

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.886 of 2022

Arising Out of PS. Case No.-124 Year-1996 Thana- BIBHUTIPUR District- Samastipur

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Ram Chhawila Singh, aged about 66 years, male, Son of Late Ram Nandan Singh, R/O Vill.-Khokhsaha, P.S.-Bibhutipur, Distt.-Samastipur (witness and brother of informant).

... .. Appellant/s

Versus

1. The State of Bihar.
2. Sikil Singh, aged about 70 years, male, Son of Late Chander Singh.
3. Chote Singh @ Chotka, aged about 42 years, Son of Late Ram Narayan Singh.
4. Shiv Kalyan Singh, aged about 65 years, male, Son of Late Sukho Singh.
5. Raj Nandan Singh @ Raj Ranjan Prasad Singh, aged about 50 years, male, Son of Late Ram Narayan Singh.

All R/OoVill.-Khokhsaha, P.S.-Bibhutipur, Distt.-Samastipur.

6. Ram Kishun Singh, aged about 63 years, male, Son of Late Brij Kishore Singh.
7. Vinay Singh, aged about 49 years, male, Son of Late Brij Kishore Singh.
8. Murari Singh, aged about 49 years, male, Son of Late Kapildev Singh.

Respondent Nos. 6 to 8 are R/o Vill.-Bibhutipur, P.S.-Bibhutipur, Distt.-Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Ms. Vaishnavi Singh, Adv.
For the State	:	Mr. Sujit Kumar Singh, APP
For the respondents	:	Mr. Mritunjay Kumar, Adv.
		Ms. Shilpa Kumari, Adv.
		Md. Salauddin Khan, Adv.
		Mr. Brajesh Kumar Singh, Adv.
		Mr. Kumar Praveen, Adv.



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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NANI TAGIA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 05-12-2023

Heard the learned counsel for the parties.

2. The present appeal has been preferred against the judgment dated 16.09.2022 passed by the learned Addl. Sessions Judge-II, Rosera, Samastipur in Sessions Trial No. 368 of 1998, arising out of Bibhutipur P.S. Case No. 124 of 1996, whereby the learned Trial C out has acquitted respondent Nos. 2 to 8 (*in short the respondents*) of the charges levelled against them.

3. The respondents have been acquitted of the charges of murder of one Baij Nath Singh, who is said to have been fired at on 03.10.1996 while he was having tea at a tea-shop.

4. Though all the respondents were named in the F.I.R. lodged by one of the brothers of the



deceased, namely, Yogi Singh (P.W. 8), but the police initially submitted charge-sheet against respondent Nos. 2, 3, 4 and 5 namely, Sikil Singh, Chote Singh @ Chotka, Shiv Kalyan Singh and Raj Nandan Singh @ Raj Ranjan Prasad Singh, whereas no charge-sheet was submitted against Ram Kishun Singh, Vinay Singh and Murari Singh, who are respondent Nos. 6, 7 and 8 respectively. Later, the afore-noted persons also were summoned to face Trial under Section 319 of the Code of Criminal Procedure.

5. The Trial Court has examined twelve witnesses on behalf of the prosecution and five witnesses on behalf of defense and has acquitted the respondents of all the charges.

6. Though the ground for acquitting the respondents is not in consonance with law and, therefore, not acceptable, but the facts of the case through the mouth of the witnesses justifies the conclusion arrived at by the Trial Court.



7. The Trial Court, perhaps, has refused to rely upon the deposition of three of the brothers of the deceased, namely, P.Ws. 5, 8 and 9 on the ground of their having made discrepant statements and has also ignored the deposition of P.W. 8, who stood discharged before he was fully cross-examined. There is nothing on record, in fact, to indicate either that P.W. 8 refused to get himself cross-examined or that the prosecution chose not to put him to any further cross-examination. In that event, whatever statement was given by P.W. 8 had to be analyzed and it was not justifiable for the Trial Court to have held the entire deposition to be unworthy of reliance.

8. Be that as it may, what has struck our attention is that according to P.W. 8, the informant, the deceased and one of his brothers were sitting at the shop of Madan Sah (P.W. 10) and talking to Munni Lal Sahani (P.W. 7). The respondents came from two different directions and on the orders of Murari Singh



(respondent No. 8), all the respondents started firing, leading to the death of the deceased.

9. However, during the Trial, P.W. 9 (Ram Chhawila Singh), who has preferred the present appeal against the judgment of acquittal, came up with a totally different version. According to him, the respondents had thrown a bomb at P.W. 8 and others, but they could anyhow escape unhurt. Thereafter, the occurrence was committed.

10. The Investigating Officer of the case did not at all confirm about any bomb-splinters at the place of occurrence.

11. Apart from this, what has been relied upon by the respondents in favour of their acquittal is that P.Ws. 5, 8 and 9 have made a totally incorrect statement regarding their clean antecedents.

12. This may not have had been a ground for securing acquittal, but witnesses making wrong statement of facts before the Trial Court do render



their credibility lessened.

13. In fact, the deposition of P.W. 2, if he is to be believed, reflects a totally different story. The deceased had business association with one Ram Swarath Singh, about whom there is no reference in the judgment or in the entire investigation papers or the Trial proceedings except for the deposition of P.W. 2. The deceased and Ram Swarath Singh had fallen out of each other. Ram Swarath Singh divested the deceased of his shares in the coal business and inducted the younger brother of the deceased, who is the appellant in the present case, as one of the partners. It appears that business expediency proved to be more important for the appellant than the relationship of a brother. Ram Swarath Singh and the appellant had been threatening the deceased and it was for that reason, P.W. 2 has asserted, the deceased did not live in the same house as that of his brothers, but had taken a house at Dalsingsarai on rent.



14. Apart from this, what has also weighed with the Trial Court is that two of the persons who might have really seen the occurrence, namely, Madan Sah (P.W. 10) and Munni Lal Sahani (P.W. 7) had expressed their complete ignorance about the participation of the respondents in the occurrence. Though they have supported the fact/prosecution version that the deceased was killed because of the firing resorted to by the miscreants, but their not naming the respondents, makes the prosecution case definitely very doubtful for the conviction of the respondents.

15. The deposition of P.Ws. 5, 8 and 9, who claim to be the eye-witnesses to the occurrence, are highly discrepant and cannot be the basis for convicting the respondents.

16. Under such circumstances, the summation of the Trial Court of the evidence against the respondents being sketchy and doubtful is justified.



17. We, therefore, do not wish to interfere
with the judgment of acquittal of the respondents.

18. The appeal is accordingly dismissed.

(Ashutosh Kumar, J)

(Nani Tagia, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06/12/2023
Transmission Date	06/12/2023

