. No.	No. of exhibits	Name of documents exhibited
1.	Exhibit-1	Signature of the informant on the fardbeyan.
2.	Exhibit-2	Signature of the I.O. on the <i>fardbeyan</i> in his writing.
3.	Exhibit-2/1	Signature of I.O. on forwarding <i>fardbeyan</i>
4.	Exhibit-3	Signature of the S.H.O. on the



		F.I.R. namely Bharat Bhushan
5.	Exhibit-4	Charge-sheet.

8. On the basis of evidences/circumstances as surfaced during the trial, the learned trial court has examined the appellant/accused under Section 313 of the CrPC, where he completely denied the evidences surfaced during the trial and claimed his complete innocence.

9. Taking note of the evidence as surfaced during the trial and after considering the arguments as advanced by both the parties, the learned Trial Court has convicted the appellant for the offences under Sections 324, 307/34 IPC and Section 27 of the Arms Act and sentenced him in the manner as indicated above.

10. Being aggrieved with the aforesaid judgment of conviction and order of sentence, the appellant has preferred the present appeal. Hence, the present appeal.

11. I have considered the rival submissions canvassed by the learned counsel appearing for the parties and also perused the deposition of the witnesses examined during trial before learned trial court.

12. It appears from perusal of record that altogether eight witnesses have been examined during trial. **P.W.-1, Indradeo Prasad**, who is son of the informant has deposed that the accused



persons fired indiscriminately and one bullet hit on the neck of his father and the other was misfired. **P.W.-2, Ram Sugia Devi**, who is the wife of the informant has stated that the accused persons had shot fire to her husband, Rambalak Yadav when he was sleeping at Verandah along with his son and he sustained injury. **P.W.-3, Sanjay Yadav** has stated that the accused persons have shot fire causing injury to the informant and her wife was rushing out from the house. **P.W-4, Ganesh Yadav** has stated that on hearing the sound of firing he went to Dalan of Rambalak Yadav where he saw gunshot injury on his neck. **P.W-5, Sanjay Mahto** has stated that he had not seen the occurrence and came at the place of occurrence after hearing sound of firing and found the informant in injured condition. **P.W. 6, Rambalak Yadav** is the informant of the case and has supported the case as narrated in the fardbeyan. P.W. 7, Narendra Sharma who is the Doctor of the case and has stated that he was posted at Sadar Hospital, Nawadah and on 08.07.2008 at 2.10 A.M. he examined the informant, Rambalak Yadav and found 1/2 CM circular wound on the right side of the neck and injury was caused by firearm and, thereafter, he referred the informant to PMCH in serious condition. **P.W. 8, Dhananjay Jha, the Investigating Officer** has investigated the case and he proved the *fardbeyan* of the informant.



13. It also appears that there is an admitted land dispute between the parties. This casts shadow of doubt on the prosecution version.

14. In context of evidence of P.W. 3, the presence of the wife of the informant P.W. 2 Sugiya Devi appears to be doubtful. She claimed to be eye-witness of the occurrence while P.W. 3 stated that he rushed from his house after shot fire at a distance of half kilometer away and he saw the wife of the informant rushing towards the place of occurrence.

15. There is also no clarity as to who fired upon the injured the injured exactly.

16. Having carefully considered the witnesses', testimony and the medical evidence, I find no grounds to interfere with the appellant's conviction.

17. However, the matter arises out of a land dispute and the Appellant is facing prosecution for last about eighteen years.. Therefore, taking a holistic view to meet the ends of justice to be served upon the appellant, the sentence awarded to the appellant is reduced to the period already undergone by him.

18. In the result, the appeal is dismissed with the afore-said modification in the sentence.



19. Office is directed to send back the trial court records along with a copy of this judgment to the learned trial court, forthwith.

(Ansul, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.02.2026
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