

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (DB) No.698 of 2015**

Arising Out of PS. Case No.-4 Year-2013 Thana- BIHTA District- Patna

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1. Bobby Devi Wife of Shri Birender Kumar, Resident of Village and PS- Sinha, District- Bhojpur.
2. Binda Devi, Wife of Shri Shahendra Mahto, Resident of Village- Amahara Tola, Police Station- Bihta, District- Patna.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

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**Appearance :**

For the Appellant: None

For the Respondent: Ms S.B.Verma, APP

Mr Pratik Mishra, learned *Amicus Curiae*

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

**and**

**HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**

**CAV JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)**

**Date: 23-01-2023**

This appeal has been preferred by the appellants under Section 374(2), putting to challenge the impugned judgment of conviction and order dated 28.05.2015 passed by learned Additional District and Sessions Judge-IV, Danapur, in Sessions Trial No. 1020 of 2013, arising out of Bihta P.S. Case No. 04 of 2013, whereby the appellants have been convicted and sentenced as under:



CRIMINAL APPEAL (DB) No. 698 of 2015				
Binda Devi	302/34 of the IPC	Imprisonment for life	5,000/-	SI for two months
Boby Devi	302/34 of the IPC	Imprisonment for life	5,000/-	SI for two months

2. We must, at the outset, point out that when this appeal was called for final hearing on various dates, there was no representation on behalf of the appellants. Accordingly, by an order dated 14.11.2022, the Court had appointed Mr Pratik Mishra, learned Advocate of this Court from the panel of lawyers prepared by Patna High Court Legal Services Committee, for providing legal aid, to assist this Court and place the case of the appellants before this Court. Mr Mishra has extended valuable assistance to this Court as an *Amicus Curiae*. The State has been represented by Ms Shashi Bala Verma, learned Additional Public Prosecutor.

3. The concerned Bihta P.S. Case No. 4 of 2013 was registered on 04.01.2023, levelling offence punishable under Section 307/34 of the IPC, based on the *fardebayan* of the deceased, recorded by the Sub Inspector of Police, Srikant Bharti, (PW-7) at 2:40 pm on 04.01.2013 at Bihta Referral Hospital to the effect that at 12:00 noon on the said date, i.e., 04.01.2013, when she was performing her household job, her married sister-in-law (*nanad*, husband's sister) Boby Devi (appellant No. 1) and the informant's mother-in-law, Binda Devi (appellant No. 2) entered into some



altercation with her. In the meanwhile, the appellant Bobby Devi, brought kerosene oil and poured the same over her body and thereafter, she went to bring a matchbox and set her on fire. After that they locked the room from the outside. Subsequently, villagers assembled there on hearing the informant screaming out of pain and opened the door. They somehow managed to extinguish the fire. The officials of Bihta Police Station reached there and took her to Bihta Referral Hospital, where she was being treated at the time of the recording of the *fardbeyan*. The informant subsequently died during the course of her treatment in PMCH on 27.01.2013. Accordingly, Section 302 of the IPC was added to the formal FIR under the orders of the learned Magistrate.

4. After completion of the investigation, the police submitted the charge sheet for the offence punishable under Section 302/34 of the IPC, whereafter cognizance was taken, and the case was subsequently committed to the Court of Sessions on 05.08.2013 and the charge was framed against both the appellants for the offence punishable under Section 302/34 of the IPC on 21.10.2013. The appellants pleaded innocence and claimed to be tried. Accordingly, they were put on trial.



5. At the trial, altogether seven witnesses were examined, including the Investigating Officer (PW-5) and the Police Officer, who had recorded the *fardebayan* of the informant (the deceased) Srikant Bharti as PW-7. PW-6, an Advocate's Clerk, proved the signature of the Doctor who had conducted the *postmortem* examination. The Doctor, who had conducted the *postmortem* examination, could not be examined at the trial as he was no more. Needless to say that no evidence of any expert was adduced to prove the contents of the *postmortem* report. The *fardebayan*, according to the prosecution's case, was recorded in the presence of PW-4, Sumesh Mahto. He did not support the prosecution's case and has been declared hostile at the instance of the prosecution. A cousin of the deceased, Savita Devi, married in the same village, came to be examined as PW-1, who supported the prosecution's case to the effect that the deceased was taken out from her house when she was unconscious and was taken to the hospital, whereafter she was referred to PMCH for further treatment, where she died. According to her, the deceased was killed by these appellants because of the non-fulfilment of the demand for dowry. Her husband, Ramesh Kumar Verma (PW-3), did not support the prosecution's case and, therefore, came to be declared hostile at the instance of the prosecution. After the



closure of the evidence of the prosecution's witnesses, statements of the appellants were recorded by the trial court in accordance with the provision under Section 313 of the Cr.P.C.. The husband of the deceased, Sunil Mahto, deposed before the trial court as a defence witness (DW-1). He deposed that PW-3 had developed an illicit relationship with the deceased. According to him, the deceased had committed suicide at the instigation of PW-3.

6. The trial court, upon an appreciation of the evidence adduced at the trial, both oral and documentary, has recorded the conviction of these appellants, as, according to the trial court, the prosecution had been able to prove the charge of the commission of an offence punishable under Section 302/34 of the IPC beyond all reasonable doubts.

7. Evidently, the case of the prosecution was founded on the *fardebayan* of the informant, who died of the burn injuries sustained by her during the course of treatment. The learned trial court has recorded that there was no reason why PW-7 would have falsely recorded *fardebayan* of the deceased to implicate the appellants. Relying mainly on the evidence of PW-7, Srikant Bharti, the Police Officer, who had recorded the *fardebayan*, and the cousin of the deceased, namely, Savita Devi (PW-1) and brother of the deceased, NandKishor Prasad (PW-2), the trial court has



recorded its finding. We make it clear, at the outset, that PW-2 is apparently a hearsay witness.

8. Mr Pratik Mishra, learned *Amicus Curiae*, has submitted that the genuineness of the statement of the informant (the deceased) itself is doubtful. He contends that PW-1, in her testimony, deposed that she had seen the victim being taken to the hospital by the police from her house when she (the deceased) was unconscious. As mentioned in the *fardbeyan*, the time of occurrence is 12:00 noon, whereas the *fardbeyan* was recorded at 2:40 pm. There is no evidence to suggest that the deceased had regained consciousness when her statement was recorded at 2:40 pm at Referral Hospital, Bihta. Further, her statement was recorded in the absence of a Doctor or any other medical staff, though there must have been Doctors/Medical Staff available in the Referral Hospital. PW-4, Sumesh Mahto, whose signature is there on the *fardbeyan*, has denied having put his signature on the *fardbeyan*. He has further submitted that in any view of the matter, there is no certificate available on the record of a competent person to the effect that the deceased was mentally and physically fit and capable of making any submission when her *fardbeyan* was recorded. He has accordingly submitted that all these circumstances create serious doubt as regards the authenticity of



the so-called statement of the informant (the deceased). He has further submitted that non-examination of the Doctor(s), who had treated the deceased, has caused serious prejudice to the defence as the defence was denied an opportunity to cross-examine the treating Doctors as regards the percentage of burn and whether with such burn injuries, she could have made such statement which is the basis of registration of the FIR. Further, the defence could not cross-examine the treating Doctors as regards the cause of the secondary infection, which can be seen from the postmortem report. He has further argued that there is no proof of her admission at either of the hospitals inasmuch as there is not a single chit of paper brought on record by the prosecution to establish that she was ever admitted or treated at the Referral Hospital at Bihta and PMCH for 23 days. He has also argued that neither the inquest report nor the postmortem report has been proven. He has further submitted that the inquest report of the deceased had neither been exhibited nor duly proved. The police officer, who had prepared the inquest report, has not been examined. According to him, an Advocate's Clerk could not have proved the postmortem report at the trial as has been done in the present case by the prosecution. In the absence of the Doctor of the hospital, who had conducted the postmortem examination because



of his death, any other medical staff of PMCH ought to have identified the signature of the Doctor. He has also submitted, referring to the evidence of PW 7 Srikant Bharti, that he had received the information about the occurrence from the SHO, but he did not enquire from the SHO as regards the source of information. The SHO has not been examined by the prosecution. Thus, the earliest prosecution version has been purposely suppressed by the prosecution, he contends. He has further argued that the place and time of occurrence have not been proved. On the one hand, PW 1, Savita Devi, the cousin of the deceased, who had reached the place of occurrence, deposed that the room was locked from the outside, whereas PW 7, Srikant Bharti, in his evidence has stated that the deceased was lying outside the house and at the same breath he deposed that she was lying outside the room, but inside the house. Conspicuously, the Investigating Officer (PW 5) did not seize any item during the course of the investigation as he did not find any material worth seizing from the place of occurrence. They did not find any kerosene oil container in the entire house nor any sign or mark of violence. No smoke was found either by the Investigating Officer or the PW 7 in the house, and, thus, the place of occurrence becomes doubtful in view of the nature of the accusation made in the *fardebayan* of the informant.



He has drawn our attention to the evidence of PW 2, a full brother of the deceased, who deposed in his testimony that he had learnt about the occurrence from PW 1 on 04.01.2013 at 9.10 am, i.e., nearly three hours before the time of occurrence (12 noon) as disclosed in the *fardbeyan*. He contends that the prosecution, thus, has miserably failed to establish its case beyond all reasonable doubt. The finding recorded by the trial court of conviction is patently erroneous, verging on perversity, he would argue. He has placed reliance on the Supreme Court's decisions in the case of ***K. Ramachandra Reddy v. Public Prosecutor*** (AIR 1976 SC 1994), ***Jaspal Singh v. State of Punjab***, reported in (1980) 1 SCC 487 and ***Ramilaben Hasmukhbhai Khristi v. State of Gujarat*** (AIR 2002 SC 2996) in support of his submission that the *fardbeyan* of the deceased-informant cannot partake the status of a dying declaration. He has also placed reliance on a Division Bench decision of this Court in the case of ***Ram Lal Mahto vs The State of Bihar*** reported in 2022(1) PLJR 541 to contend that suppression of initial information given to the police based on which the police had come to the village where the incident had taken place is a serious lapse on the part of the prosecution and, thus, fatal to the prosecution's case.



9. Ms Shashi Bala Verma learned Additional Public Prosecutor representing the State has defended the impugned judgment of conviction. She has submitted that the FIR was registered based on the disclosure made in the *fardebayan* of the deceased herself. She described in her *fardebayan* the manner in which the occurrence had taken place. The police officer, who had recorded the *fardebayan*, namely, Srikant Bharti, proved the recording of the *fardebayan* at the trial. There is no reason why respondent No. 7 would have recorded an imaginary *fardebayan* by implicating these appellants. He proved his signature on the *fardebayan* of the informant as well as the RTI of the informant available on her *fardebayan*. The prosecution's case, as disclosed in the *fardebayan* and in the evidence of PW 7, is fully supported by the evidence of PW 1, the victim's cousin, who had reached the place of occurrence soon after the occurrence had taken place. In such circumstances, she contends, minor contradictions in the evidence of the witnesses are but natural, and those contradictions/inconsistencies are not such as to doubt the entire case of the prosecution. She has submitted that the trial court has rightly recorded the finding of conviction based on the due appreciation of the evidence adduced at the trial.



10. We have perused the impugned judgment and order of the trial court as well as the lower Court's records. We have given our anxious consideration to the rival submissions made by Mr Pratik Mishra, learned *Amicus Curiae* and learned Additional Public Prosecutor for the State.

11. In our considered view, we need to begin our assessment and appreciation of evidence on record from the disclosure said to have been made by the deceased in her *fardebayan*, recorded at 2.40 pm on 04.01.2013, with reference to other connecting evidence on record in order to reach a conclusion as to whether the said *fardebayan* can be treated to be a dying declaration, admissible under Section 32 of the Indian Evidence Act or not. It is specifically mentioned in the *fardebayan* that at 12 noon, the deceased was doing her household work when the occurrence took place. PW 2 is the full brother of the deceased, who deposed in the cross-examination that he was informed about the occurrence by his cousin Savita Devi (PW 1) when he was in his house at Katrasin under police station Makhdumpur of Jehanabad district. He had received the said information telephonically. He specifically deposed in paragraph 3 of his cross-examination that he had received the information about the occurrence telephonically at 09.10 in the morning on 04.01.2013.



The evidence of PW 2 relating to the time when he received the information about the occurrence at 9.10 am contradicts the prosecution's case that at 12 noon of 04.01.2013, the occurrence had taken place. Further, PW 1, in her testimony, deposed that the deceased was unconscious when she was brought out of her house by the police. In her cross-examination, she further deposed that 10 minutes after hearing the noise, she had reached the house of the deceased, immediately whereafter the police had arrived. Before PW 1 had reached, the house of the deceased, hundreds of persons in the locality had already gathered. In response to a query during the cross-examination, she further deposed that for the first time, she had the occasion to see the deceased when she was brought by the police outside the house, on the road. Evidently thus, PW 1 is not a witness to the exact place where the occurrence had taken place. Though she deposed that she was there in PMCH with the deceased for all the ten days, when she was hospitalized, there is no evidence to the effect that she had regained consciousness. The deposition of PW 1 does not conclusively indicate that the deceased was mentally and physically fit and capable of making her statement.

12. PW 7, the police officer who had recorded the *fardebayan* deposed in his evidence that the deceased was conscious



when her *fardbeyan* was recorded. He further deposed that he subsequently learnt that the informant had died 3-4 days after she was brought to PMCH. It is worthwhile mentioning that the informant died 23 days after the date of occurrence on 27.01.2013. Though he deposed that Sumesh Mahto (PW 4), a local resident, was present in the referral hospital and had put his signature on the *fardbeyan*, he did not remember whether he had sought any identity card from said Sumesh Mahto (PW 4). The evidence of PW 7, as regards the signature of Sumesh Mahto on the *fardbeyan*, is significant in the background of the fact that PW 4 has not supported the prosecution's case. His deposition is only to the effect that at 4 pm, he was at the Referral Hospital, Bihta, where he had seen that the informant (wife of DW 1, Sunil Mahto, a co-villager) was lying with burn injuries, who was referred for treatment to PMCH. He drove the victim to PMCH in a Government Ambulance and returned thereafter. There absolutely no evidence adduced at the trial to prove the signature of Sukesh Mahto (PW 4) on the *fardbeyan*.

13. Further, we find no reason why the police officer, while recording the statement of the informant, who had sustained serious burn injuries, did not ensure that such statement was recorded in the presence of a Doctor or a Medical Staff and why



did he not obtain a certificate of the Doctor that she was in fit state mental and physical health to make her statement. We find substance in the submission advanced by the learned *Amicus Curiae* that in the absence of any evidence other than the evidence of PW 7 to the effect that the victim was in such mental and physical capacity to make a statement, it would not be safe to treat recording of *fardbeyan* by PW 7, a gospel truth. This is more so for the reason that the person, who, according to PW 7, was a witness to the record of the *fardbeyan*, namely, Sumesh Mahto (PW 4), has not supported the prosecution's case and his signature on the *fardbeyan* has not been proved by any means. The deposition of PW 2 to the effect that he had received the information about the occurrence at 9.10 am itself, adds to the suspicious circumstance in which the *fardbeyan* was recorded, as claimed by the prosecution.

14. It has been repeatedly held by the Courts that the Courts have to apply the strictest scrutiny and the closest circumspection before acting upon for dying declaration, which is admissible under Section 32 of the Indian Evidence Act, which is not a statement on oath and its truth cannot be tested by cross-examination. It is trite that while acting upon such a statement, the Court must be satisfied that the deceased was in a fit state of mind to make the statement. It is true that once the Court is satisfied that



the dying declaration is true and voluntary, the same can be sufficient to record a conviction, even without any further corroboration.

15. In the present case, we notice that there is specific evidence of PW 1 that the informant was unconscious when she was brought out of her house on 04.01.2013. There is no evidence that she subsequently regained consciousness. There is no evidence other than the evidence of the police officer, who claims to have recorded the statement of the informant in the hospital, that the informant was in a fit state of mind to make her statement at 2.40 pm. We have kept in mind the gap between the time of the occurrence, as mentioned in the *fardebayan* and the time when the *fardebayan* was recorded. If the disclosure made in the *fardebayan* is taken to be correct, then the occurrence had taken place after 12 noon. After the occurrence, the police arrived at the house of the informant. No source of information, based on which the police had arrived there, has been proved at the trial. Be that as it may, when the informant was brought out of the house, she was unconscious according to PW 1. In such circumstance, we find it extremely unsafe to place reliance on the declaration made in the *fardebayan*, *a fortiori*, that she remained alive for 23 days thereafter, and there is no evidence of the Investigating Officer that



he had recorded any further statement/restatement of the informant after he had taken over the investigation. There is no evidence as regards the physical and mental condition of the informant after the recording of the so-called *fardebayan*. The circumstance of why her restatement was not recorded after the Investigating Officer had taken over the investigation has no explanation at all.

16. The Supreme Court, in the case of ***K. Ramachandra Reddy*** (supra), while dealing with Section 32 of the Indian Evidence Act, has held in paragraph 6 as under: -

"6. ... .. The dying declaration is undoubtedly admissible under Section 32 of the Evidence Act, and not being a statement on oath so that its truth could be tested by cross-examination, the courts have to apply the strictest scrutiny and the closest circumspection to the statement before acting upon it. While great solemnity and sanctity is attached to the words of a dying man because a person on the verge of death is not likely to tell lies or to concoct a case so as to implicate an innocent person yet the Court has to be on guard against the statement of the deceased being a result of either tutoring, prompting or a product of his imagination. The Court must be satisfied that the deceased was in a fit state of mind to make the statement after the deceased had a clear opportunity to observe and identify his assailants and that he was making the statement without any influence or rancour. Once the



Court is satisfied that the dying declaration is true and voluntary it can be sufficient to found the conviction even without any further corroboration. The law on the subject has been clearly and explicitly enunciated by this Court in *Khushal Rao v. State of Bombay* [AIR 1958 SC 22 : 1958 SCR 552 : 1958 Cri LJ 106] where the Court observed as follows:

"On a review of the relevant provisions of the Evidence Act and of the decided cases in the different High Courts in India and in this Court, we have come to the conclusion, in agreement with the opinion of the Full Bench of the Madras High Court, aforesaid, (1) that it cannot be laid down as an absolute rule of law that a dying declaration cannot form the sole basis of conviction unless it is corroborated; (2) that each case must be determined on its own facts keeping in view the circumstances in which the dying declaration was made; (3) that it cannot be laid down as a general proposition that a dying declaration is a weaker kind of evidence than other pieces of evidence; (4) that a dying declaration stands on the same footing as another piece of evidence and has to be judged in the light of surrounding circumstances and with reference to the principles governing the weighing of evidence; (5) that a dying declaration which has been recorded by a competent Magistrate in the



proper manner, that is to say, in the form of questions and answers, and, as far as practicable, in the words of the maker of the declaration, stands on a much higher footing than a dying declaration which depends upon oral testimony which may suffer from all the infirmities of human memory and human character, and (6) that in order to test the reliability of a dying declaration, the Court has to keep in view the circumstances like the opportunity of the dying man for observation, for example, whether there was sufficient light if the crime was committed at night, whether the capacity of the man to remember the facts stated had not been impaired at the time he was making the statement, by circumstances beyond his control; that the statement has been consistent throughout if he had several opportunities of making a dying declaration apart from the official record of it; and that the statement had been made at the earliest opportunity and was not the result of tutoring by interested parties.

Hence, in order to pass the test of reliability, a dying declaration has to be subjected to a very close scrutiny, keeping in view the fact that the statement has been made in the absence of the accused who had no opportunity of testing the veracity of the statement by cross-examination."



The above observations made by this Court were fully endorsed by a Bench of five Judges of this Court in *Harbans Singh v. State of Punjab* [AIR 1962 SC 439 : 1962 Supp (1) SCR 104 : (1962) 1 Cri LJ 479] . In a recent decision of this Court in *Tapinder Singh v. State of Punjab* [(1970) 2 SCC 113 : (1971) 1 SCR 599] , relying upon the earlier decision referred to above, this Court observed as follows: [SCC p. 119, para 5]

"It is true that a dying declaration is not a deposition in Court and it is neither made on oath nor in the presence of the accused. It is, therefore, not tested by cross-examination on behalf of the accused. But a dying declaration is admitted in evidence by way of an exception to the general rule against the admissibility of hearsay evidence, on the principle of necessity. The weak points of a dying declaration just mentioned merely serve to put the Court on its guard while testing its reliability, by imposing on it an obligation to closely scrutinize all the relevant attendant circumstances."

In *Lallubhai Devchand Shah v. State of Gujarat* [(1971) 3 SCC 767 : 1972 SCC (Cri) 13] , this Court laid special stress on the fact that one of the important tests of the reliability of a dying declaration is that the person who recorded it must be satisfied that the deceased



was in a fit state of mind and observed as follows: [SCC p. 772 : SCC (CRI) p. 18, para 9]

"The Court, therefore, blamed Dr Pant for not questioning Trilok Singh with a view to test whether Trilok Singh was in a 'fit state of mind' to make the statement. The 'fit state of mind' referred to is in relation to the statement that the dying man was making. In other words, what the case suggests is that the person who records a dying declaration must be satisfied that the dying man was making a conscious and voluntary statement with normal understanding."

17. A similar view has been taken by the Supreme Court in the case of **Ramilaben Hasmukhbhai Khristi** (supra), paragraph 28 of which reads as under: -

*"28. Under the law, dying declaration can form the sole basis of conviction, if it is free from any kind of doubt and it has been recorded in the manner as provided under the law. It may not be necessary to look for corroboration of the dying declaration. As envisaged, a dying declaration is generally to be recorded by an Executive Magistrate with the certificate of a medical doctor about the mental fitness of the declarant to make the statement. It may be in the form of question and answer, and the answers be written in the words of the person making the declaration. But the Court*



*cannot be too technical and in substance if it feels convinced about the trustworthiness of the statement which may inspire confidence such a dying declaration can be acted upon without any corroboration."*

18. Applying the settled principle of law repeatedly propounded by the Supreme Court while dealing with a statement admissible under Section 32 of the Indian Evidence Act, in the background of the facts and circumstances of the present case and the evidence on record above, we do not find it safe to found conviction of the appellant based on the disclosure said to have been made in the *fardebayan*. We are, thus, left to examine the evidence of the prosecution witnesses to consider the sustainability of the impugned judgment of conviction. On close scrutiny of the evidence of PW 1, she cannot be treated to be an eye witness to the occurrence as she was outside the house of the informant and, for the first time, she had seen the informant lying in an unconscious condition on the road near her (informant's) house. It is also evident from her deposition that a large number of persons had already gathered near the house of the informant before the arrival of PW 1 there. Evidence of PW 2, a full brother of the deceased, is of immense significance and gives a major dent to the prosecution's case with his deposition that he was informed about



the occurrence by PW 1 at 09.10 am itself. His evidence, to this extent, is fatal to the prosecution's case of the occurrence having taken place at 12 noon on 04.01.2013. It is not easy to reconcile this major contradiction arising out of the evidence of PW 2. From the evidence on record, we see no reason why and in what circumstance PW 1 had informed PW 2, the full brother of the informant (deceased), about the occurrence at 09.10 in the morning itself. Evidence of PW 2 goes to suggest that something had happened before 09.10 am on 04.01.2013, and an information in that regard was given to PW 2 by PW 1. There is yet another aspect of great significance. The Investigating Officer, in his evidence, deposed that he did not find any article worth seizing during the course of the investigation. There is no seizure of any incriminating material to support the prosecution's case that the occurrence had taken place in the manner as disclosed in the *fardebayan*. The Doctor(s) who had treated the informant (deceased) was/were not examined. The prosecution did not prove at the trial magnitude of the burn injury which the deceased had sustained. The prosecution did not prove the postmortem report. We fail to appreciate how an Advocate Clerk could have proved the signature of the Doctor who had conducted the postmortem examination.



19. Further, it has been rightly argued that suppression by the prosecution of the initial version of the occurrence based on which the police had arrived at the place of occurrence also creates reasonable doubt as regards the prosecution's case.

20. In view of the above noted discussions, we do not find it safe to uphold the finding of conviction recorded by the trial Court. The impugned judgment of conviction dated 28.05.2015 passed in ST No. 1020 of 2013, arising out of Bihta P.S. Case No. 4 of 2013, is accordingly set aside. Consequently, the order of sentence dated 28.05.2015 is also set aside.

21. The appellants stand acquitted of the charge of commission of an offence under Section 302/34 of the IPC by giving them the benefit of doubt.

22. This appeal is allowed accordingly.

23. The appellants are in custody. Let them be released forthwith if not required in any other case.

24. Before we part with the present judgment, we must record our deep sense of appreciation for the sincere and able assistance extended to this Court by Mr Pratik Mishra, learned Amicus Curiae. He placed the case of the Appellants with utmost zeal and ability. We direct the Secretary, Patna High Court Legal



Service Committee, to pay him a sum of rupees 10,000/- for the service rendered by him by way of legal aid.

**(Chakradhari Sharan Singh, J)**

(I agree)  
**Rajesh Kumar Verma, J:**

**(Rajesh Kumar Verma, J)**

Pawan/Nishant-

AFR/NAFR	NAFR
CAV DATE	04.01.2023
Uploading Date	07.02.2023
Transmission Date	07.02.2023

